RESOLUTION NO. 60-11

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND ADOPTING AN ADDENDUM TO THE MIRAFLORES HOUSING DEVELOPMENT ENVIRONMENTAL IMPACT REPORT

WHEREAS, on December 15, 2009, the City Council certified the Final Environmental Impact Report (the "EIR") for the Miraflores Housing Development (the "Project");

WHEREAS, the Richmond Community Redevelopment Agency, the property owner, is proposing a change to the Remedial Action Plan (the "RAP") to off-haul the lead-affected soil to a permitted waste facility rather than encapsulating the soil under the future roadways on the Project site (the "Revised RAP");

WHEREAS, on July 19, 2011, the City Council held a duly noticed public meeting to consider adopting an Addendum to the EIR and considered written and oral information provided at the meeting.

NOW THEREFORE, the City Council does hereby resolve as follows:

SECTION 1. Pursuant to Section 15164 of the California Environmental Quality Act ("CEQA") Guidelines, the Revised RAP is within the scope of the previously certified EIR (SCH# 2007082154) for the Miraflores Housing Development. An Addendum to the EIR has been prepared pursuant to Section 15162 of the CEQA Guidelines, and the Addendum concludes that while the Revised RAP is anticipated to have a significant effect on historic resources the City Council adopted statements of overriding consideration (the Overrides") when the Project was approved and the Overrides are incorporated herein by reference with respect to the Revised RAP. Based on information and analysis contained in the Addendum, and pursuant to Section 15162 of the State CEQA Guidelines, the City Council finds as follows:

1. There are no substantial changes to the Project that will require major revisions to the EIR due to new, significant environmental effects or a substantial increase in the severity of impacts identified in the EIR.
2. Substantial changes have not occurred in the circumstances under which the Project is being undertaken that require major revisions of the EIR to disclose new, significant environmental effects or a substantial increase in the severity of impacts identified in the EIR.
3. There is no new information of substantial importance not known at the time the EIR was certified that shows any of the following:
   A) The Revised RAP will have any new significant effects not discussed in the EIR.
   B) There are new impacts that were determined to be significant in the EIR that will be substantially increased.
   C) There are additional mitigation measures or alternatives to the project that would substantially reduce one or more of the significant effects identified in the EIR.
   D) There are additional mitigation measured or alternatives to the Project that were rejected by the project proponent that are considerably different that those analyzed in the EIR that would substantially reduce any significant impact identified in the EIR.

SECTION 2. Based on the above findings, the City Council does hereby adopt the attached Addendum to the Miraflores Housing Development EIR.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond, California at a joint meeting thereof held July 19, 2011, by the following vote:

AYES: Councilmembers Bates, Beckles, Booze, Ritterman, Rogers, Vice Mayor Butt, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

DIANE HOLMES
Clerk of the City of Richmond

(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 60-11**, finally passed and adopted by the City Council of the City of Richmond at a joint meeting held on July 19, 2011.

DESIGN, COMMUNITY & ENVIRONMENT

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MEMORANDUM

DATE July 14, 2011

TO Lina Velasco, City of Richmond

FROM Steve Noack, Nicola Swinburne, The Planning Center | DC&E

RE **Addendum to Miraflores Housing Development Plan EIR – SCH # 2007082154**

An Environmental Impact Report was completed for the Miraflores Housing Development Plan and certified by the Richmond City Council on December 15, 2009 (2009 EIR). The work included a Remedial Action Plan (RAP) to clean up lead- and other-affected soil. Since publication of the EIR, changes to the RAP soil remediation methods have been proposed.

This addendum to that EIR has been prepared pursuant to CEQA Section 15164 as the changes to the project are insubstantial, there are no new significant effects, and effects described in the EIR are not significantly changed. The addendum updates the information presented in the EIR about the RAP and its environmental impacts. If adopted by the Richmond City Council, this addendum would become an attachment to the Final EIR.

Chapter 3 Project Description

i. Description of Remediation Activities - changes

A. EIR Description of Original Action

Pages 3-13 to 3-15 of the Draft EIR Project Description summarized the RAP as it pertained to site development. Page 3-15 stated that one of the remediation activities would be:

> *On-site relocation and storage of 2,300 cubic yards of lead-bearing soil in deeply-set soil relocation cells, which would be located under on-site public streets.*

B. Addendum Description of Modified Action

In the modified proposal, 2,300 cubic yards of lead-affected soil would be excavated from affected areas of the project. Instead of relocating the soil within the project site, all lead-

affected soil would be transported to an appropriately-permitted off-site disposal facility.[1] Approximately 2,547 cubic yards of backfill material would be transported to the project site, as part of the change to the RAP. Specifically, the actions involved would comprise:

- Excavating and stockpiling the lead-affected soil within the project site
- Testing the stockpiled soil to determine concentrations of contaminants and the appropriate waste disposal site
- Loading the lead-affected soil into permitted over-highway haul trucks
- Potentially loading the affected soil to rail.
- Transporting the affected soil to a permitted off-site disposal facility

Chapter 4 Environmental Evaluation
Section 4.3 Air Quality

ii. Degree and timing of grading activities and soil transport and implications for air quality

A. EIR Description of Original Action

Page 4.3-22 of the Draft EIR described the assumptions used in calculating emissions of air pollutants during the remediation phase. Quantities of excavated soil, timing of excavation and grading, and equipment used were described, and emissions calculated using the URBEMIS2007 model, in the Air Quality analysis included in Appendix A *Construction Emissions,* of the Draft EIR. The following assumptions were made in developing the model inputs:

- Excavating and transporting 2,400 cubic yards of pesticide- and petroleum hydrocarbon-affected soil off-site for disposal
- Excavating and burying 2,300 cubic yards of lead-bearing soil on-site
- Importing and placing 4,200 cubic yards of clean fill on-site
- Relocating 8,400 cubic yards of fill on-site.

B. Addendum Description of Modified Action

Following the changes to remediation methods described in the RAP, PES Environmental has estimated that 2,300 cubic yards of lead-affected soil would now be transported off-site as a result of the modified remedial actions, and 2,547 cubic yards of backfill material would be imported.

[1] This is likely to be either the Clean Harbor Disposal Facility in Buttonwillow, CA (via road transport), or the ECDC Facility in East Carbon, Utah (via road to rail). As rail transport is considerably more energy efficient and produces fewer emissions of Criteria Air Pollutants and GHGs per cubic yard of material transported, the worst case scenario of road transport to Buttonwillow, CA, has been analyzed here.

At 15 cubic yards per truck this would require approximately 153 truck trips for export and 170 truck trips for import. For the air quality modeling it is assumed that export truck trips would be 250 miles in length[2] and require a return trip (for a total of 500 miles per roundtrip). Emissions of ROG, NOx, $PM_{10}/PM_{2.5}$ exhaust and CO2 were computed in terms of pounds per day using emission factors from the EMFAC2007 model for heavy-heavy-duty diesel trucks. These truck hauling emissions are anticipated to occur over a 33-day period. Remediation period emissions are reported in Table 1 of this Addendum.[3]

As on-site remediation cells would no longer be used for the lead-contaminated soil, the quantity of soil relocated on site would be reduced by approximately 8,400 cubic yards. At a daily soil handling rate of approximately 500 cubic yards, this would result in approximately 17 days of earthwork that would not be required. Earthwork equipment that would have been used for on-site grading and excavation (with less air pollution control equipment), would likely have included a track-mounted excavator, a front-end loader, and 2 small (8 to 10 cubic yard) dump trucks. However, as part of the proposed off-haul scenario, it is assumed that a front end loader (also with higher emissions) would be used to load the trucks. This reduction in remediation work would not substantially affect the daily emissions of air pollutants, but would lower the remediation phase emissions of greenhouse gases or carbon dioxide.[4]

Assuming the 33-day time period not used in the relocation of soil on-site would be used for the additional truck trips, then the change to average daily emissions would be as shown in Table 1. Emissions of ROG, NO_x, $PM_{10}/PM_{2.5}$ exhaust would either be increased by up to 21 percent compared to the original EIR. However none of the corrected values exceed the Bay Area Air Quality Management District threshold values,.the Draft EIR was written. A ***less-than-significant*** change would occur.

Section 4.7 Greenhouse Gas Emissions

iii. Degree and timing of grading activities and soil transport and implications for greenhouse gas emissions

A. EIR Description of Original Action

Page 4.7-27 of the Draft EIR described how carbon dioxide emissions (the main greenhouse gas) were calculated for project construction, including the remediation phase. Details of the calculation were included in Appendix A *Construction Emissions* of the Draft EIR.

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[2]This is a conservative estimate, using the road distance to Buttonwillow CA. Emissions would be less with rail transport to Utah. For the analysis, a distance of 40 miles to the edge of the air basin was used, as advised by the Bay Area Air Quality Management District.

[3]The results of the estimated air quality emissions in the 2010 EIR are an overestimate as it should not have originally been assumed that 4,200 cubic yards of clean fill would be imported. The time period for those emissions was taken as 30 days rather than a minimum of 50 days. Both errors are corrected here.

[4]The reduction in carbon dioxide emissions is not included in Table 1.

B. Addendum Description of Modified Action

As shown in Table 1, GHG emissions within the air basin from the remediation phase (only) would be increased by around 0.9 percent from the corrected EIR figure as a consequence of these changes to the remediation plan. If emissions from truck travel outside of the air basin were also included emissions would increase by 3.9 percent from Table 1 from the EIR (corrected figure). Since the EIR incorrectly assumed the grading phase was much shorter (30 days as opposed to 60 days), the GHG emissions are reported in this addendum as 83-percent higher that originally reported in the Draft EIR. However, as reported in the Draft EIR, page 4.7-31, construction emissions are three orders of magnitude less than operation emissions, and the change to the overall GHG emissions would be less than 1 percent. This would be ***less than significant***.

Section 4.8 Hazards and Hazardous Materials

iv. Remediation onsite of lead-contaminated soils – eliminated from RAP

A. EIR Description of Original Action

Section 4.8 Hazards and Hazardous Materials of the Draft EIR provided more detail on the remediation methods. Section D.1, pages 4.8-42 to 4.8-52 described the detail of the RAP, and the following text described the treatment of the lead-affected soil:

> *"Lead-contaminated soil with concentrations greater than the risk-based target cleanup goals[5] would be excavated and relocated on-site to cells located under future public streets within the Miraflores site. The proposed location for the placement of such lead-contaminated soil is depicted on Plate 12 of Appendix D… Approximately 7 feet of clean fill material above the relocated lead-contaminated soil would act as an effective barrier minimizing the potential for human contact and infiltration of surface water… The relocated contaminated soil would be capped with clean backfill soil, and road base material and asphaltic concrete constructed during subsequent redevelopment of the site….*
>
> *Land use restrictions would be specified in a document entitled "Covenant to Restrict Use of Property, Environmental Restriction" and would be recorded with the Contra Costa County Assessor's Office for the lead-contaminated soil placed under public streets."*

B. Addendum Description of Modified Action

As described above under changes to the project description, the lead-contaminated soil with concentrations greater than the risk-based target cleanup goals would be excavated, stockpiled, characterized, loaded onto trucks, and transported to a permitted facility for disposal. Clean fill would be added to replace the soil removed. Land Use restrictions that were suggested to prevent disturbance to underground cells of contaminated soil would no

[5] The risk-based target cleanup goals are acceptable levels of contaminants that can be left in the soil given the proposed land use, and were established in the Remedial Action Plan (RAP) [footnote added].

TABLE 1 **Air Quality and GHG Emissions**

Description[*a]	**ROG** (pounds/ day)	**NO_x** (pounds/ day)	**PM_{10} or $PM_{2.5}$ Exhaust** (pounds/ day)	**CO_2 (metric tonnes) in SF Air Basin**	**CO_2 (metric tonnes) total**
Draft EIR Appendix A: Emissions from Grading (remediation)	4.1	41.5	1.9	51.6[*g]	51.6[*g]
Draft EIR (corrected)[*b,c]	4.2	37.6	1.8	91.0	91.0
Changes to Draft EIR (corrected) figures based on changes to remediation methods[*d,e,f]	+0.7	+11.6	+0.5	+0.8	+3.9
Addendum: Emissions from Demolition and Grading (remediation)	**4.9**	**49.2**	**2.3**	**91.8**	**94.9**
Percentage Difference from Original EIR	***+20%***	***+18%***	***+21%***	***+78%***	***+ 84%***
Percentage Difference from Corrected EIR	***+17%***	***+31%***	***+28%***	***+0.9%***	***+ 4%***

[*a]Criteria Air Pollutant (ROG, NO_x, PM_{10}/$PM_{2.5}$) emissions are for emissions in California. GHGs (CO_2) results are quoted for the San Francisco Air Basin and in total (as GHGs are not restricted in their distribution to a particular air basin).

[*b]The Draft EIR used a figure of 30 days for these emissions. It is now corrected to 60 days, or 10 weeks, as per the narrative account in the Draft EIR. This mostly affects the reported annual CO_2 emissions.

[*c]The Draft EIR mistakenly included import of 4,200 cubic yards of fill soil. This is now corrected.

[*d]Remediation is now assumed to take place over a 33-day period. 17 days of remediation time have been subtracted as the on-site remediation cells will no longer be constructed.

[*e]Emissions from trucks travelling to Buttonwillow, CA. were computed using VMT estimates and EMFAC2007 Emission Factors, assuming freeway speeds (55 mph), 40-mile one-way trip lengths in the air basin and 250-mile one-way trip total.

[*f]Emissions from trucks imported fill from a local site were computed using URBEMIS2007, assuming freeway/arterial/local road (35 mph), 20-mile roundtrip length.

[*g]The EIR reported carbon dioxide emissions were for demolition and remediation. Table 1 includes only remediation emissions.

longer be necessary. (However, as the proposed land uses were consistent with the proposed restrictions, no impacts resulted from these.)

Remediation method changes would not alter the project-specific, cumulative impacts, or mitigation measures in the EIR. The Draft EIR described transportation off-site of soil (contaminated with petroleum hydrocarbons or pesticides) and noted that with implementation of the Health and Safety Plan and the protective measures identified in the 2009 EIR, impacts to the public or environment through transport, use, or disposal of hazardous materials during remediation would be *less than significant.*

v. Use of Fill from Remediation Cells – eliminated from RAP

A. EIR Description of Original Action

Page 4.8-49 described the use of the soil excavated from the remediation cells under the site to fill other areas excavated to remove contaminated soil (outside the footprint of the greenhouses).

B. Addendum Description of Modified Action

Additional fill would be brought in from off-site. This accounts for the additional 2,547 cubic yards of imported fill. This would not change the impact conclusions or mitigation measures in the Hazards and Hazardous Materials Section.

Section 4.11 Noise

vi. Noise from truck trips from soil transportation – change to number

A. EIR Description of Original Action

Page 4.11-16 to 17 of the Draft EIR addressed construction noise in general (including remediation activity) and concluded that activities would exceed the noise levels of 60 dBA L_{eq}, specified in the City of Richmond General Plan Noise Element as acceptable for single-family residential land use, by at least 5 dBA. Mitigation Measures NOI-2a through NOI-2h were adopted and implemented. These would ensure: effective monitoring; adherence to City noise standards and construction limited to daytime hours; muffling of equipment; locating equipment as far as possible from sensitive receptors use of state-of-the-art noise suppression techniques and shielding for equipment; coordination of noisy activities through a construction plan; appointment of a "disturbance coordinator" to correct problems; and ensuring trucks and equipment run only when necessary. With these measures incorporated, it was considered that the impact would be *less than significant.*

B. Addendum Description of Modified Action

The increase in number of truck trips to 646 from the anticipated 320 reported in the Draft EIR (see below under Section 4.14 Traffic and Circulation) represents a 102 percent increase in the number of truck trips. The increase in truck trips would be spread out over the duration of the remediation process and mitigation measures and trucking routes described in the EIR would be unchanged. With the mitigation measures included in the Draft EIR, the additional noise from this increase in traffic would not change the impact, which would remain *less than significant.*

Section 4.14 Traffic and Circulation

vii. Truck trips from soil transportation – change to number and purpose

A. EIR Description of Original Action

Page 4.14-16 of the Draft EIR reported the following:

> *The Draft Remedial Action Plan, Miraflores Housing Development (RAP) for the Miraflores site stipulates that 2,400 cubic yards of pesticide- and petroleum hydrocarbon-contaminated soil would have to be excavated and transported to landfills throughout California via Interstate 80 and the freeway network as part of site remediation. Import[ed] soil would*

not be required. Based on an estimated truck load capacity of 15 cubic yards of soil, it would require 160 truck loads to remove the contaminated soil. This averages to fewer than one inbound or outbound truck per hour each eight-hour workday Monday through Friday for the ten- to twelve-week remediation process.

he Draft EIR concluded that there would be a *less-than-significant* impact to levels of service on local streets due to the 160 trucks, or 320 truck trips, of remediation truck traffic.

B. Addendum Description of Modified Action

PES Environmental has estimated that approximately 2,300 cubic yards of lead-affected soil would be transported off-site as a result of the modified remedial actions, and 2,547 cubic yards of backfill material would be imported. Assuming each truck could transport approximately 15 cubic yards, approximately 323 trucks would be needed to transport lead-affected soil and backfill material, resulting in 646 truck trips. This new estimate represents an increase in 326 truck trips compared to the scenario that was analyzed previously, or a 102 percent increase in the figure. Following the methodology used in the EIR, the increase in truck trips would be spread out over the 33-day minimum duration of the remediation process[6], resulting in an additional 10 trucks per day, or an average 1.2 per hour. Mitigation measures and trucking routes described in the EIR would be unchanged. Furthermore, hauling of the contaminated soil and backfill material would be temporary. Impacts from truck traffic due to site remediation would therefore remain *less than significant.*

[6] The original duration of the remediation process was stated to be 10 to 12 weeks. A conservative value of 10 weeks or 50 working days has been used here. If 17 days are subtracted from that 50-day time period, remediation would take place over a 33-day period.

RESOLUTION NO. 140-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND CERTIFYING THE MIRAFLORES HOUSING DEVELOPMENT PLAN ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE #2007082154), ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING A GENERAL PLAN AMENDMENT (PLN 09-026), SUBJECT TO FINDINGS AND CONDITIONS HEREIN.

I. GENERAL FINDINGS

A. Introduction. The Richmond Community Redevelopment Agency (RCRA) is proposing to construct a mix of affordable and senior housing, (80 units of affordable senior housing, 150 market-rate units; 20 of which are second dwelling units), a tot lot/small park and a space for community gardening or agricultural cultivation, as well as to daylight Baxter Creek on an approximately 14-acre infill site in the City of Richmond, Contra Costa County, California ("Project"). As requested by the Planning Commission, the project may also include up to 3,600 square feet of commercial use consistent with the proposed General Plan designation. Required Project approvals include: (i) a General Plan amendment PLN 09-026 to change the land use designations from Low Density Residential/Preservation/Resource Areas (917/941) to Medium Density Residential (918) ("General Plan Amendment") and (ii) a Municipal Code amendment PLN 09-026 to rezone the site from Single Family Low Density Residential/Exclusive Agriculture (SFR-3/EA) to Planned Area (PA) ("Zoning Amendment") (collectively referred to as the "Project Approvals"). While additional approvals including a tentative subdivision map approval and design review approval are necessary in order to construct housing on-site, these approvals are not proposed at this time.

B. Environmental Review Process. In accordance with the requirements of California Environmental Quality Act ("CEQA") Sections 21000 through 21177 of the California Public Resources Code, and Sections 15000 through 15387 of the California Code of Regulations Title 14 ("CEQA Guidelines"), a Notice of Preparation ("NOP") of a Draft Environmental Impact Report ("Draft EIR") was filed for the Project with the State Clearinghouse ("SCH") Office of Planning and Research ("OPR") on August 28, 2007 (State Clearinghouse No. 2007082154). The NOP was distributed to public agencies and interested parties for a 30-day public review period which ended on September 26, 2007. In addition, the City held a public scoping meeting on September 25, 2007 to obtain public input on the proposed scope and content of the Draft EIR. In accordance with CEQA requirements, a Notice of Completion ("NOC") of the Draft EIR was filed with the SCH OPR on June 15, 2009. The Draft EIR was circulated for a 59 day public review period, which ended on August 12, 2009. During this public review period, the City received written comments on the Draft EIR. Section 15088 of the State 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 and circulated to commenting agencies on October 6, 2009. The Final EIR 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 State 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 to respond to written comments on the Draft EIR.

C. Administrative Record. The administrative record, upon which all Findings 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 information (including written evidence and testimony) provided by City Staff to the Planning Commission and the City Council relating to the EIR, the approvals, and the project.

• All information (including written evidence and testimony) presented at or in preparation of 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 project site.

• The Mitigation Monitoring and Reporting Program ("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 the Director of Planning and Building Services or his or her designee. Such documents and other materials are located at City Hall, Planning Division, 450 Civic Center Plaza, Richmond, California, 94804.

D. Findings. On December 3, 2009, the Planning Commission conducted a duly noticed public hearing on the Project. After considering public testimony and materials in the staff report, including the Final EIR (State Clearinghouse #2007082154), the Statement of Overriding Considerations, the Mitigation Monitoring and Reporting Program, the Planning Commission recommended certification of the Final EIR, adoption of the Statement of Overriding Consideration and Mitigation, Monitoring, and Reporting Program, and approval of the General Plan amendment and rezoning. On December 15, 2009, the City Council held a duly noticed public hearing on the project. Based upon the public testimony and materials presented at or before the hearing, the City Council finds, in its independent and objective judgment, that the Final EIR is adequate and sufficient in all respects and the findings set forth below are appropriate and adequate to support the Certification of the EIR, adoption of the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program and adoption of the Project Approvals. These Findings and Statement of Overriding Considerations are made pursuant to CEQA and City of Richmond Municipal Code. These findings explain the potential environmental impacts of the Project, identify mitigation measures that have been adopted to mitigate those impacts, explain the alternatives that were evaluated and rejected, include the overriding considerations to support approval of the Project, include the findings to support the adoption of the Mitigation Monitoring and Reporting Program and include the findings to support the adoption of the General Plan Amendment and Zoning Amendment ("Findings").

II. CEQA FINDINGS.

The City of Richmond is the Lead Agency with respect to the Project pursuant to Section 15367 of the CEQA Guidelines. The following findings of fact support the certification of the EIR:

(a) The City has complied with CEQA and CEQA Guidelines. The EIR is an accurate and objective statement that fully complies with CEQA and CEQA Guidelines.

(b) No evidence of new significant impacts, as defined by CEQA Guidelines Section 15088.5, has been received by the City after circulation of the Draft EIR which would require recirculation.

(c) The Project is consistent with the development analyzed in the EIR.

(d) The EIR was presented to the Planning Commission, which reviewed and considered the Final EIR and recommended to the Council certification of the EIR and approval of the General Plan Amendment and Zoning Amendment. The final EIR was presented to the City Council on December 15, 2009 for consideration of certification.

(e) Pursuant to Section 21082.1(c)(3) of the Public Resources Code, the City Council also finds that the EIR reflects the City's independent judgment as the Lead Agency for the Project.

(f) As noted above, Public Resources Code 21081 and Section 15091 of the State CEQA Guidelines require that the lead agency prepare written findings for identified significant impacts, accompanied by a brief explanation for the rationale for each finding. The EIR identified potentially significant effects that could result from Project implementation. The City finds that the mitigation measures in the EIR 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 identified and overridden due to specific Project benefits identified in the Statement of Overriding Considerations. In accordance with CEQA and the State CEQA Guidelines, the City adopts the following Findings.

III. FINDINGS RELATING TO ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND ALTERNATIVES

A. Environmental Impacts.

The EIR evaluated the potential for the Project to result in significant impacts to the following environmental topics: aesthetics; agricultural resources; air quality; biological resources; cultural resources; geology, seismicity and soils; greenhouse gas emissions; hazards and hazardous materials; hydrology and water quality; land use; noise; population and housing; public services and recreation; traffic and circulation; and utilities and infrastructure. The EIR was prepared at the project level. All impacts were found to be less than significant or less than significant after incorporation of mitigation measures, as needed, with the exception of certain impacts relating to cultural resources which were found to be significant and unavoidable. The EIR presents a conservative analysis of environmental impacts, although the proposed Project has the same layout, it proposes fewer units than analyzed in the EIR. Specifically, the EIR analyzed impacts from development of up to 110 senior units and up to 220 market rate units. The proposed project includes only 80 senior units and 150 market-rate units (20 of which are second dwelling units). Based on the recommendation from the Planning Commission to consider inclusion of a commercial component, 3,600 square feet of commercial use is proposed to be included if determined to be feasible. This is consistent with the analysis underlying the EIR. Specifically, the air, noise, traffic and GHG reports all included 3,600 square feet of commercial use. No new or more severe significant impacts would result from the inclusion of this commercial component.

As provided by Public Resources Code Section 21081, the City must make certain findings for each significant impact identified in the EIR before adopting the environmental documents and Project Approvals. These findings include any or all of the following:

(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 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 alternatives identified in the EIR.

These Findings summarize the determinations in the EIR relating to the potential environmental impacts before and after mitigation. Except with respect to cultural resources, which are addressed in the Statement of Overriding Considerations, the City finds that changes or alterations have been required, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR. **Exhibit A** attached to this Resolution sets forth a summary description of each impact from the EIR, describes the recommended mitigation measures, and states whether or not the impact has been mitigated and if so, to what level. A full explanation of the conclusions relating to the impacts and mitigation measures can be found in the EIR. In making these Findings, the City is relying on all the information in the administrative record , including comments made before and during the public hearings on the Project, and in the EIR. With respect to the EIR, the City adopts and incorporates in these Findings all determinations and conclusions made in the EIR relating to the environmental impacts and mitigation measures, except to the extent that such determinations and conclusions are modified by these Findings.

B. Mitigation Measures.

The City hereby adopts all mitigation measures set forth in **Exhibit B** of this Resolution which includes the Final EIR and MMRP for the Project, identifies each mitigation measure as adopted, an implementation schedule and method for verification of compliance. The MMRP will hereby be required to be incorporated in the conditions of approval to the Project in **Exhibit C**.

Based on the entire record, and having considered the unavoidable and significant impacts of the Project, the City hereby determines that all feasible mitigation measures within the responsibility and jurisdiction of the City have 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.

C. Alternatives.

The EIR evaluated four alternatives, in addition to the proposed Project: (1) No Project; (2) In Place/Low Density Alternative; (3) Increased Preservation Alternative; and (4) Increased Housing/High Density Alternative. These alternatives are discussed in further detail in Section 5 of the Draft EIR. The City's findings relating to these alternatives are set forth below:

1. No Project. CEQA requires that a "No Project" alternative be considered. A "No Project" alternative is generally considered to be equivalent to a "no development" alternative. Under this scenario, the Project would not be implemented. While the No Project Alternative would reduce some impacts, including cultural resources impacts, the No Project Alternative would not meet the objective of developing a mix of affordable and market rate housing, addressing soil and groundwater contamination and restoring Baxter Creek nor would it reuse the existing historic features on-site. For these reasons, the City finds that this alternative is "infeasible" as the term is used under CEQA and rejects this alternative.

2. In-Place/Low-Density Alternative. As explained in the EIR, this alternative would preserve the most historically significant buildings in place for adaptive reuse. It would preserve Greenhouses 7, 8, 9, 17 and 18 of the Oishi Nursery, and Greenhouse 20, the Sakai House and water tower of the Sakai nursery, in their historic locations for adaptive reuse. The site would be designated Low Density Residential/917, which would result in maximum of 99 units. While the In-Place/Low-Density Alternative would

reduce some impacts, impacts to cultural resources would remain significant and unavoidable.

However, this alternative would significantly reduce the amount of housing possible on the site, and would frustrate the purpose of restoring Baxter Creek since the Oishi Greenhouse lies in the path of the proposed daylighted creek. In addition, the street network would not be as integrated with the surrounding neighborhood as under the proposed Project. Finally, the preservation component of the In-Place/Low-Density Alternative would result in a substantial economic feasibility gap, while still resulting in a significant and unavoidable impact relating to cultural resources. The In-Place/Low-Density Alternative proposes to preserve eight structures in their historic locations for adaptive reuse. Based on the conclusions of the *Miraflores Historic Preservation Feasibility Assessment*, feasibility gaps for potential reuse scenarios would range from $4.9 million to $5.6 million. Thus, the In-Place/Low-Density Alternative would not be financially feasible. The City finds that this alternative is "infeasible" as the term is used under CEQA and rejects this alternative.

3. <u>Increased Preservation Alternative</u>. This alternative is designed to mitigate the proposed Project's potentially significant impacts. It would preserve all buildings recommended as historic by the historic architecture evaluation prepared for the site, by the Richmond Historic Preservation Advisory Committee, including the Sakai House, the Oishi House, 28 greenhouses, and several other structures. This alternative would substantially reduce the amount of housing development feasible on the Project site, including the affordable senior housing. Like the In-Place/Low Density Alternative, it would frustrate the purpose of restoring Baxter Creek, since the Oishi Greenhouse lies in the path of the proposed daylighted creek and would result in a disconnected site layout and circulation pattern. The *Miraflores Historic Preservation Feasibility Assessment* did not analyze this alternative; however, the report concluded that the In-Place/Low-Density Alternative, which would preserve fewer structures, would be financially infeasible. Based on that conclusion, it is reasonable to expect that the Increased Preservation Alternative would also be financially infeasible. As a result of these factors, the Increased Preservation Alternative was not deemed to be a viable alternative to the proposed Project. The City finds this alternative "infeasible" as the term is used under CEQA and rejects this alternative.

4. <u>Increased Housing/High Density Alternative</u>. This alternative would allow for significantly more housing on the site at a substantially higher density. The site would have the same layout as the proposed Project, but would be designated High Density Residential/944. As a result, a maximum of 471 units would be developable on the site, and buildings would be taller (up to four stories) to accommodate the increased number of units. This alternative has similar impacts to the proposed Project, but would result in more significant impacts to land use, in that the taller structures would be less compatible with surrounding neighborhoods, and, although less than significant, the intensity of impacts to public services and traffic would be proportionately more than the proposed Project. Accordingly, since this high density development would not be compatible with the surrounding neighborhoods, particularly due to the aesthetic character, higher-intensity land use and larger population living on the site and greater traffic and public services impacts, the City finds this alternative "infeasible" as the term is used under CEQA and rejects this alternative.

5. <u>Rejected Alternatives</u>. The EIR also considered additional alternatives but did not evaluate them in detail since the alternatives would not meet the Project objectives and were found to be infeasible for technical, environmental or social reasons as explained in the EIR. These rejected alternatives include (1) a previous site design that proposed that the Sakai House, Greenhouse 20, and water tower be restored and relocated to the open space along Interstate 80 to be used for community activities, (2) another previous site design that proposed that the Sakai House, Greenhouse 20, and the water tower be relocated to the north side of Sakai Avenue, right outside of the open space, and that the restored Oishi House would be relocated to the open space near Baxter Creek, and (3) same site layout as the proposed Project, but would have featured a small commercial use in the area near the relocated Sakai structures, park, and tot lot.

As discussed in Section 5(F) of the EIR, these alternatives would reduce the amount of housing possible on-site; would have reduced the area within the open space, diminishing the recreational and stormwater management benefits of having a continuous open space area; and would not be financially feasible, respectively. Based on the information in the record, the City finds that these alternatives are infeasible and rejects the alternatives.

6. Environmentally Superior Alternative. CEQA requires that an environmentally superior alternative be identified. While implementation of the proposed Project would result in biology, hydrology and traffic and circulation benefits and is considered to be the most environmentally sensitive alternative, the Project's impacts to cultural resources would be considered significant and unavoidable. Only the Increased Preservation Alternative would avoid the significant impact on cultural resources and in that respect is considered the environmentally superior alternative. This alternative would avoid a significant and unavoidable impact regarding cultural resources, but would have potentially significant impacts related to land use and traffic and circulation. As discussed above, this alternative would reduce the amount of housing, including affordable senior housing and would frustrate the purpose of restoring Baxter Creek, since the Oishi Greenhouse lies in the path of the proposed daylighted creek and would result in a disconnected site layout and circulation pattern. Further, while the *Miraflores Historic Preservation Feasibility Assessment* did not analyze this alternative, the report concluded that the In-Place/Low-Density Alternative, which would preserve fewer structures, would be financially infeasible. Based on that conclusion, it is reasonable to expect that the Increased Preservation Alternative would also be financially infeasible. As a result of these factors, the Increased Preservation Alternative was not deemed to be a viable alternative to the proposed Project.

IV. STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological or other benefits of a project against its unavoidable environmental risks when determining whether to approve a project. If the specific economic, legal, social, technological or other benefits of a project outweigh the unavoidable adverse environmental effects, those effects may be considered "acceptable." (CEQA Guidelines Section 15093(a)) CEQA requires the agency to state, in writing, the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened.

In accordance with the requirements of CEQA and the CEQA Guidelines, the City finds that the mitigation measures identified in the Final EIR, Conditions of Approval, and MMRP, when implemented, will avoid or substantially lessen most of the significant effects of the Project. However, certain impacts of the Project are unavoidable even after incorporation of all feasible mitigation measures. The Project would result in significant and unavoidable impacts on cultural resources. Although the most significant structures from the Sakai Nursery and two structures from the Oishi Nursery would be retained on-site, implementation of the proposed Project would result in demolition of other contributing structures on-site, and therefore, would cause a significant adverse impact to cultural resources. The EIR provides detailed information regarding these impacts.

The City has adopted all the mitigation measures and finds that all mitigation measures identified in **Exhibit B** will be implemented with the Project. The City further finds that the remaining significant and unavoidable effects 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, the Draft and Final EIR, and the record, as follows:

(a) The Project would provide a mix of affordable and market-rate housing, on a vacant and deteriorated infill site near transit opportunities;

(b) The Project would provide approximately four acres of maintained open space along Interstate 80, and would provide a small park and tot lot in the center of the site for use by residents as an amenity;

(c) The Project would restore a portion of Baxter Creek and provide active and passive recreational space and trail along the creek corridor;

(d) The Project would rehabilitate and reuse five historical resources on site and provide for an interpretive exhibit regarding the site's history and cultural value to the community;

(e) The Project would remediate soil contamination, including the removal of source material affecting groundwater, on-site to a level safe for human occupancy;

(f) The Project would create living wage jobs in hazard remediation, abatement and construction.

Considering all factors, the City Council finds that these specific economic, legal, social, technological and other considerations associated with the Project outweigh the Project's significant and unavoidable effects, and the adverse effects are, therefore, considered acceptable.

V. FINDINGS WITH RESPECT TO ADOPTION OF MITIGATION MONITORING AND REPORTING PLAN ("MMRP")

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 Mitigation and Monitoring and Reporting Plan (MMRP) for the proposed Project is hereby included in **Exhibit B.** The MMRP 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; and

• Measures to mitigate or avoid significant effects on the environment as set forth in the MMRP are fully enforceable through conditions of approval, permit conditions, agreements or other measures.

VI. GENERAL PLAN AMENDMENT FINDINGS

The City Council has considered the General Plan Amendment, attached as **Exhibit D**, and makes the following findings:

(a) The proposed amendment is consistent with the rest of the general plan and appropriate changes have been made to maintain consistency. As discussed in Page 4.10-13 of the Draft EIR, the proposed Project includes a General Plan Amendment to change the land use designation of the site to Medium Density Residential/918 from Low Density Residential/917 and Low Density Residential/Preservation/Resource Area/917/941. Therefore, the proposed Project would be consistent with the General Plan upon adoption of the General Plan Amendment. Further, as urban infill development, the Project would be consistent with General Plan Goal LU-K of meeting future housing needs within city limits through infill development in areas already served by community facilities, utilities and transportation systems. The project would also further General Plan Policy LU-A.5 by preserving and rehabilitating specific cultural resources on the site for adaptive reuse. In addition, the project would create recreation and open space areas on the project site that would be useable to all segments of the community, including people with disabilities thereby further General Plan Policy CF-B.1. The project also furthers General Plan Policy HG-A.1 by promoting of affordable infill housing development where it is compatible with the neighborhood. The proposed mix of housing types and sizes within the project also reflects General Plan Policy HG-B.7 that discourages the formation of new neighborhoods with uniform housing types and sizes. Finally, Policy OSC-R.1 of the Open Space and Conservation Element encourages the continuation of commercial nurseries as an agricultural use in the Planning Area as an interim use. Nursery operations on the proposed Project site have ceased, all nursery-related structures have deteriorated beyond a useful state for agricultural purposes, and

the site is surrounded by urbanization. Additionally, the site is not in a location specifically identified in Policy OSC-R.1. Therefore, there is no present nursery or agricultural use on the site; however, the proposed project would provide for community gardening uses in a portion of the open space. Accordingly, the proposed Project is consistent with the General Plan.

(b) The proposed General Plan Amendment is in the public interest of the people of Richmond. The benefits of the Project that would be facilitated by the General Plan Amendment are discussed in Section IV, above.

VII. SEVERABILITY

Should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Resolution shall remain in full force and effect.

VIII. APPROVALS

The City Council hereby certifies the Final EIR (State Clearinghouse #2007082154), adopts the Statement of Overriding Considerations, the Mitigation Monitoring and Reporting Program, and approves the General Plan Amendment, subject to conditions of approval.

Exhibit A: Environmental Impacts Summary
Exhibit B: Final EIR and Mitigation Monitoring and Reporting Program
Exhibit C: Conditions of Approval
Exhibit D: General Plan Amendment Map

I certify that the foregoing resolution was passed and adopted by the members of the Richmond City Council at a regular meeting held on Tuesday, December 15, 2009, by the following vote:

AYES: Councilmembers Bates, Butt, Ritterman, Rogers, Viramontes, and Vice Mayor Lopez.

NOES: Mayor McLaughlin.

ABSTENTIONS: None.

ABSENT: None

DIANE HOLMES
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 140-09**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on December 15, 2009.

TABLE 1 **MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
AIR QUALITY					
AQ-1: Implement control measures for remediation- and construction-related air emissions. Each project sponsor is responsible for ensuring that the contractor reduces particulate, ROC, NOx, and CO emissions by complying with BAAQMD guidelines. The project sponsor and contractor should implement the following control measures based on BAAQMD guidelines. • Cover all trucks hauling construction and demolition debris, including soil, sand and other loose materials from the site. • Water on a continuous as-needed basis all earth surfaces during clearing, grading, earthmoving, and other site preparation activities. • Use watering to control dust generation during demolition of structures or break-up of pavement. • Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved parking areas and staging areas. • Sweep daily (with water sweepers or vacuum/street sweepers) all roads, paved areas and staging areas at the site. • Provide daily clean up (with a vacuum/street sweeper) if visible mud and dirt is carried onto adjacent public streets. • Conduct renovation and demolition activities and removal or disturbances of any material that contain asbestos, lead paint or other hazardous pollutants in accordance with BAAQMD and DTSC rules and regulations. • Install wheel washers for all exiting trucks, or wash off the tires or tracks of trucks and equipment leaving the site. • Suspend dust-producing activities during periods when instantaneous gusts exceed 25 mph when dust control measures are unable to avoid visible plumes. • Limit the area subject to excavation, grading and other con-	Project Developer and Contractor	Remediation, site preparation, and construction phases	Richmond Planning & Building Services	Review at beginning of each phase, then monthly	

TABLE 1 **MITIGATION MONITORING AND REPORTING PROGRAM** (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
struction or demolition activity at any one time: ◆ Suspend use of all construction equipment operations during second stage smog alerts. ◆ Apply soil stabilizers to previously graded portions of the site inactive for more than ten days, or cover or seed these areas. ◆ Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind. ◆ Limit traffic speeds on unpaved roads to 15 mph. ◆ Replant vegetation in disturbed areas as quickly as possible. ◆ Opacity is an indicator of exhaust particulate emissions from off-road diesel powered equipment. The project shall ensure that emissions from all construction diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately. ◆ The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g. compressors). ◆ Clear signage shall be posted indicating that diesel equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were onsite and away from residences. ◆ Properly tune and maintain equipment for low emissions. ◆ Configure construction parking to minimize traffic interference. ◆ Consolidate truck deliveries when possible. ◆ Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abut-					

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
ters and the general public. • Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows. • Implement a carpool program for construction workers. • Prohibit the use of conventional cut-back asphalt for paving and restrict the maximum VOC content of asphalt emulsion. • Use low-ROG paints and other low-ROG construction materials.					
BIOLOGICAL RESOURCES					
BIO-1: Prior to issuance of a grading permit that will impact the creek, a Section 401 Certification shall be obtained from the San Francisco Bay Regional Water Quality Control Board (RWQCB), a Nationwide Wetlands Permit obtained from the Corps, and a Streambed Alteration Agreement from the California Department of Fish and Game (CDFG).	Project Developer	Prior to issuance of a grading permit that will impact the creek	Planning & Building Services	Review and certification/ permit issuance	
CULTURAL RESOURCES					
CR-1: CR-1: The proposed project would preserve the Sakai House, tank house and Greenhouse 20 of the Sakai nursery on-site. (The proposed project would also include ~~on-site~~ relocation and rehabilitation ~~preservation~~ of the Oishi House and other Greenhouse 9 or 17 of the Oishi Nursery on-site.) Prior to implementation of the project, all existing buildings and landscape features shall be documented in accordance with Historic American Buildings Survey (HABS) Documentation Level III standards using archival quality photography of the exterior and interior and archival negatives of the original construction drawings. The project ~~City~~ shall also include ~~develop~~ a permanent, interpretive historical exhibit on the site, or if not feasible, at an appropriate public venue, that incorporates information from the historic report, historic photographs, and Historic American Landscape Survey and HABS~~Historic American Buildings Survey~~ documentation.	Richmond Community Redevelopment Agency (Agency)	Prior to demolition and prior to issuance of an occupancy permit	Planning & Building Services	Review of rehabilitation and relocation methods, preservation methods, documentation, and historical exhibit design, once, prior to demolition, then prior to issuance of an occupancy permit	

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
These measures would reduce project impacts, but not to a less-than-significant level.					
CR-2: For any archaeological resources discovered during the remediation and construction phase, all project activities in the immediate vicinity of the discovery would halt. Procedures of 36 CFR Part 800.13(b) and (c); PRC Sections 5097.94, 5097.98 and 5097.99; and the California Health and Safety Code Section 7050.5 would be followed, including calling an archaeologist or paleontologist to evaluate the materials.	Project Contractor and Property Owner	Remediation and construction phases	Planning & Building Services	Review and verification, continuous during remediation and construction	
CR-3: If paleontological resources were found during site remediation and construction, work would be halted until a paleontologist could evaluate the nature and significance of the resources. If significant resources were confirmed, the OHP and the California Department of State Parks would be contacted for further guidance on documentation and preservation. Protocol for the discovery of paleontological resources during construction would be the same as that for archaeological resources, per the MOA: project activities in the immediate vicinity of the discovery would halt, and procedures of 36 CFR Part 800.13(b) and (c); PRC Sections 5097.94, 5097.98 and 5097.99; and the California Health and Safety Code Section 7050.5 would be followed, including calling an archaeologist or paleontologist to evaluate the materials.	Project Contractor and Property Owner	Remediation and construction phases	Planning & Building Services	Review and verification, continuous during remediation and construction	
GEOLOGY, SEISMICITY AND SOILS					
GEO-1: The following site preparation and grading measures shall be performed to address soil condition issues of existing undocumented fill and shallow groundwater. ♦ Prior to site grading, tall grasses and weeds that cover the majority of the site shall be mowed and removed. Existing structures, foundations, trees and abandoned underground utilities, septic tanks, leach fields and other existing abandoned improvements shall be demolished and removed from the site either following or as part of site remediation. Existing fill along the north and east sides of the site shall be removed down to stiff native soil.	Project Contractor and Project Engineer, and Project Geotechnical Consultant	Prior to issuance of permits	Planning & Building Services	Review of site conditions periodically throughout remediation and grading activity	

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
◆ Areas to receive fill, following remediation, shall be scarified to a depth of about 12 inches below the existing ground surface, moisture conditioned and compacted according to the requirements stipulated in the Berlogar Geotechnical Report from November 2006. ◆ The shallow patches of fill that cover most of the site shall be addressed by 12-inch deep scarification. If zones of soft or saturated soils are encountered during grading and over-excavation operations, deeper excavations may be required to expose firm soils. This shall be determined in the field by the soil engineer. ◆ Imported fill, except as provided in the RAP, shall be free of deleterious matter and rock fragments greater than 4 inches, and have a Plasticity Index of 15 or less and contain sufficient clayey binder to allow for stable utility trench excavations. ◆ All fill and backfill shall be placed in thin lifts (between 8 and 12 inches depending on compaction equipment), properly moisture conditioned and compacted to degrees indicated by the Berlogar Geotechnical Report from November 2006. ◆ Observations and soil density test shall be conducted during grading and backfill operations to obtain the proper degree of compaction and moisture content. Where compaction is outside the range required, additional reworking and moisture conditioning shall be made until the specified compaction and moisture conditioning are achieved. ◆ The soil engineer, except as provided for in the RAP, shall be notified at least 48 hours prior to any grading operations to discuss the procedure and methods of grading.					
GEO-2. If excavation bottoms require stabilization due to proximity to groundwater, imported drainage rock, geotextile fabric, or lime treatment may be used to accomplish this stabilization. If groundwater is encountered during soil excavation before the limits of the soil contamination are reached, a determination shall be made to dewater and excavate further, or to discontinue the exca-	Project Contractor and Project Engineer, Project Geotechnical Consultant	During excavation	Richmond Public Works Department (Public Works)	Scheduled site inspections for duration of excavation and grading phases	

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
vation. If the determination made is to dewater and continue the excavation, groundwater removed from the excavation shall be pumped into aboveground containers for subsequent analysis prior to treatment and/or disposal.					
GEO-3a: Post-tension concrete slab-on-grade foundations shall be used in residential units to help reduce the potential impacts of expansive soils. Construction activities shall provide proper moisture conditioning of the sub-grade soils under building foundations and concrete pavements to mitigate the potential impacts of expansive soils. Slab foundations shall be designed by a structural engineer ~~to~~ according to the following parameters: ◆ Slab foundations shall accommodate 3 inches total soil movement and 1 inch in 25 horizontal feet differential soil movement. ◆ The subgrade of the building pad shall be presoaked to at least 7 percent over the optimum moisture content for a depth of 12 inches. Building pads shall not be allowed to dry out to less than the recommended moisture content prior to the construction of the slab. The soil engineer shall check the moisture content prior to the placement of moisture vapor retarder.	Project Developer and Project Engineer, Contractor	During construction	Planning & Building Services	Scheduled site inspections for duration of excavation and grading phases	
GEO-3b: To reduce the effects of expansive soils on exterior concrete flatwork such as sidewalks, walkways and driveways, the following measures shall be incorporated during subgrade preparation: ◆ The subgrade in these areas shall be scarified to a depth of at least 12 inches, properly moisture conditioned to at least 5 percent optimum moisture content and compacted between 85 and 90 percent relative compaction. ◆ The moisture content of subgrade soils shall be checked immediately prior to the placement of baserock or concrete (if supported directly on the subgrade). ◆ Any previously compacted subgrade soils that are disturbed during utility trench excavation and backfilling shall be uniformly moisture conditioned to at least 5 percent above opti-	Project Developer and Project Engineer, Contractor	During subgrade preparation and plan review	Planning & Building Services, Public Works Department	Scheduled site inspections during subgrade preparation	

TABLE 1 **MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)**

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
mum moisture content and recompacted to between 85 and 90 percent relative compaction to provide a smooth and nonyielding surface.					
HYDROLOGY AND WATER QUALITY					
HYDRO-1: The following measures shall be incorporated into the restoration design of Baxter Creek to reduce the potential for erosion: • Conduct hydrologic flood modeling to determine the appropriate width and design of the creek channel to disperse creek flow velocity and convey water without increasing erosion. • Cut creek banks at gradients no steeper than two-feet horizontal to one-foot vertical (2H:1V) to reduce the risk of erosion in the creek channel. • Plant native vegetation within the creek channel and floodplain to provide groundcover to prevent erosion from bare soils. • Where flood modeling indicates unavoidable increases to water velocity, use soil bioengineering in areas of the restored channel. (Soil bioengineering is the use of structural support and vegetative cover of natural materials to provide structure and support to prevent creek bank erosion and restore natural stream habitat.) Include the use of woody cuttings and poles or posts collected from native plants to provide structural support, control creek bank erosion and restore natural stream habitat. Exact methods used and locations would be determined through further planning and design. • Channel hardening would be used as needed at the transition between the restored channel and culvert outfalls and infalls to prevent erosion. Channel hardening would be limited to areas where soil bioengineering is incapable of addressing the potential for erosion due to high velocities caused by supercritical flow.	Project Engineer	Final Site Plan Design	Planning & Building Services, Public Works	Review and approval of Final Site Plan Design, scheduled site inspections	
HYDRO-2: To address risks associated with erosion and flooding, the following features shall be incorporated into the final creek	Project Engineer	Final Site Plan Design, creek restoration and drainage plan	Planning & Building Services, Public Works	Approval of Final Site Plan Design, scheduled site	

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
restoration design:		review		inspections	
• Locate the creek channel within a wide floodplain, with widths throughout most of the floodplain at approximately 120 feet to 140 feet wide to provide increased capacity for out-of-channel flooding.					
• Conduct hydrologic flood modeling to assess the effects of detention storage on the system. The model run will be used to design flood detention storage or peak attenuation as needed to meet the NPDES C.3 regulations.					
• Incorporate creek bank stabilization measures, including grading, bioengineering and hardening, in the final design to demonstrate that erosion and flooding impacts are mitigated.					
• Incorporate landscaping throughout the creek channel and floodplain to prevent erosion.					
• Design floodwalls and landscape berms to increase storage of flows within the creek channel and accommodate break-out flows at the downstream end of the restored creek at Wall Avenue. Based on the modeling results, the dimensions and placement of floodwalls and landscaped berms would be determined.					
NOISE					
NOI-1a: During final design of the project, a detailed acoustical analysis of exterior and interior noise reduction requirements and specifications shall be conducted by a qualified Acoustical Specialist in accordance with City of Richmond and HUD standards.	Project Developer and Acoustical Specialist	Final Site Plan Design	Planning & Building Services	Plan review, scheduled site inspections	
NOI-1b: During the final site plan design, noise-sensitive outdoor use areas shall be located away from Interstate 80 and BART wherever possible. Noise-sensitive spaces shall be shielded with buildings or noise barriers whenever possible to maintain exterior noise levels of 65 L_{dn} or less at multi-family housing. Potential noise barrier locations are shown in Figure 4.11-4.	Project Developer and Project Architect	Final Site Plan Design	Planning & Building Services	Plan review, scheduled site inspections	
NOI-1c: Design and construction of noise barriers shall be incor-	Project Developer and Acoustical Specialist	Final Site Plan Design	Planning & Building Services	Plan review, scheduled site inspections	

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
porated to reduce BART noise at private exterior use areas at multi-family homes proposed in the north part of the site to 65 L_{dn} or less. Design and construction of noise barriers shall be incorporated to reduce Interstate 80 traffic noise at ground-level outdoor use areas of multi-family homes along the eastern portion of the site bordering the open space area (i.e. near Interstate 80). Preliminary calculations indicate that 6- to 8-foot high walls or solid fences would be necessary to protect these areas from BART and traffic noise. The final detailed design of the heights and limits of these barriers shall be completed at the time that the final grading and site plans are submitted.					
NOI-1d: A project-specific acoustical analysis where exterior levels exceed 60 dBA L_{dn} shall be conducted. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as those listed below would adequately reduce interior noise levels to 45 dBA L_{dn} or lower. ♦ Building sound insulation shall be provided for a minimum of 5 decibels additional sound attenuation (minimum 25 dBA exterior-to-interior noise reduction) at first and second stories, and 10 decibels (minimum 30 dBA exterior-to-interior noise reduction) at third stories or higher. ♦ Special building construction techniques including sound-rated windows, doors, building façade treatments, sound-rated wall constructions and acoustical caulking) may be required for new residential uses adjacent to Interstate 80 and BART.	Project Developer and Acoustical Specialist	Final site plan design	Planning and Building Services	Plan review, scheduled site inspections	
NOI-2a: Prior to initiation of the project, the contractor shall prepare and submit a noise monitoring plan for the construction and remediation phases to the City. The noise monitoring plan shall identify monitoring locations and frequency, instrumentation to be used, and appropriate noise control measures that can be incorporated. The plan shall include the following provisions: ♦ Noise levels shall be measured for comparison to the noise limits set forth in the Richmond Noise Ordinance.	Project Developer and Contractor	Prior to issuance of demolition or grading permit	Planning & Building Services	Noise monitoring at the beginning of each new phase of construction and remediation and when noise levels are expected to change	

TABLE 1 **MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)**

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
• Noise levels shall be monitored at locations representing the highest noise exposure levels to the west and south of the project site. • Noise monitoring shall occur at the beginning of each major phase of construction and remediation, and/or when noise levels are expected to change.					
NOI-2b: Noise-generating construction and remediation activity shall comply with City construction noise standards and shall be limited to daytime hours.	Project Developer and Contractor	Remediation and construction phases	Planning & Building Services	Scheduled site inspections	
NOI-2c: All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.	Project Developer and Contractor	Remediation and construction phases	Planning & Building Services	Scheduled site inspections	
NOI-2d: Stationary noise-generating equipment shall be located as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.	Project Developer and Contractor	Remediation and construction phases	Planning & Building Services	Scheduled site inspections	
NOI-2e: Construction and remediation equipment shall utilize state of the art noise suppression techniques and be shielded with temporary noise barriers to reduce temporary, construction-related noise impacts.	Project Developer and Contractor	Remediation and construction phases	Planning & Building Services	Scheduled site inspections	
NOI-2f: The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction and remediation activities. This plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction and remediation activities and the event schedule can be scheduled to minimize noise disturbance.	Project Developer and Contractor	Prior to issuance of grading permit	Planning & Building Services	Scheduled site inspections	
NOI-2g: A "disturbance coordinator" shall be designated who would be responsible for responding to any local complaints about construction and remediation noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the construction schedule. The City shall be	Project Developer and Project Disturbance Coordinator	Remediation and construction phases	Planning and Building Services	Scheduled site inspections	

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
responsible for designating a noise disturbance coordinator and the individual project sponsor shall be responsible for posting the phone number and providing construction schedule notices.					
NOI-2b: During construction and remediation, trucks and equipment shall be running only when necessary.	Project Developer and Contractor	Remediation and construction phases	Planning & Building Services	Continuous during remediation and construction	
NOI-3: For residential buildings to be constructed within 100 feet of the BART tracks, an on-site vibration monitoring study and building design study shall be completed pursuant to Federal Transit Agency Guidelines during project design. Based on the results of the vibration study, control measures to reduce floor vibrations to acceptable levels, such as foundation stiffening, shall be designed and implemented.	Project Developer and Project Structural Engineer	During Final Site Plan Design	Planning & Building Services	Monitoring study per Federal Transit Agency guidelines	

Miraflores Housing Development Plan Final EIR

SCH # 2007082154

City of Richmond | October 6, 2009

DESIGN, COMMUNITY & ENVIRONMENT

Exhibit 4A: Final Environmental Impact Report (EIR)

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Final Draft

Miraflores Housing Development Plan Final EIR

SCH # 2007082154

City of Richmond | October 6, 2009

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Exhibit 4A: Final Environmental Impact Report (EIR)

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1 INTRODUCTION

A. *Purpose of the Environmental Impact Report*

This document is a Final Environmental Impact Report (EIR) to the Draft EIR for the proposed Miraflores Housing Development Plan.

The Draft EIR identified the likely environmental consequences associated with the project, and identified features of the proposed Housing Development Plan help to reduce potentially significant impacts.

This Final EIR responds to comments on the Draft EIR and makes revisions to the Draft EIR as necessary in response to these comments. No change to the Draft EIR identified in this Final EIR resulted in the need to re-circulate the document.

This document, together with the Draft EIR, will constitute the Final EIR when the Richmond City Council certifies it as complete and adequate under the California Environmental Quality Act (CEQA).

B. *Environmental Review Process*

According to CEQA, lead agencies are required to consult with public agencies having jurisdiction over a proposed project, and to provide the general public and project applicant with an opportunity to comment on a Draft EIR that is prepared for a project. This Final EIR has been prepared to respond to those comments received on the Draft EIR and to clarify any errors, omissions or misinterpretations of discussions of findings in the Draft EIR.

The Draft EIR was made available for public review on June 15, 2009. The Draft EIR was distributed to local and State responsible and trustee agencies and the general public was advised of the availability of the Draft EIR through public notice published in the local newspaper and posted by the City Clerk as required by law. The CEQA-mandated 45-day public comment was extended to August 12, 2009.

Copies of all written comments received on the Draft EIR during the comment period are contained in this document. Each substantive comment on the Draft EIR receives a written response.

A public hearing on the Draft EIR was held during the comment period, on July 16, 2009. A public hearing was also held on the Draft Remedial Action Plan (Draft RAP) on July 15, 2009. The public had an opportunity to comment at the hearing, as well as during the public comment period from June 26, 2009 to August 12, 2009. This document includes a summary of each comment received at the hearing and a written response to it.

The Draft EIR and this Final EIR will be presented to the Planning Commission, who will advise the City Council on certification of the EIR as a full disclosure of potential impacts, mitigation measures and alternatives.

The Planning Commission will not take final action on the EIR or the proposed project. Instead, the City Council will consider the Planning Commission's recommendations on the EIR during a noticed public hearing, and make the final action in regards to certification of the EIR.

The Department of Toxic Substances Control (DTSC) will consider the comments on the Draft RAP and prepare a response. The DTSC will also review the comments on the Draft EIR and will finalize the RAP after the City Council has certified the EIR.

C. Document Organization

This document is organized into the following chapters:

- **Chapter 1: Introduction.** This chapter discusses the use and organization of this Final EIR.
- **Chapter 2: Report Summary.** This chapter is a summary of the findings of the Draft EIR. Table 2-1 includes corrections to the text of the

Draft EIR. Underline text represents language that has been added to the EIR; text with ~~strikethrough~~ has been deleted from the EIR.

- **Chapter 3: Revisions to the Draft EIR.** Corrections to the text and graphics of the Draft EIR are contained in this chapter. Underline text represents language that has been added to the EIR; text with ~~strikethrough~~ has been deleted from the EIR.
- **Chapter 4: List of Commentors.** Names of agencies and individuals who commented on the Draft EIR are included in this chapter.
- **Chapter 5: Comments and Responses.** This chapter contains reproductions of the letters received from agencies, organizations and the public on the Draft EIR. The responses are keyed to the comments which precede them.

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2 REPORT SUMMARY

This chapter presents a summary of the analysis contained in this Draft EIR. The chapter summarizes the following: (1) the proposed project; (2) areas of concern; (3) significant impacts and mitigation measures; (4) unavoidable significant impacts; and (5) alternatives to the project.

A. Project Under Review

The proposed project analyzed in this Draft EIR includes the following major components, which are described below and in detail in Chapter 3, Project Description, of this EIR.

- Miraflores Housing Development Plan
- General Plan Amendment
- Zoning Code Amendment
- Remedial Action Plan (RAP)

1. Miraflores Housing Development Plan

The overall project objectives of the Miraflores Housing Development Plan are to provide up to 336 units of a range of housing types on this urban infill site. Key components of the Plan are:

- Provide a mix of affordable and market-rate housing, both rental and owner-occupied units, on the Miraflores site. The affordable component would consist of up to 110 affordable rental units for seniors. There would be up to 226 market-rate units, in a combination of attached and detached single-family residences.
- Provide open space. The area along Interstate 80 would provide approximately 4 acres of open space. In addition, a small park and tot lot would be located in the center of the site.
- Daylight Baxter Creek for as long a reach as possible. The Miraflores Housing Development Plan proposes to daylight a stretch of up to approximately 575 linear feet within the open space area. A multi-use path and emergency vehicle access lane would run along the west side of the

creek, and active and passive recreation areas would be integrated into the creek restoration design.

- Incorporate historic features of the site into the project design. The following components are proposed in the Miraflores Housing Development Plan to acknowledge the former nursery use of the site while also allowing housing development:
  - Restore and retain the ensemble of the primary Sakai House, adjacent water tower, and Greenhouse 20, and the primary Oishi House, on-site.
  - Create a permanent, accessible interpretive exhibit on-site to depict the history of the Japanese American flower-growing community.
  - Incorporate elements that celebrate the history of the site, such as in the naming of the streets, the design of the proposed pedestrian bridge, and the types of flowers used in landscaping.
- Provide circulation for vehicles, pedestrians and bicycles by extending existing streets from the neighborhood and constructing several new streets.
- Incorporate smart growth and green building principles at the neighborhood scale. The Miraflores project is registered as a pilot project for the Leadership in Energy and Environmental Design Neighborhood Development (LEED-ND) Rating System.
- Implement the RAP to remediate and reduce on-site soil and groundwater contamination to levels suitable for residential use, abate hazardous materials conditions associated with structures on the site, demolish or relocate structures to be preserved, and manage site conditions and effects during the cleanup process. The RAP also includes health and safety plans for site workers, an emergency response plan, and restrictions on the use of groundwater and areas where lead bearing soil would be encapsulated below paved streets.

2. General Plan Amendment

Amend the General Plan to change the land use designation for the Miraflores site from Low Density Residential/Preservation/Resource Areas (917/941) to Medium Density Residential (918).

3. Zoning Code Amendment

Rezone the Miraflores site from Single-Family Low Density Residential/ Exclusive Agriculture (SFR-3/EA) to Planned Area (PA).

4. Remedial Action Plan

Select a cleanup alternative which prevents or reduces potential risk to public health and the environment, and approve and implement the RAP.

B. Areas of Controversy

The City of Richmond issued a Notice of Preparation (NOP) of the Draft EIR on August 24, 2007, and the comment period extended until September 27, 2007. Two scoping meetings for the EIR were held on September 26, 2007, one in the morning and one in the evening. Issues similar to those discussed at previous meetings and workshops on the Miraflores Housing Development Plan were raised. Comments on the NOP focused primarily on the following issues:

- Historic structures, including their retention, maintenance and safety
- Relocation of historic resources
- Building height
- Additional lighting sources
- Streets, and their currently poor condition
- Connection with the Richmond Greenway project
- Ingress and egress to the site
- Traffic traveling through the existing neighborhood to the site
- Parking impact on local streets
- Potential need for new sewer and stormwater infrastructure
- Air quality and noise conditions from Interstate 80 and BART
- Site remediation, particularly the effects of dust and truck trips on air quality, noise and traffic conditions
- Concern about rodents currently on the site and where they will go during remediation

C. *Significant Impacts and Mitigation Measures*

Environmental sustainability is a key objective of the proposed project. The Miraflores site is an urban infill site, and the layout, development standards and guiding principles were carefully prepared to avoid and minimize environmental impacts. Still, potential significant impacts were identified in Chapter 4 related to:

- Air Quality
- Biological Resources
- Cultural Resources
- Geology, Seismicity and Soils
- Hydrology and Water Quality
- Noise

The Draft EIR identifies feasible mitigation measures that would reduce these significant impacts to a less-than-significant level, except for the impact to cultural resources, discussed below. All impacts and mitigation measures are listed in Table 2-1.

D. *Unavoidable Significant Impacts*

While the proposed project includes restoring certain buildings on-site, it was found to be infeasible to retain all structures; therefore, the impact to cultural resources would be unavoidable because no mitigation could be feasibly implemented while still meeting the objectives of the Miraflores Housing Development Plan. Implementation of the proposed project would result in the following unavoidable significant impact, which is also listed in Table 2-1:

Impact CR-1: Although the most significant structures from the Sakai nursery and two structures from the Oishi Nursery would be retained on-site, implementation of the proposed project would result in demolition of other contributing structures on-site and therefore would cause a significant adverse impact to historical resources.

E. Alternatives to the Project

An EIR must evaluate a reasonable range of feasible alternatives to the project or the location of the project that would achieve most of the basic project objectives and would avoid or substantially lessen any of the potentially significant impacts of the project. Chapter 5 compares the impacts of three alternatives to those of the proposed Specific Plan. They are:

1. **No Project Alternative.** This alternative would leave the site the way it is, with no redevelopment or change on the site.

2. **In-Place/Low-Density Alternative.** This alternative would preserve the most historically significant buildings (as identified in the report *Historic Architecture Evaluation, the Oishi, Sakai and Maida-Endo Nurseries* by Donna Graves, et al) in place for adaptive reuse. It would preserve Greenhouses 7, 8, 9, 17 and 18 of the Oishi nursery, and Greenhouse 20, the Sakai House and water tower of the Sakai nursery, in their historic locations for adaptive reuse. The site would be designated Low Density Residential/917, which would result in a maximum of 99 units. This alternative would significantly reduce the amount of housing possible on the site, and would frustrate the purpose of restoring Baxter Creek, since the Oishi Greenhouses lie in the path of the proposed daylighted creek.

3. **Increased Preservation Alternative.** This alternative is designed to mitigate the potentially significant impacts to cultural resources identified in Chapter 4. It would preserve all buildings recommended as historic by the historic architecture evaluation prepared for the site,[1] including the Sakai House, the Oishi House, 28 greenhouses, and several other structures. This alternative would substantially reduce the amount of housing development feasible on the Miraflores site, resulting in a maximum of 77 units. Like the In-Place/Low Density Alternative, it would frustrate the purpose of restoring Baxter Creek, since the Oishi Greenhouses lie in the path of the proposed daylighted creek.

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[1] Graves, Donna, Ward Hill, and Woodruff Minor, 2004, *Historic Architecture Evaluation: The Oishi, Sakai and Maida-Endo Nurseries*, San Francisco.

4. **Increased Housing/High Density Alternative.** This alternative would allow for significantly more housing on the site at a substantially higher density. The site would have the same layout as the proposed project, but would be designated High Density Residential/944. As a result, a maximum of 471 units would be developable on the site, and buildings would be taller (up to four stories) to accommodate the increased number of units. This alternative would have similar impacts to the proposed project, but would result in more significant impacts to land use, in that the taller structures would be less compatible with surrounding neighborhoods, and, although less than significant, the intensity of impacts to public services and traffic would be proportionately more than that of the proposed project.

Under implementation of the proposed project, impacts to cultural resources would be considered significant and unavoidable. The In-Place/Low-Density Alternative would preserve more historically significant structures, for on-site adaptive reuse, than the proposed project, but would still result in a significant and unavoidable impact because it would demolish other buildings that contribute to the historical significance of the nurseries. Although the No Project Alternative would leave all existing structures in place, the historic buildings would continue to deteriorate from neglect, which would constitute a potentially significant impact related to cultural resources. Among the alternatives, only the Increased Preservation Alternative would avoid a potentially significant impact on cultural resources.

The proposed project would be the most environmentally-sensitive since it would cause the fewest environmental impacts, provide the most environmental benefits, and avoid the maximum number of potentially significant impacts. The next most preferable alternative would be the Increased Housing/High Density Alternative, then the In-Place/Low Density Alternative, then the Increased Preservation Alternative, and finally the No Project Alternative.

F. Summary Table

The impacts and mitigation measures identified in this EIR are summarized in Table 2-1. The table is organized to correspond with the environmental factors discussed in Chapter 4. Table 2-1 is arranged in four columns: (1) environmental impacts; (2) significance before mitigation; (3) mitigation measures; and (4) significance after mitigation. A series of mitigation measures is noted where more than one mitigation may be required to reduce an impact to a less-than-significant level. The full description of each impact and mitigation measure is presented in Chapter 4.

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
AESTHETICS			
Since no potentially significant impacts on aesthetic resources were identified, no mitigation measures are required.			
AGRICULTURAL RESOURCES			
Since no potentially significant impacts related to agricultural resources were identified, no mitigation measures are required.			
AIR QUALITY			
AQ-1: Project remediation and construction activities could generate substantial emissions of particulate matter, specifically PM_{10}, which could expose sensitive receptors to temporary elevated pollutant concentrations. In addition, diesel-powered equipment could cause local air quality effects. This could result in a *potentially significant* impact.	PS	AQ-1: Implement control measures for remediation- and construction-related air emissions. Each project sponsor is responsible for ensuring that the contractor reduces particulate, ROC, NOx, and CO emissions by complying with BAAQMD guidelines. The project sponsor and contractor should implement the following control measures based on BAAQMD guidelines. ♦ Cover all trucks hauling construction and demolition debris, including soil, sand and other loose materials from the site. ♦ Water on a continuous as-needed basis all earth surfaces during clearing, grading, earthmoving, and other site preparation activities. ♦ Use watering to control dust generation during demolition of structures or break-up of pavement. ♦ Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved parking areas and staging areas. ♦ Sweep daily (with water sweepers or vacuum/street sweepers) all roads, paved areas and staging areas at the site. ♦ Provide daily clean up (with a vacuum/street sweeper) if visible mud and dirt is carried onto adjacent public streets.	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		♦ Conduct renovation and demolition activities and removal or disturbances of any material that contain asbestos, lead paint or other hazardous pollutants in accordance with BAAQMD and DTSC rules and regulations. ♦ Install wheel washers for all exiting trucks, or wash off the tires or tracks of trucks and equipment leaving the site. ♦ Suspend dust-producing activities during periods when instantaneous gusts exceed 25 mph when dust control measures are unable to avoid visible plumes. ♦ Limit the area subject to excavation, grading and other construction or demolition activity at any one time. ♦ Suspend use of all construction equipment operations during second stage smog alerts. ♦ Apply soil stabilizers to previously graded portions of the site inactive for more than ten days, or cover or seed these areas. ♦ Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind. ♦ Limit traffic speeds on unpaved roads to 15 mph. ♦ Replant vegetation in disturbed areas as quickly as possible. ♦ Opacity is an indicator of exhaust particulate emissions from off-road diesel powered equipment. The project shall ensure that emissions from all construction diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately. ♦ The contractor shall install temporary electrical service whenever possi-	

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		ble to avoid the need for independently powered equipment (e.g. compressors). ♦ Clear signage shall be posted indicating that diesel equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were onsite and away from residences. ♦ Properly tune and maintain equipment for low emissions. ♦ Configure construction parking to minimize traffic interference. ♦ Consolidate truck deliveries when possible. ♦ Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abutters and the general public. ♦ Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows. ♦ Implement a carpool program for construction workers. ♦ Prohibit the use of conventional cut-back asphalt for paving and restrict the maximum VOC content of asphalt emulsion. ♦ Use low-ROG paints and other low-ROG construction materials.	
BIOLOGICAL RESOURCES			
BIO-1: Proposed development on the site would include the restoration of Baxter Creek and could temporarily affect the 0.007 acres of wetlands and temporarily impact waters on-site. Although the creek restoration would be a beneficial impact, the	PS	BIO-1: Prior to issuance of a grading permit that will impact the creek, a Section 401 Certification shall be obtained from the San Francisco Bay Regional Water Quality Control Board (RWQCB), a Nationwide Wetlands Permit obtained from the Corps, and a Streambed Alteration Agreement from the California Department of Fish and Game (CDFG).	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
restoration work itself could adversely impact the jurisdictional wetlands/waters. This would be considered a *potentially significant* impact.			
CULTURAL RESOURCES			
CR-1: Although the most significant structures from the Sakai nursery and two structures from the Oishi Nursery would be retained on-site, implementation of the proposed project would result in demolition of other contributing structures on-site and therefore would cause a significant adverse impact to historical resources.	PS	CR-1: The proposed project would preserve the Sakai House, tank house and Greenhouse 20 of the Sakai nursery on-site. (The proposed project would also include ~~on-site~~ relocation and rehabilitation ~~preservation~~ of the Oishi House and either Greenhouse 9 or 17 of the Oishi Nursery on-site.) Prior to implementation of the project, all existing buildings and landscape features shall be documented, using archival quality photography of the exterior and interior and archival negatives of the original construction drawings. The project ~~City~~ shall also include ~~develop~~ a permanent, interpretive historical exhibit on the site, or if not feasible, at an appropriate public venue, that incorporates information from the historic report, historic photographs, and Historic American Landscape Survey and Historic American Buildings Survey documentation. These measures would reduce project impacts, but not to a less-than-significant level.	SU
CR-2: Development under the proposed project (including the remediation process) could potentially disrupt, alter or eliminate as-yet undiscovered archaeological sites, including Native American remains, which would be a *potentially significant* impact.	PS	CR-2: For any archaeological resources discovered during the remediation and construction phase, all project activities in the immediate vicinity of the discovery would halt. Procedures of 36 CFR Part 800.13(b) and (c); PRC Sections 5097.94, 5097.98 and 5097.99; and the California Health and Safety Code Section 7050.5 would be followed, including calling an archaeologist or paleontologist to evaluate the materials.	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
CR-3: Development under the proposed project, including remediation activities, could potentially disrupt, alter or eliminate as-yet undiscovered paleontological resources. This would be a *potentially significant* impact.	PS	CR-3: If paleontological resources were found during site remediation and construction, work would be halted until a paleontologist could evaluate the nature and significance of the resources. If significant resources were confirmed, the OHP and the California Department of State Parks would be contacted for further guidance on documentation and preservation. Protocol for the discovery of paleontological resources during construction would be the same as that for archaeological resources, per the MOA: project activities in the immediate vicinity of the discovery would halt, and procedures of 36 CFR Part 800.13(b) and (c); PRC Sections 5097.94, 5097.98 and 5097.99; and the California Health and Safety Code Section 7050.5 would be followed, including calling an archaeologist or paleontologist to evaluate the materials.	LTS
GEOLOGY, SEISMICITY AND SOILS			
GEO-1: Undocumented fill was observed at the north and east sides of the site. Scattered patches of fill generally less than a foot deep cover the remainder of the site. Undocumented fill, if left in place, could impact utility trench operations and damage building foundations and pavements. This could result in a *potentially significant* impact.	PS	GEO-1: The following site preparation and grading measures shall be performed to address soil condition issues of existing undocumented fill and shallow groundwater. ♦ Prior to site grading, tall grasses and weeds that cover the majority of the site shall be mowed and removed. Existing structures, foundations, trees and abandoned underground utilities, septic tanks, leach fields and other existing abandoned improvements shall be demolished and removed from the site either following or as part of site remediation. Existing fill along the north and east sides of the site shall be removed down to stiff native soil. ♦ Areas to receive fill, following remediation, shall be scarified to a depth of about 12 inches below the existing ground surface, moisture conditioned and compacted according to the requirements stipulated in the Berlogar Geotechnical Report from November 2006. ♦ The shallow patches of fill that cover most of the site shall be addressed	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		by 12-inch deep scarification. If zones of soft or saturated soils are encountered during grading and over-excavation operations, deeper excavations may be required to expose firm soils. This shall be determined in the field by the soil engineer. ♦ Imported fill, except as provided in the RAP, shall be free of deleterious matter and rock fragments greater than 4 inches, and have a Plasticity Index of 15 or less and contain sufficient clayey binder to allow for stable utility trench excavations. ♦ All fill and backfill shall be placed in thin lifts (between 8 and 12 inches depending on compaction equipment), properly moisture conditioned and compacted to degrees indicated by the Berlogar Geotechnical Report from November 2006. ♦ Observations and soil density test shall be conducted during grading and backfill operations to obtain the proper degree of compaction and moisture content. Where compaction is outside the range required, additional reworking and moisture conditioning shall be made until the specified compaction and moisture conditioning are achieved. ♦ The soil engineer, except as provided for in the RAP, shall be notified at least 48 hours prior to any grading operations to discuss the procedure and methods of grading.	
GEO-2: Shallow groundwater could impact grading and underground construction, resulting in potentially wet and unstable subgrade soils. The presence of relatively shallow groundwater could impact grading and underground construction and equipment. This could result in a *potentially significant* impact.	PS	GEO-2: If excavation bottoms require stabilization due to proximity to groundwater, imported drainage rock, geotextile fabric, or lime treatment may be used to accomplish this stabilization. If groundwater is encountered during soil excavation before the limits of the soil contamination are reached, a determination shall be made to dewater and excavate further, or to discontinue the excavation. If the determination made is to dewater and continue the excavation, groundwater removed from the excavation shall be pumped into	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		aboveground containers for subsequent analysis prior to treatment and/or disposal.	
GEO-3: Expansive soils underlying the Miraflores site could damage building foundations and concrete pavements. This could result in a *potentially significant* impact.	PS	GEO-3a: Post-tension concrete slab-on-grade foundations shall be used in residential units to help reduce the potential impacts of expansive soils. Construction activities shall provide proper moisture conditioning of the sub-grade soils under building foundations and concrete pavements to mitigate the potential impacts of expansive soils. Slab foundations shall be designed by a structural engineer to according to the following parameters: ♦ Slab foundations shall accommodate 3 inches total soil movement and 1 inch in 25 horizontal feet differential soil movement. ♦ The subgrade of the building pad shall be presoaked to at least 7 percent over the optimum moisture content for a depth of 12 inches. Building pads shall not be allowed to dry out to less than the recommended moisture content prior to the construction of the slab. The soil engineer shall check the moisture content prior to the placement of moisture vapor retarder.	LTS
		GEO-3b: To reduce the effects of expansive soils on exterior concrete flatwork such as sidewalks, walkways and driveways, the following measures shall be incorporated during subgrade preparation: ♦ The subgrade in these areas shall be scarified to a depth of at least 12 inches, properly moisture conditioned to at least 5 percent optimum moisture content and compacted between 85 and 90 percent relative compaction. ♦ The moisture content of subgrade soils shall be checked immediately prior to the placement of baserock or concrete (if supported directly on the subgrade). ♦ Any previously compacted subgrade soils that are disturbed during utility	

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		trench excavation and backfilling shall be uniformly moisture conditioned to at least 5 percent above optimum moisture content and recompacted to between 85 and 90 percent relative compaction to provide a smooth and unyielding surface.	
GREENHOUSE GAS EMISSIONS			
The project includes design features that reduce greenhouse gas emissions (GHGs) under 28 percent below business as usual; thus, there are no potentially significant impacts regarding GHGs and no mitigation measures are required.			
HAZARDS AND HAZARDOUS MATERIALS			
The project includes approval and implementation of a Remedial Action Plan; thus, there are no potentially significant impacts related to hazards and hazardous materials and, no mitigation measures are required.			
HYDROLOGY AND WATER QUALITY			
HYDRO-1: The restoration of Baxter Creek could increase the potential for erosion, which if not addressed could result in violation of water quality standards or waste discharge requirements. This is considered a *potentially significant* impact.	PS	HYDRO-1: The following measures shall be incorporated into the restoration design of Baxter Creek to reduce the potential for erosion: ♦ Conduct hydrologic flood modeling to determine the appropriate width and design of the creek channel to disperse creek flow velocity and convey water without increasing erosion. ♦ Cut creek banks at gradients no steeper than two-feet horizontal to one-foot vertical (2H:1V) to reduce the risk of erosion in the creek channel. ♦ Plant native vegetation within the creek channel and floodplain to provide groundcover to prevent erosion from bare soils. ♦ Where flood modeling indicates unavoidable increases in water velocity, use soil bioengineering in areas of the restored channel. (Soil bioengineering is the use of structural support and vegetative cover of natural materials to provide structure and support to prevent creek bank erosion and restore natural stream habitat.) Include the use of woody cuttings and poles	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		or posts collected from native plants to provide structural support, control creek bank erosion and restore natural stream habitat. Exact methods used and locations would be determined through further planning and design. ♦ Channel hardening would be used as needed at the transition between the restored channel and culvert outfalls and infalls to prevent erosion. Channel hardening would be limited to areas where soil bioengineering is incapable of addressing the potential for erosion due to high velocities caused by supercritical flow.	
HYDRO-2: The restoration of Baxter Creek would alter site drainage and runoff patterns, which could potentially result in erosion and on- and off-site flooding. This is considered a *potentially significant* impact.	PS	HYDRO-2: To address risks associated with erosion and flooding, the following features shall be incorporated into the final creek restoration design: ♦ Locate the creek channel within a wide floodplain, with widths throughout most of the floodplain at approximately 120 feet to 140 feet wide to provide increased capacity for out-of-channel flooding. ♦ Conduct hydrologic flood modeling to assess the effects of detention storage on the system. The model run will be used to design flood detention storage or peak attenuation as needed to meet the NPDES C.3 regulations. ♦ Incorporate creek bank stabilization measures, including grading, bioengineering and hardening, in the final design to demonstrate that erosion and flooding impacts are mitigated. ♦ Incorporate landscaping throughout the creek channel and floodplain to prevent erosion. ♦ Design floodwalls and landscape berms to increase storage of flows within the creek channel and accommodate break-out flows at the downstream end of the restored creek at Wall Avenue. Based on the modeling results,	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		the dimensions and placement of floodwalls and landscaped berms would be determined.	
LAND USE			
There are no potentially significant impacts regarding land use; therefore, no mitigation measures are required.			
NOISE			
NOI-1: The first row of residences along the north and east may be exposed to noise levels that exceed the Richmond General Plan and HUD guidelines. This could result in a *potentially significant* impact.	PS	NOI-1a: During final design of the project, a detailed acoustical analysis of exterior and interior noise reduction requirements and specifications shall be conducted by a qualified Acoustical Specialist in accordance with City of Richmond and HUD standards.	LTS
		NOI-1b: During the final site plan design, noise-sensitive outdoor use areas shall be located away from Interstate 80 and BART wherever possible. Noise-sensitive spaces shall be shielded with buildings or noise barriers whenever possible to maintain exterior noise levels of 65 L_{dn} or less at multi-family housing. Potential noise barrier locations are shown in Figure 4.11-4.	
		NOI-1c: Design and construction of noise barriers shall be incorporated to reduce BART noise at private exterior use areas at multi-family homes proposed in the north part of the site to 65 L_{dn} or less. Design and construction of noise barriers shall be incorporated to reduce Interstate 80 traffic noise at ground-level outdoor use areas of multi-family homes along the eastern portion of the site bordering the open space area (i.e. near Interstate 80). Preliminary calculations indicate that 6- to 8-foot high walls or solid fences would be necessary to protect these areas from BART and traffic noise. The final detailed design of the heights and limits of these barriers shall be completed at the time that the final grading and site plans are submitted.	

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		NOI-1d: A project-specific acoustical analysis where exterior levels exceed 60 dBA L_{dn} shall be conducted. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as those listed below would adequately reduce interior noise levels to 45 dBA L_{dn} or lower. ♦ Building sound insulation shall be provided for a minimum of 5 decibels additional sound attenuation (minimum 25 dBA exterior-to-interior noise reduction) at first and second stories, and 10 decibels (minimum 30 dBA exterior-to-interior noise reduction) at third stories or higher. ♦ Special building construction techniques including sound-rated windows, doors, building façade treatments, sound-rated wall constructions and acoustical caulking) may be required for new residential uses adjacent to Interstate 80 and BART.	
NOI-2: Construction and remediation of the project would generate noise and result in a substantial noise level increase at adjacent residential land uses for a temporary period of time. Construction noise could intermittently exceed the limits set in the Richmond Noise Ordinance. This could result in a *potentially significant* impact.	PS	NOI-2a: Prior to initiation of the project, the contractor shall prepare and submit a noise monitoring plan for the construction and remediation phases to the City. The noise monitoring plan shall identify monitoring locations and frequency, instrumentation to be used, and appropriate noise control measures that can be incorporated. The plan shall include the following provisions: ♦ Noise levels shall be measured for comparison to the noise limits set forth in the Richmond Noise Ordinance. ♦ Noise levels shall be monitored at locations representing the highest noise exposure levels to the west and south of the project site. ♦ Noise monitoring shall occur at the beginning of each major phase of construction and remediation, and/or when noise levels are expected to change.	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		NOI-2b: Noise-generating construction and remediation activity shall comply with City construction noise standards and shall be limited to daytime hours.	
		NOI-2c: All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment. NOI-2d: Stationary noise-generating equipment shall be located as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.	
		NOI-2e: Construction and remediation equipment shall utilize state of the art noise suppression techniques and be shielded with temporary noise barriers to reduce temporary, construction-related noise impacts.	
		NOI-2f: The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction and remediation activities. This plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction and remediation activities and the event schedule can be scheduled to minimize noise disturbance.	
		NOI-2g: A "disturbance coordinator" shall be designated who would be responsible for responding to any local complaints about construction and remediation noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the construction schedule. The City shall be responsible for designating a noise disturbance coordinator and the individual project sponsor shall be responsible for posting the phone number and providing construction schedule notices.	

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		NOI-2h: During construction and remediation, trucks and equipment shall be running only when necessary.	
NOI-3: Buildings within 100 feet of the BART tracks could result in exposure of persons to excessive ground-borne vibration levels. This could result in a *potentially significant* impact.	PS	NOI-3: For residential buildings to be constructed within 100 feet of the BART tracks, an on-site vibration monitoring study and building design study shall be completed pursuant to Federal Transit Agency Guidelines during project design. Based on the results of the vibration study, control measures to reduce floor vibrations to acceptable levels, such as foundation stiffening, shall be designed and implemented.	LTS
POPULATION AND HOUSING			
Since no potentially significant impacts related to population and housing were identified, no mitigation measures are required.			
PUBLIC SERVICES AND RECREATION			
Since no potentially significant impacts related to public services and recreation were identified as a result of the proposed project, no mitigation measures are required.			
TRAFFIC AND CIRCULATION			
Since no potentially significant impacts to traffic and circulation were identified, no mitigation measures are required.			
UTILITIES AND INFRASTRUCTURE			
Since no potentially significant impacts to utilities and infrastructure were identified, no mitigation measures are required.			

3 REVISIONS TO THE DRAFT EIR

Corrections to the text and graphics of the Draft EIR are contained in this chapter. Underline text represents language that has been added to the EIR; text with ~~strikethrough~~ has been deleted from the EIR.

Page 2-2, first bullet point, is changed as follows:

- Incorporate historic features of the site into the project design. The following components are proposed in the Miraflores Housing Development Plan to acknowledge the former nursery use of the site while also allowing housing development:
  - Restore and retain on-site the ensemble of the primary Sakai House, adjacent water tower, and Greenhouse 20, as well as ~~and~~ the primary Oishi House and either Greenhouse 9 or 17~~, on site~~. ....

Page 2-4, last paragraph, Impact CR-1, is changed as follows:

Impact CR-1: Although the most significant structures from the Sakai nursery and two structures from the Oishi Nursery would be retained on-site, implementation of the proposed project would result in demolition of other contributing structures on-site and therefore would cause a significant adverse impact to historical resources.

Page 3-3, new text has been added before the heading C. Project Site Location:

C. Project Benefits

Implementation of the project would provide a range of benefits to the future residents of the site, the surrounding neighborhoods, and the wider communities of Richmond and the Bay Area. These benefits include:

- The development of up to 336 units of affordable and market-rate housing on a vacant and deteriorated infill site near transit;
- The restoration of Baxter Creek and the provision of active and passive recreational space;

- The on-site rehabilitation and reuse of historical resources and the development of a publicly-accessible, interpretive exhibit to communicate the history of the Japanese American flower-growing industry in the Bay Area;
- The remediation of extensive soil contamination on-site to a level safe enough for human occupancy; and
- The creation of living-wage jobs in hazard remediation, abatement and construction.

~~C.~~D. *Project Site Location*

Pages 3-12 through 3-13, last paragraph, is updated as follows:

The Miraflores site soils have been impacted by the use of pesticides, lead-based paints and petroleum-related products related to the historical nursery operations. Three known, inactive Underground Storage Tanks (USTs), a hydraulic lift, and other nursery related equipment and structures remain on site and would be removed during proposed cleanup activities, except for those structures that would be relocated and preserved. Lead-based paint and asbestos have also been detected on structures. Groundwater under the site has been found to contain petroleum, ~~and~~ benzene and volatile organic compounds. The latter ~~, which~~ were not used in historical nursery operations at the site. Investigations have shown that some of the groundwater contamination resulted from the USTs~~ and off-site source(s)~~, but the volatile organic compound contamination is of an indeterminate source and no on-site source has been identified.

Page 3-13, under 1. Development Program, is revised as follows:

- Up to 226 for-sale market rate residences, in a combination of attached and detached single-family homes.
- Up to 110 affordable rental units for seniors.

Page 3-14, Figure 3-5, has been changed to identify the locations of the Sakai House, water tower, Greenhouse 20, and the pedestrian and bicycle path, as shown on the following page, and to show where the Oishi House and Greenhouse 9 or 17 would be relocated in the open space area along Interstate 80.

Page 3-15 through 3-16, last paragraph under a. Affordable Housing and b. Market-Rate Housing, is updated as follows:

> The affordable housing component of the project would be comprised of up to 110 affordable rental units for seniors...
>
> The market-rate housing component of the project would be comprised of up to 226 for-sale units in a combination of attached and detached single-family units in two- and three-story buildings. Three-story buildings would consist of a townhouse unit with a single-story unit either on the first floor or third floor. These would be arranged around shared courtyards with landscaping. Of the 226 market-rate units, approximately 5 percent (or 11 units) would be one-bedroom, 25 percent (or 57 units) would be two-bedroom, 60 percent (or 135 units) would be three-bedroom, and 10 percent (or 23 units) would be four-bedroom.

Page 3-16 through 3-17, second paragraph after 3. Green Building and bulleted items, are updated as follows:

> To ~~The project would incorporate the following sustainability features to~~ achieve LEED-ND ~~credits~~Gold certification, the Agency has committed to, among other things, incorporating the following sustainability features into the design of the project:
>
> - The project would be developed on a brownfield site.
> - Construction and demolition debris would be recycled or salvaged.

FIGURE 3-5

PROPOSED MIRAFLORES HOUSING DEVELOPMENT PLAN

- The project would include a mix of housing types and sizes. The affordable housing component of the project would be maintained at specified affordability levels for a minimum of 15 years.
- The site would achieve a net density of at least 30 units per acre.
- Transit access would be available within a ½-mile of the project site.
- The site would be designed for universal accessibility.
- The project would seek to provide a vehicle-sharing program on-site.
- The project would implement a comprehensive stormwater management plan, including the use of p~~P~~ermeable paving ~~would be used~~ on non-street surfaces ~~throughout the site,~~ such as courtyards, alleyways and drive courts, to reduce stormwater runoff throughout the site.
- The project would employ indoor and outdoor water use reduction strategies.
- The project would retain and rehabilitate five existing historic structures on-site.
- The project would include approximately 4 ~~four~~ acres of open space along Interstate 80, and a 4,250-square-foot park. The open space areas would be protected in perpetuity.
- The project's lighting systems would be designed to reduce light pollution from shared portions of the project.

Page 3-18 through 3-19, text and bullet points under 5. Parking are updated as follows:

Parking would be provided for residents and visitors throughout the Miraflores Site. The Richmond Zoning Ordinance requires two off-street parking spaces per single-family attached or detached unit, and one space for every two units in a senior multifamily complex, plus one space for each employee on a main shift. The parking lots adjacent to the affordable senior complex would provide the required 0.5 spaces per unit. Un-

der the Planned Area Zoning District, however, the project would deviate from the off-street parking requirements for the market-rate housing. Parking would consist of the following components:

- ~~The senior housing component would provide approximately 36 spaces in parking lots adjacent to the complex.~~
- The market-rate housing would provide 1.5~~233 covered,~~ off-street spaces per unit. ~~and 27 uncovered spaces in parking lots.~~
- On-street parking would be provided throughout the Miraflores site.

Page 3-19, first paragraph under 6. Historic Resources, is updated as follows:

The project proposes to rehabilitate on-site, in accordance with the Secretary of the Interior's standards, the main Sakai House, water tower and Greenhouse 20. These would be located in the center of the site next to the tot lot and park. The structures would be moved in their current configuration approximately 30 feet to the southeast from their present location to allow for the development of Endo Way. The main Oishi House and either Greenhouse 9 or 17 would be rehabilitated and relocated to the open space area along Interstate 80. ~~on site to the west side of Oishi Drive.~~ The structures would be rehabilitated for adaptive reuse as community meeting spaces and business offices for the agricultural activities that could occur in the open space area.

Prior to demolition of the remaining buildings on-site, the City will meet with any nonprofit groups interested in preserving additional greenhouses, and any additional greenhouses slated for rehabilitation by such groups could be relocated to a portion of the open space area along Interstate 80 dedicated to agricultural uses at their expense.

Page 3-20, first paragraph under 8. Agricultural Production, is updated as follows:

> Part of the open space area along Interstate 80 would be available for the cultivation of agricultural crops and flowers ~~in raised beds~~ by community residents or small-scale commercial enterprises. Prior to the demolition of existing buildings, nonprofit organizations interested in preserving additional historic greenhouses would have the opportunity to enter into an agreement with the City to rehabilitate and relocate greenhouses to the open space area at their expense in exchange for use of the greenhouses for agricultural activities. If no additional existing greenhouses are rehabilitated and relocated to this area, new greenhouses similar in form to the historic greenhouses could be constructed in this location to house the agricultural activities. A small parking lot located at the end of Ohio Avenue in the open space area would provide a staging area for these growing activities.

Page 4.3-17, second paragraph, is updated as follows:

> Existing structures likely contain asbestos that would have to be removed. Soil contamination at the site relates to historical nursery operations and includes pesticides, lead and petroleum-related products. Groundwater contamination includes petroleum hydrocarbons as well as volatile organic compounds ~~from an off-site source~~.[2] The....

Page 4.3-27 (last paragraph which continues on page 4.3-28), is updated as follows:

> . . . . ~~Figure 4.3-1 shows the modeled roadway links and receptors used for the DPM risk assessment.~~ For cancer risk, which is the main concern with diesel particulate matter, the BAAQMD considers a risk of contracting cancer that is 10 in one million chances or greater to be significant. Particulate matter can also contribute to asthma and other respiratory illnesses. Non-cancer health risks such as asthma are more difficult to quan-

tify from a particular air pollution source such as a freeway compared to estimating cancer risk. Criteria to quantify the potential for asthma or other respiratory effects have not been established or adopted by the US EPA, CARB, or BAAQMD. Recently, however, BAAQMD has proposed $PM_{2.5}$ concentration-based criteria that would apply in Richmond if adopted as proposed. Specifically, BAAQMD has proposed 0.3 μ/m^3 annual average concentration for $PM_{2.5}$ as a risk threshold.[4] This concentration guideline would be the criteria most closely related to respiratory effects such as asthma, and BAAQMD has recommended that this be applied when siting new receptors near sources of $PM_{2.5}$. To be conservative, a $PM_{2.5}$ concentration assessment was conducted to evaluate asthma risk. As discussed below, the health risk assessments showed that the risks for cancer and asthma were not ~~potentially~~ significant. Figure 4.3-1 shows the modeled roadway links and receptors used for the DPM risk assessment and PM2.5 modeling.

[4] Bay Area Air Quality Management District CEQA Guidelines Update, *Public Workshop: Staff Recommended California Environmental Quality Act (CEQA) Thresholds of Significance*, September 8, 9, 10, 2009. Slide 15.

Page 4.3-28, the title for edited Figure 4.3-1, has been revised to: "Receptors Used for DPM Risk Assessment and $PM_{2.5}$ Concentration Modeling."

Page 4.3-35, under D.1.d, a new section is added, as follows:

vi. Asthma Risk

While criteria to quantify the potential for asthma or other respiratory effects have not yet been formally established or adopted by any federal, State, or regional agency, the U.S. EPA has recently developed proposed Prevention of Significance Deterioration (PSD) increments and significant impact levels (SILs) for $PM_{2.5}$ for toxic air contaminants (TAC) sources. Specifically, the EPA has proposed three possible SILs for the annual average $PM_{2.5}$ concentration: 1.0 $\mu g/m^3$, 0.8 $\mu g/m^3$, and 0.3

Source: Illingworth & Rodkin, Inc.

FIGURE 4.3-1

RECEPTORS USED FOR DPM RISK ASSESSMENT AND $PM_{2.5}$ CONCENTRATION MODELING

$\mu g/m^3$.[7] Thus, if modeled concentrations of $PM_{2.5}$ for a source are below the selected increment, then the EPA would consider the contribution to be *de minimus*, or not to have a measurable effect on air quality.

Similarly, BAAQMD has recently proposed $PM_{2.5}$ concentration-based criteria that would apply to new TAC sources and new receptors located near existing TAC sources, such as freeways. BAAQMD's proposed concentration-based $PM_{2.5}$ criteria of 0.3 $\mu g/m^3$ is based on the most stringent of the EPA's potential thresholds.[8] The California Ambient Air Quality Standard for $PM_{2.5}$ is 12 0.3 $\mu g/m^3$ annual average concentration, and the national Ambient Air Quality Standard is 15 0.3 $\mu g/m^3$ for annual average concentrations.

Even though these are only proposed thresholds, to be conservative, concentrations of $PM_{2.5}$ produced from Interstate 80 traffic were modeled to evaluate the asthma-related impact of exposure of future residents of the Miraflores site to Interstate 80 traffic air pollution. BAAQMD proposes that, for cumulative impacts, all sources within 1,000 feet of a source should be modeled. Interstate 80 is the only major $PM_{2.5}$ source that was identified within 1,000 feet of the project site, and therefore, the only source modeled.

Modeling results are included in Appendix V. Concentrations were modeled for the receptors (housing units) on the Miraflores site. The $PM_{2.5}$ modeling approach followed a similar methodology to that for DPM impacts, except that $PM_{2.5}$ emissions from all vehicles were modeled, rather than just the emissions from diesel vehicles, because all vehicle types are subject to producing $PM_{2.5}$. $PM_{2.5}$ emissions were modeled for the earliest year that the market-rate housing closest to Interstate 80 would be occupied, which was assumed to be 2013. The affordable senior housing would potentially be occupied in the year 2012, but these units would be located approximately 480 feet from the freeway and have modeled concentrations that are about 50 percent of those for homes closest to Interstate 80. While traffic is predicted to increase in the future, $PM_{2.5}$ emis-

sion factors are decreasing at a faster rate, due mainly to more stringent controls on diesel engines. As a result, the earliest year of occupancy for the units closest to the freeway would represent the year with the highest $PM_{2.5}$ concentrations in the foreseeable future.

The $PM_{2.5}$ modeling results indicate that the highest annual average concentrations for the first full year of occupancy for receptors closest to the freeway would be approximately 0.2 $\mu g/m^3$. This concentration level would be approximately a third lower than the BAAQMD staff-recommended draft BAAQMD guidelines of 0.3 $\mu g/m^3$, and is less than 2 percent of the health-based State and National Ambient Air Quality Standards for $PM_{2.5}$. While the affordable senior housing would potentially be occupied in 2012, these units have $PM_{2.5}$ concentrations that are substantially reduced as compared to those units closest to Interstate 80. As a result, there would be a *less-than-significant* impact related to asthma and respiratory illnesses from exposure of receptors to $PM_{2.5}$ emissions from Interstate 80.

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[7] U.S. EPA, Code of Federal Register, 40 CFR Parts 51 and 52, Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM2.5) – Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC); Proposed Rule. Friday, September 21, 2007, 54115.C.

[8] BAAQMD, *California Environmental Quality Act Draft Air Quality Guidelines*, September 2009. (http://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/CEQA/Workshop%20Draft%20-20BAAQMD%20CEQA%20Guidelines%209-2009.ashx).

Page 4.3-37, Mitigation Measure AQ-1, the fifth bullet point is updated and new bullet points are added, as follows:

....

- Conduct renovation and demolition activities and removal or disturbances of any material that contain asbestos, lead paint or other haz-

ardous pollutants in accordance with BAAQMD and DTSC rules and regulations.

- Install wheel washers for all exiting trucks, or wash off the tires or tracks of trucks and equipment leaving the site.
- Suspend dust-producing activities during windy periods when dust control measures are unable to avoid visible plumes.
- Limit the area subject to excavation, grading and other construction or demolition activity at any one time.
- Suspend use of all construction equipment operations during second stage smog alerts.
- ....
- Properly tune and maintain equipment for low emissions.
- Configure construction parking to minimize traffic interference.
- Consolidate truck deliveries when possible.
- Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abutters and the general public.
- Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows.
- Implement a carpool program for construction workers.
- Prohibit the use of conventional cut-back asphalt for paving and restrict the maximum VOC content of asphalt emulsion.
- Use low-ROG paints and other low-ROG construction materials.

Page 4.4-1, second paragraph, is updated as follows:

> This section is based on review of the *Wetland/U.S. Waters Delineation for the Miraflores Property* prepared in April 2005 and *Biological Resources Findings Report for the Miraflores Property* prepared in May 2004 by Olberding Environmental, Inc. These reports are included as Appendix M and Appendix N, respectively.

Page 4.4-16, Mitigation Measure BIO-1, is revised as follows:

> BIO-1: Prior to issuance of a grading permit that will impact the creek, a Section 401 Certification shall be obtained from the San Francisco Bay Regional Water Quality Control Board (RWQCB), a Nationwide Wetlands Permit obtained from the Corps, and a Streambed Alteration Agreement from the California Department of Fish and Game (CDFG).

Page 4.5-1, second paragraph, is updated as follows:

> A detailed description of historical and cultural resources is provided by the following reports, which are included in the Appendices E through J to this EIR:

Page 4.5-7, last sentence of the first paragraph, is updated as follows:

> . . . . Such an MOA evidences an agency's compliance with Section 106 and the Agency is obligated to follow its terms (36 CFR Part 800.6(c) – Protection of Historic Properties). The MOA is contained in Appendix I.

Page 4.5-11, first paragraph under B. Existing Conditions, is updated as follows:

> This section describes the existing cultural setting of the Richmond region, and the Miraflores site setting, as summarized in the *Archaeological*

Survey Report, Miraflores Housing Development Project by Suzanne Baker, Archaeological/Historical Consultants, June 2004, unless otherwise indicated. This report is contained in Appendix E.

Page 4.5-12, second-to-last paragraph, is updated as follows:

In 1899, the immediate Miraflores project area was part of a 142-acre property located to the west of San Pablo Avenue, owned by Thomas B. Bishop. Japanese immigrants were the first pioneers in the flower industry in the Bay Area, beginning in Oakland in 1885. Japanese American families began operating nurseries in Richmond as early as 1900. ~~1892.~~

Page 4.5-13, second-to-last paragraph, is updated as follows:

Eventually, the project area and surroundings held the most intense concentration of Japanese American families and their nurseries, which specialized in growing carnations, roses and other cut flowers, primarily for the wholesale market through the San Francisco Flower market. Nurseries in the project began around~~about~~ 1908. In addition, this neighborhood housed the Japanese Language School, "a cultural hub for nearly all members of the West Coast Nihonmachis (Japantowns)."[7] The Miraflores site was formerly occupied by three nurseries operated by Japanese-American families: the Sakai, Oishi, ~~and Maido~~ Maida, Endo, Mayeda, Fukushima and Hoshi families.

Page 4.5-14, beginning with footnote in last sentence under 2. Site Setting, is updated as follows:

.... This area prehistorically must have been an extremely rich ecotone, with freshwater from the nearby creeks and floral and faunal resources readily accessible from the bay, marsh, grasslands, and nearby woodlands in the foothills to the east.[8]

a. Paleontological Resource

Archives at the Bancroft Library and Earth Sciences and Map Library at the University of California, Berkeley, were consulted as part of the *Archeological Survey Report, ~~for the~~ Miraflores Housing Development Project* conducted in June 2004 by Archaeological/Historical Consultants. A record search took place at the Northwest Information Center of the California Historic Resources Information System (CHRIS) at Sonoma State University, Rohnert Park. Records indicate that the Miraflores project area had not been previously inspected by an archaeologist. One survey had been conducted adjacent to the project in 1982 and three surveys located within a quarter mile of the east of the project site have also been completed.

b. Archeological Resources

According to the *Archeological Survey Report, ~~for the~~ Miraflores Housing Development Project*, three prehistoric archaeological sites are located within a half mile of the project area to the east of Interstate 80. . . . .

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[8] ~~*Extended Phase I*~~ *Archeological Survey Report, ~~for the~~ Miraflores Housing Development Project*, Archaeological/Historical Consultants, June 2004. ***[this is okay]***

Page 4.5-16, first paragraph after bullets, is updated as follows:

One historic property, site P-07-002599, is recorded immediately adjacent to the north boundary of the project property. This is the railroad right-of-way of the Atchison, Topeka and Santa Fe Railroad. The berm for the old railroad bed is still extant, although without rails or ties. The current BART tracks are just north of and parallel to the berm, ~~apparently~~ making use of the old right-of-way.

Page 4.5-17 is updated as follows:

> . . . . Sakai and Oishi properties hold the most extensive group of pre-World War II historic resources in the entire State of California that are associated with the Japanese-American flower-growing industry. These nurseries are the last remnants ~~were the only remaining nurseries founded by Japanese Americans before WWII in the entire Bay Area, and were the last remaining~~ of Richmond's once vibrant community of Japanese-American flower growers.
>
> The original Sakai House, located at 99 South 47th Street, is a Craftsman bungalow built in 1921. A stucco Spanish Revival house on the western edge of the Sakai lot, built in 1936, was the last occupied house on the site, with nursery workers living there until 2006. According to the 2004 *Historical Architecture Evaluation* by Donna Graves, et. al., the Sakai House, water tower and Greenhouse 20 (the oldest and smallest greenhouse of the Sakai nursery), which are situated in close proximity on the Sakai property, are particularly significant.[13] This report is included as Appendix F.
>
> The Oishi House, a wood-frame house at 4801 Wall Avenue, ~~Street,~~ is believed to have been built in 1905 and moved to its present location in 1925.[14] . . . .

Page 4.5-18, last paragraph, is updated as follows:

> The proposed project would retain on-site the ensemble of the main Sakai House, Greenhouse 20 and the water tower, as well as ~~and~~ the main Oishi House and either Greenhouse 9 or 17. The Sakai structures would be rehabilitated in accordance with the Secretary of the Interior's Standard for Treatment of Historic Properties and moved approximately 30 feet southeast of their present location. The Oishi House and either Greenhouse 9 or 17 would be rehabilitated and relocated to the open space area along Interstate 80. ~~would be relocated to the west side of Oi-~~

~~shi Drive near the southern border of the site.~~ All other existing buildings on the site would be demolished. Prior to the removal of the rest of the buildings on site, historical buildings would be documented and interested parties would be notified in accordance with the provisions of the MOA.

Page 4.5-18, after the last paragraph, the following text has been added:

Prior to commencement of the project, a qualified preservation architect would be retained to determine which Oishi greenhouse (Greenhouse 9 or Greenhouse 17) could be rehabilitated and relocated in the most successful and economical manner. The preservation architect would also develop and oversee the implementation of a detailed plan to protect the Sakai House, the water tower, Greenhouse 20, the Oishi House, and Oishi Greenhouse 9 or 17 during the demolition, remediation, and construction phases of the project, and until the historic structures would be put into regular use. The protective measures would be based on a thorough evaluation of the condition and character-defining features of each historic structure to be retained.[15] The final list would include the following representative protective measures.

For structures that would remain on-site during demolition, remediation, and construction, the following representative measures, or other equally protective measures, would be used:

- When feasible, drilled piers would be used instead of pile driving for foundation construction.
- In cases where pile driving would be necessary, the following measures would be implemented:
  - A preservation architect and structural engineer would determine base conditions and acceptable vibration thresholds.
  - Vibration monitoring equipment would be attached to historic structures during foundation construction efforts.

- Vibrations would be continually monitored and historic structures would be inspected for damages.
- Construction would be halted if vibration levels were detected above the established thresholds, or if damage were found when compared with baseline conditions.
- Any sensitive interior features would be cushioned and buttressed by padded wood supports.

♦ When possible, hand demolition would be used when conventional demolition would cause excessive vibration.

♦ Delivery, entry, and exit points for trucks would be located away from the historic structures.[16]

The following representative measures, or other equally protective measures, would be used to protect structures that would remain on-site during demolition, remediation, and construction from physical impact:

♦ Protective barriers would be constructed around all structures.

♦ In cases where adjacent construction would rise above historic structures, plywood sheets would be placed over roofs to distribute the force of any dropped materials, and horizontal netting would be placed to protect vulnerable rooftop features.

♦ Windows would be covered with plywood, and layers of cushioning materials would be placed between the plywood covering and especially fragile windows.

♦ Scaffolding and debris netting would be erected against vulnerable wall surfaces, and plastic sheeting would be used to provide additional protection in areas where cleaning solutions could come into contact with historic façades, windows, and other surfaces.[17]

For structures that would be disassembled prior to being moved to their new location, the following representative measures, or other equally protective measures, would be used:

- The building's historical features would be accurately documented through measured drawings and photographs.
- The building's components would be accurately labeled.
- The building components would be carefully secured from physical impact.

The following representative measures, or other equally protective measures, would be used for the reassembly of historic structures:

- The historic features of the building would be accurately reassembled based on documented or physical evidence.
- Paints and finishes would be physically isolated from construction operations by means of protective barriers and coverings.
- Where applicable, flooring would be protected from damage caused by abrasion, falling objects, dust and dirt, and spilled liquids.[18]

For structures that would be temporarily stored off-site during the demolition, remediation, and construction phases, the following procedures, among other protective measures, would be followed:

- The historic building components would be stored in a safe, climate-controlled location where they would be protected from vibration, moisture, physical impact, accidental fire, and other potential sources of damage.
- The building components would be stored in protective covering, such as plywood casing.

Structures that would be temporarily stored-off site would be transported to and from their off-site storage location using the following procedures, or other equally protective measures:

- The historic structures would be transported in appropriate vehicles, such as covered trucks, along a designated route to minimize the distance traveled.

- The building components would be carefully protected with the use of appropriate padding.

To protect historic structures from water damage, the following measures, or equally protective measures, would be implemented:

- All buildings would be weatherized to prevent moisture penetration, including leaks and ground moisture.
- Final landscaping and grading of areas adjacent to historic structures would be examined to ensure that rainwater does not flow toward historic resources.[19]

If the historic structures would not be re-occupied immediately after rehabilitation and relocation, the following measures, or other equally protective measures, would be implemented to secure them until returning to regular use:

- A schedule for regular maintenance would be developed.
- Window openings would be fastened, and all doors would be locked.
- The buildings would be structurally stabilized.
- Adequate ventilation would be provided to the interior of each building.
- Utilities would be secured until needed.[20]

---

[15] National Park Service website, "Introduction to Choosing an Appropriate Treatment for the Historic Building," accessed on September 21, 2009. http://www.nps.gov/history/hps/tps/standguide/overview/choose_treat.htm.

[16] Chad Randl, Preservation Tech Notes, Temporary Protection Number 3: Protecting a Historic Structure During Adjacent Construction, Washington, DC: National Park Service, U.S. Department of the Interior, July 2001.

[17] Chad Randl, Preservation Tech Notes, Temporary Protection Number 3: Protecting a Historic Structure During Adjacent Construction, Washington, DC: National Park Service, U.S. Department of the Interior, July 2001.

[18] Dale Frens, Preservation Tech Notes, Temporary Protection Number 2: Specifying Temporary Protection of Historic Interiors during Construction and Repair, Washington, DC: National Park Service, U.S. Department of the Interior, October 1993.

[19] Chad Randl, Preservation Tech Notes, Temporary Protection Number 3: Protecting a Historic Structure During Adjacent Construction, Washington, DC: National Park Service, U.S. Department of the Interior, July 2001.

[20] Park, Sharon C., Preservation Brief 31: Mothballing Historic Buildings, Washington, DC: National Park Service, U.S. Department of the Interior, September 1993. (http://www.nps.gov/hps/TPS/briefs/brief31.htm).

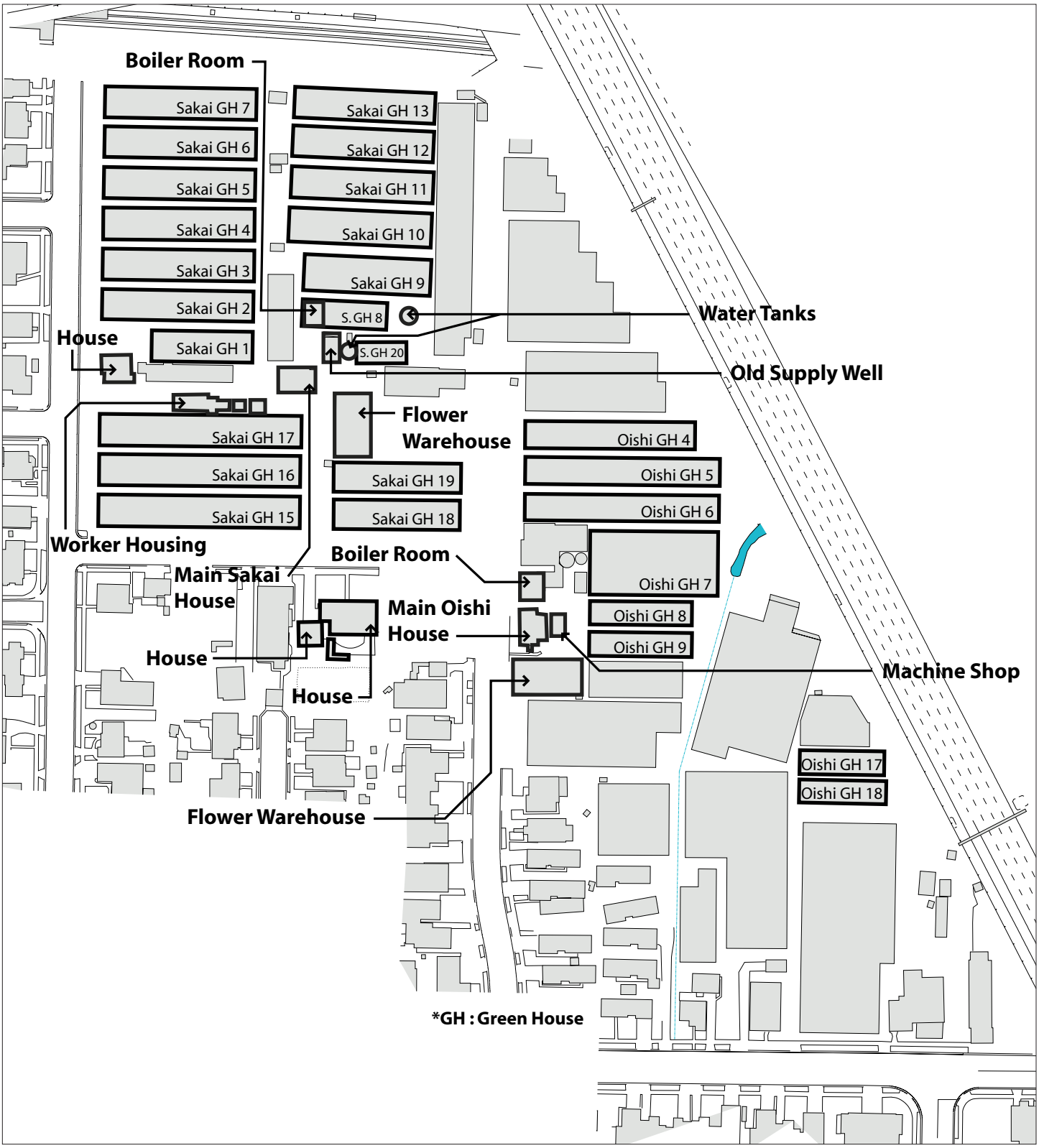
Page 4.5-19, second paragraph, is updated as follows:

The *Finding of Adverse Effect for the Miraflores Residential Project* by Ward Hill in October 2004 was conducted to analyze the potential adverse effects of the Miraflores residential project on the Sakai and Oishi nurseries under the Criteria of Adverse Effect (36 CFR Park 800.5(a)(1)) for compliance with Section 106 of the National Historic Preservation Act. This report is contained in Appendix G.

Page 4.5-23, Figure 4.5-1, has been changed to provide additional building labels as shown on the following page.

Page 4.5-24, second-to-last paragraph, is updated as follows:

. . . . The report concluded that all scenarios analyzed, including the preferred alternative and the In-Place/Low-Density Alternative, were economically infeasible because they would require subsidies beyond the Historic Preservation Tax Credit to cover rehabilitation costs.[15] The *Miraflores Historic Preservation Feasibility Assessment* is contained in Appendix J.



Source: Historic Architecture Evaluation, Donna Graves, Ward Hill and Woodruff Minor, October 2004.

FIGURE 4.5-1

BUILDINGS THAT APPEAR ELIGIBLE FOR THE NATIONAL AND CALIFORNIA REGISTERS

Page 4.5-26, Impact and Mitigation Measure CR-1, are updated as follows:

Impact CR-1: Although the most significant structures from the Sakai nursery and two structures from the Oishi Nursery would be retained on-site, implementation of the proposed project would result in demolition of other contributing structures on-site and therefore would cause a significant adverse impact to historical resources.

Mitigation Measure CR-1: The proposed project would preserve the Sakai House, tank house and Greenhouse 20 of the Sakai nursery on-site. (The proposed project would also include on-site relocation and rehabilitation ~~preservation~~ of the Oishi House and either Greenhouse 9 or 17 of the Oishi Nursery on-site.) Prior to implementation of the project, all existing buildings and landscape features shall be documented, using archival quality photography of the exterior and interior and archival negatives of the original construction drawings. The project ~~City~~ shall also include ~~develop~~ a permanent, interpretive historical exhibit on the site, or if not feasible, at an appropriate public venue, that incorporates information from the historic report, historic photographs, and Historic American Landscape Survey and Historic American Buildings Survey documentation. These measures would reduce project impacts, but not to a less-than-significant level.

Page 4.6-1, second paragraph, is updated as follows:

This evaluation is based on the 2006 *Geotechnical Investigation, Miraflores Housing Community*, prepared by Berlogar Geotechnical Consultants, contained in Appendix L.

Page 4.8-1, bullet points 1 and 6 are updated as follows:

- *Public Participation Plan* by Department of Toxic Substance Control (DTSC), 2006. ~~2009.~~

- . . . .
- Miraflores Housing Development Fact Sheet by Department of Toxic Substance Control (DTSC), 2009. ~~2006.~~

Page 4.8-26, last paragraph, is updated as follows:

> On the basis of the testing conducted at the Sakai nursery, shallow, middle and deeper groundwater is contaminated by petroleum hydrocarbons and VOCs. The source of the petroleum hydrocarbons in groundwater beneath the Sakai property appears to be from the former USTs that were located at the Oishi and Sakai nursery properties and from unknown ~~other~~ off-site source(s).[13] The VOCs in the groundwater beneath the Sakai property are of an indeterminate source and no on-site source has been identified.[14] Remediation of the groundwater underlying the former Sakai nursery property is not required~~,~~ based on the risk evaluation performed to assess the risk presented by upward diffusion of vapors originating from the underlying groundwater, and the fact that groundwater beneath the site is not used for drinking water.[15] Additional groundwater monitoring would be conducted as provided in the RAP. The objective of the groundwater monitoring is to further assess water quality beneath the site.

Page 4.8-32, first paragraph, is updated as follows:

> . . . derlying the former Oishi nursery property is not required based on the ~~basis of the~~ risk evaluation performed to assess the risk presented by upward diffusion of vapors originating from the underlying groundwater, and the fact that groundwater beneath the site is not used for drinking water. Additional groundwater monitoring would be conducted under the RAP.[21] The objective of the groundwater monitoring would be to further assess water quality beneath the site.

Page 4.8-44, second-to-last paragraph, is updated as follows:

> Abatement activities would be conducted for ACM and lLBP prior to demolition or relocation of existing buildings and structures. Abatement activities would include greenhouses, homes and other structures on the Sakai, Oishi, and Maida-Endo properties as identified by PES Environmental, Inc. in the 2006 report *Pre-Demolition Building Materials Survey for Asbestos and Lead-Based Paint, Miraflores Housing Development* (contained in Appendix U). The Carey parcel is presently clear and vacant.

Page 4.8-48, a new bullet point is added after the first bullet point as follows:

- Requiring DTSC notification prior to disturbance of soil beneath the streets that would potentially affect lead encapsulated soil, e.g., activities such as maintenance of utilities located deeper than 5 feet.
- Requiring preparation of a soil management plan prior to disturbance of contaminated soil beneath the streets.

Page 4.9-9, first paragraph under heading 3. Baxter Creek, is updated as follows:

> The description of Baxter Creek is based on the reports Baxter Creek-Adachi Technical Memo and Miraflores/Baxter Creek: Flood Study Technical Memorandum prepared by Restoration Design Group. These reports are included as Appendix Q and Appendix R, respectively.
>
> Baxter Creek originates in underground springs beneath the El Cerrito and Richmond hills and runs in three branches down narrow watersheds through Canyon Trail, Poinsett and Mira Vista Parks. The three branches converge at the intersection of San Pablo and Macdonald Avenues. . . . .

Page 4.9-11, second and third paragraph, are updated as follows:

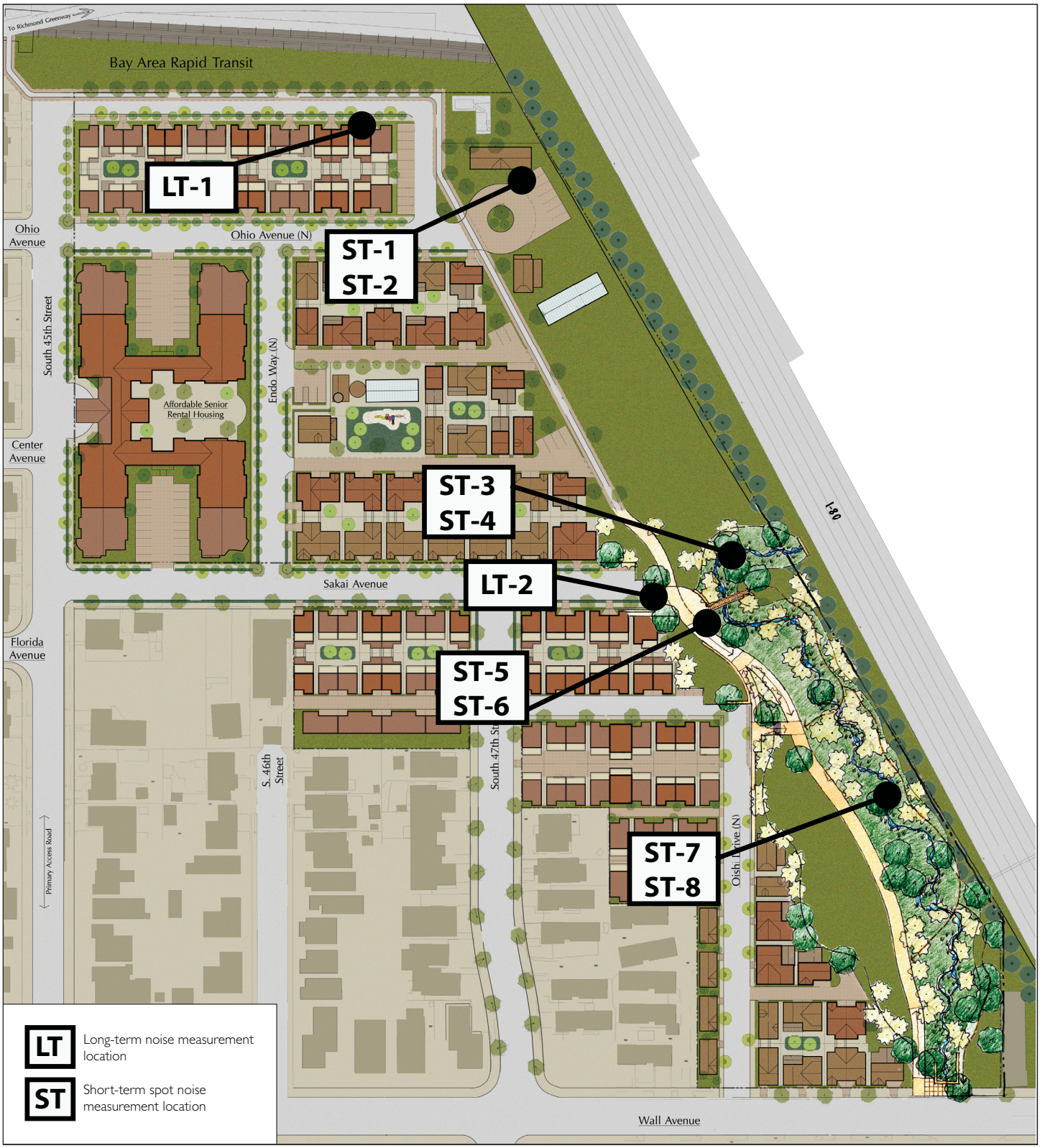
> As discussed in detail in Section 4.8 Hazards and Hazardous Materials of this EIR, investigations by PES Environmental, Inc. and others between 2000 and 2007 determined that groundwater beneath the Miraflores site was contaminated with total petroleum hydrocarbons (TPH), benzene and volatile organic compounds (VOCs), including the VOCs perchloroethylene (PCE) and trichloroethylene (TCE) from off-site or ~~and~~ undetermined sources.[15]
>
> Potential groundwater contamination source material including TPH would be removed from the site under the Remedial Action Plan (RAP). ~~;~~ H~~h~~owever, active groundwater remediation is not proposed in the RAP prepared for the site, and ~~as~~ the risk of vapors emanating from groundwater into future residences was found not to be significant.

Page 4.9-15, first paragraph, is updated as follows:

> The development proposed under the Miraflores Housing Development Plan would result in a slight decrease in impervious surfaces compared to existing site conditions, and a corresponding decrease in stormwater runoff compared to existing site conditions. Runoff calculations were estimated by Restoration Design Group and are contained in Appendix S. Preliminary analysis of stormwater runoff shows that the project would result in a decrease of .02 cubic feet of runoff per second during a 0.2 inches/hour storm event compared to existing conditions.[17] . . . .

Page 4.11-9, Figure 4.11-1 has been updated to show the location of the restored Baxter Creek and the relocated Oishi House and Oishi greenhouse on the site plan.

Page 4.11-20, Figure 4.11-4 has been updated to show the location of the restored Baxter Creek and the relocated Oishi House and Oishi greenhouse on the site plan.



Source: Illingworth & Rodkin, Inc.

FIGURE 4.11-1

NOISE MEASUREMENT LOCATIONS

Source: Illingworth & Rodkin, Inc.

FIGURE 4.11-4

POTENTIAL NOISE BARRIER LOCATIONS

Page 4.14-1, second paragraph, is updated as follows:

The analysis in this section is based on the *Traffic Analysis for Miraflores Master Plan EIR* prepared by Dowling Associates, Inc. in April 2009. This report is contained in Appendix K.

Page 4.14-28, new text is added before the first chapter as follows:

The HCM method was also used to analyze the effect of project-generated traffic on queuing under cumulative conditions. The results indicated that project-generated traffic would cause the queue to increase by no more than one vehicle on any of the movements at either intersection in the PM peak hour under Cumulative conditions. Specifically, the queue on the following movements would increase by up to one vehicle length:

- Cutting Boulevard/San Pablo Avenue:
  - Eastbound right-turn
  - Northbound left-turn
- Eastshore Boulevard/San Pablo Avenue:
  - Southbound right-turn
  - Southbound left-turn
  - Northbound through

As compared to existing conditions, the traffic volumes at the intersection of Cutting Boulevard and San Pablo Avenue would increase by 1,900 trips during the PM peak hour under the cumulative with project scenario. ....

Page 4.14-21, Table 4.14-4, is updated as follows:

TABLE 4.14-4 **PROJECT TRIP GENERATION**

Housing Type	Units	Generation Rate (Daily)	Daily Trips Total	AM Peak Hour In	AM Peak Hour Out	PM Peak Hour In	PM Peak Hour Out
Senior Housing	110	3.48	383	3	4	6	4
Townhouses	222	5.8	1,287	30	148	78	38
Single-Family Home	4	13.5	54	3	10	4	2
Total	**336**		**1,724**	**36**	**162**	**88**	**44**

Source: Dowling Associates, Inc. 2008.

Page 4.14-29, the text under heading d. Parking Capacity, is updated as follows:

> The Miraflores project proposes to provide 1.5 ~~260~~ off-street spaces per unit for the single-family units~~, for a ratio of 1.2 spaces per unit,~~ and 0.5 ~~36~~ off-street spaces per unit ~~, a ratio of .3 spaces per unit,~~ for the senior housing complex, which would be located in parking lots adjacent to the complex. The project would also provide additional parking lot spaces and on-street parking throughout the site.
>
> The project would be zoned Planned Area, which permits the City to set site-specific, off-street parking requirements for the single-family units. The provision of parking for the senior complex is consistent with the parking requirements for senior multi-family complexes in the Richmond Zoning Ordinance~~would be adequate given that senior residents of the complex would have much lower driving rates than those of the residents of the single-family component of the project~~. The Miraflores site is within a ½-mile of transit, including BART and bus lines, and the project's reduced parking ratios are designed to reduce vehicle miles traveled by~~of~~ residents. ....

Page 5-3, Figure 5-2 has been changed to provide additional building labels as shown on the following page.

Page 6-2, first paragraph under 2. Irreversible Damage from Environmental Accidents, is updated as follows:

> Prior to development, the project site would undergo remediation consistent with the Remedial Action Plan (RAP). This process would result in the site being safe for residential uses. ~~Additionally,~~ The RAP and Health and Safety Plan prepared for the remediation process~~,~~ would reduce potential accidents during site remediation.

Page 6-4, Impact CR-1, has been changed as follows:

> **Impact CR-1:** Although the most significant structures from the Sakai nursery <u>and two structures from the Oishi Nursery</u> would be retained <u>on-site</u>, implementation of the proposed project would result in demolition of other contributing structures on-site and therefore would cause a significant adverse impact to historical resources.

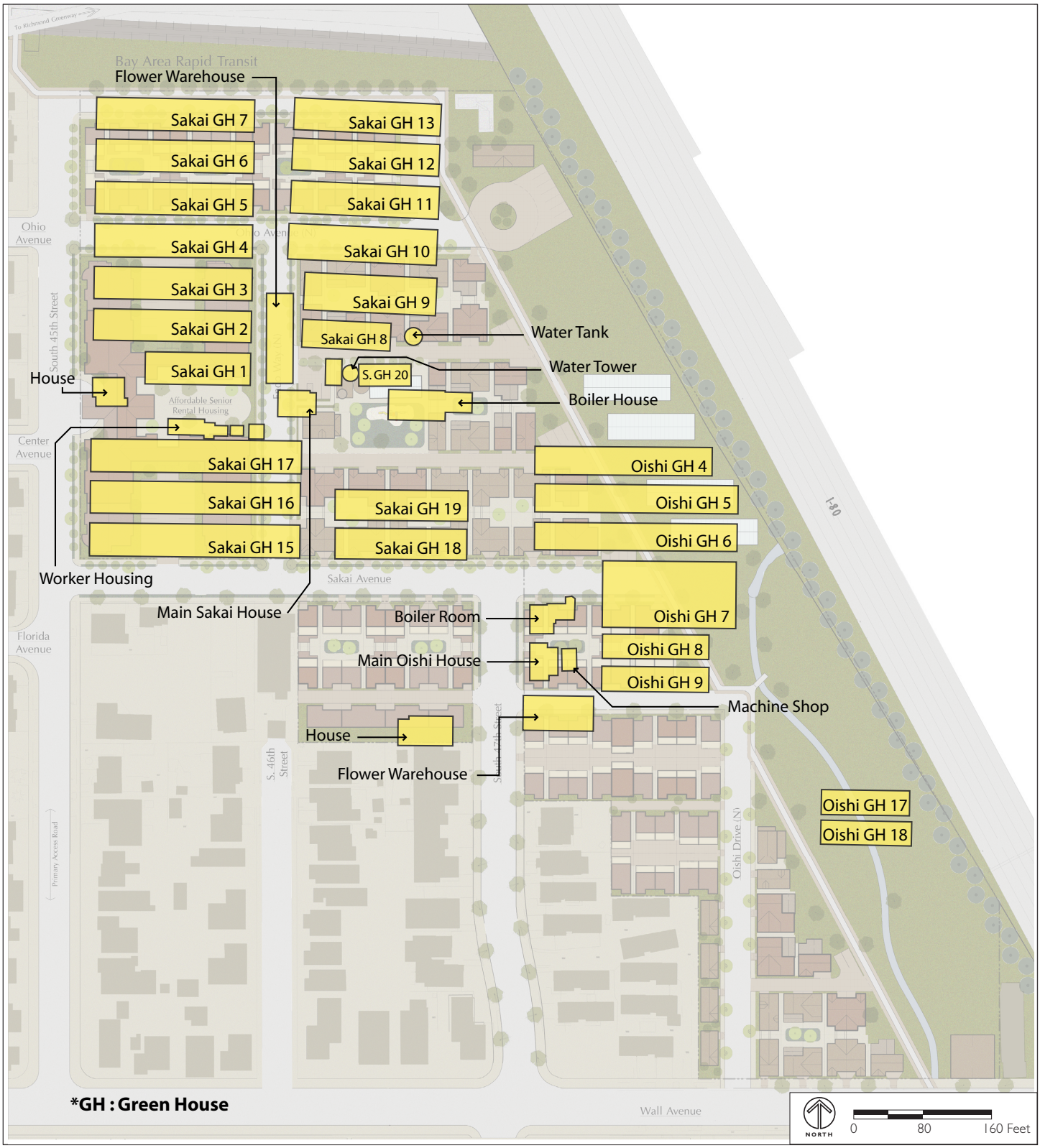


FIGURE 5-2

ALTERNATIVE 3: INCREASED PRESERVATION

4 LIST OF COMMENTORS

Written and public hearing comments were received from the following agencies, organizations and members of the public. The comments are divided according to the nature of their authors, in the following order: Government Agencies (State, Regional and Local), Corporations, Non-Profit Groups and Associations, and Private Individuals. Comments within each category are arranged in chronological order as they were received.

A. Written Comments

Government Agencies (State, Regional and Local)

1. Martha J. Lee, General Superintendent, Rosie the Riveter/WWII Home Front National Historical Park. U.S. Department of the Interior, National Park Service. August 10, 2009.
2. Homayune Atiqee, Project Manager, Brownfields and Environmental Restoration Program, East Bay Urban Infill Team. Department of Toxic Substances Control. August 4, 2009.
3. Lisa Carboni, District Branch Chief, California Department of Transportation. August 12, 2009.
4. Milford Wayne Donaldson, State Historic Preservation Officer, Office of Historic Preservation. August 12, 2009.
5. William R. Kirkpatrick, Manager of Water Distribution Planning, East Bay Municipal Utility District. July 16, 2009.
6. Joanna Pallock, Project Manager, West Contra Costa Transportation Advisory Committee. July 16, 2009.
7. Tom Butt, City Councilman, Richmond City Council. July 25, 2009.

Non-Profit Groups

8. Lisa Owens Viani, Co-Founder, Friends of Baxter Creek. July 6, 2009.
9. Richard Drury, Of Counsel, Weinberg, Roger & Rosenfeld. July 15, 2009.
10. Chizu Iiyama and Don Delcollo, Executive Board Members, Contra Costa Japanese American Citizens League. August 4, 2009.

11. Donna Graves, Project Director, Preserving California's Japantowns. August 3, 2009.
12. Tom Panas, Member, El Cerrito Historical Society. August 10, 2009.
13. Anthony Veerkamp, Senior Program Officer, National Trust for Historic Preservation, Western Office. August 11, 2009.
14. Richard Drury, Of Counsel, Weinberg, Roger & Rosenfeld. August 12, 2009.

Private Individuals

15. Sherry Padgett. July 2, 2009.
16. Robert Sakai, 26429 Chatham Court, Hayward, CA. July 16, 2009.
17. Carol Washington, 4830 Wall Avenue, Richmond, CA. August 11, 2009.
18. Rosemary M. Corbin, 114 Crest Avenue, Richmond, CA. August 12, 2009.
19. Jayma Brown, 525 32nd Street, Richmond, CA. August 12, 2009.
20. Arlen Barnett, 270 South 46th Street, Richmond, CA. August 12, 2009.

B. Public Hearing Commentors

A public hearing on the DEIR was held on July 16, 2009. The following is the number of comments received:

1. S-1. Tom Panas, El Cerrito Historical Society
2. S-2. Paula Shiu, Neighborhood Resident
3. S-3. Katie Lamont, Eden Housing
4. S-4. Commissioner Charles Duncan, Richmond Planning Commission
5. S-5. Commissioner Jovanka Beckles, Richmond Planning Commission
6. S-6. Commissioner Carol Teltschick-Fall, Richmond Planning Commission
7. S-7. Commissioner Sheryl E. Lane, Richmond Planning Commission
8. S-8. Commissioner Carol Teltschick-Fall, Richmond Planning Commission
9. S-9. Commissioner Virginia Finlay, Richmond Planning Commission

5 COMMENTS AND RESPONSES

This chapter includes a reproduction of, and response to, each letter received during the public review period. Each letter is reproduced in its entirety and is immediately followed by responses to the comments in it. Letters and hearing comments follow the same order as listed in Chapter 4 of this Final EIR and are categorized by:

- Written Comments
  - Government Agencies (Federal, State, Regional and Local)
  - Non-Profit Groups/Associations
  - Private Individuals
- Public Hearing Comments

Each comment and response is labeled with a reference number in the margin. Where the same comment has been made more than once, a response may direct the reader to another numbered comment and response. Where a response required revisions to the Draft EIR, those revisions are shown in Chapter 3 of this Final EIR document.

A. Government Agencies (State, Regional and Local)

LETTER #1

United States Department of the Interior

NATIONAL PARK SERVICE
Rosie the Riveter / WWII Home Front National Historical Park
1401 Marina Way South
Richmond, CA 94804

IN REPLY REFER TO:
H4217 RORI

August 10, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
Richmond, CA 84804

Reference: Comments on the Miraflores Housing Development Draft EIR, City of Richmond, California

Dear Ms. Velasco:

Thank you for the opportunity to comment on the Miraflores Housing Development Draft Environmental Impact Report. We were a consulting party and signed the Memorandum of Agreement which concluded the Section 106 consultation under the National Historic Preservation Act for this project. We support the dual goals of providing affordable housing and preserving the many historic properties that make the City of Richmond a truly forward thinking urban area. We also appreciate the considerable amount of work that has gone into the development of this project by the Redevelopment Agency, the Planning Department, and Eden Housing.

In our review, our primary concern was how the proposed project may impact the ability to interpret the history of the Japanese Americans as well as how the project may impact the eligibility of the Oishi and Sakai historic properties for the National Register of Historic Places. The legislation that created Rosie the Riveter/World War II Home Front National Historical Park tasks the National Park Service with continuing to research, evaluate, and interpret all stories in the Richmond area with relevance to its World War II home front significance. The role of the Japanese Americans, their flower industry, and the events that happened to these people during the war are definitely an important story related to Richmond's national park. **1-1**

We note that Stipulation II B of the *Memorandum of Agreement Between the City of Richmond and the California State Historic Preservation Officer Regarding the Miraflores Housing Development* (MOA) states that the plan shall include at least one alternative with practical adaptive reuse of representative historic structures "in situ." We understand the constraints of designing a large housing project on this limited site but find that "in situ," as expressed in the MOA, means that the structure(s) will be left on their original locations. Moving the structures even 30 feet from their original locations will, in terms of the criteria of adverse effect (36 CFR 800.5(1)), alter the location and setting of the property such that it would no longer be eligible for the National Register of Historic Places. **1-2**

Although the "Historic Architecture Evaluation" prepared in 2004 for the Oishi, Sakai, and Maida-Endo Nurseries identifies eligibility of individual buildings, the National Register of Historic Places would **1-3**

establish the eligible property as the district within the property boundaries with individual structures and landscape elements listed as either contributing or not contributing to its significance. The 2004 report does, indeed, identify that both the Oishi and Sakai nurseries are historically significant as the last such properties extant in the San Francisco Bay area. Therefore, the National Park Service suggests that the Miraflores project should strive to retain as much of the historic association, setting, and feeling of the Oishi and Sakai nurseries as possible. **1-3 cont.**

We suggest that in addition to retaining historic structures "in situ," establishment of the historic boundaries of these nurseries through landscape elements and incorporation of compatible uses would help meet the requirements of Stipulation II D of the MOA by incorporating historically or architecturally important features into the design of the project. While we believe that it would be helpful to retain and reinforce all property boundaries, it would be particularly helpful to consider compatible uses in the "buffer zone" along Interstate 80. This could be accomplished, for example, through the construction of compatibly designed greenhouses in this area with appropriate uses that would help to convey the association, setting, and feeling of the historic properties. **1-4**

Lastly, the National Park Service is very supportive of establishing an interpretive exhibit as required in Stipulation II C of the MOA. In fact, we would hope that the property itself, with retained or enhanced historic character elements incorporated into the design, would be the primary element of the interpretive exhibit. Through these efforts we would hope that a visitor to the Miraflores site would be able to experience, in a tangible way, the setting, feeling, and historic functioning/association of the last remaining Japanese American nursery in the San Francisco Bay area. **1-5**

Thank you again for the opportunity to comment on this important project. We appreciate the difficult decisions and projects facing the City of Richmond as it strives to rehabilitate this large and complex urban area. The track record of the City's efforts to date has been nothing less than spectacular with such projects as the Macdonald Avenue revitalization and the Nystrom Village redevelopment. It is our goal to continue to be helpful and vital partners in the City's efforts.

If you have any questions, please contact Chief of Cultural Resources Ric Borjes at (510) 232-1542 or by electronic mail at ric_borjes@nps.gov .

Sincerely,

Martha J. Lee
General Superintendent

Cc:
Michelle Messinger, CA OHP

Letter 1: Martha J. Lee, General Superintendent, Rosie the Riveter/WWII Home Front National Historical Park. U.S. Department of the Interior, National Park Service. August 10, 2009.

1-1: This comment summarizes subsequent comments in the letter.

Comment noted. No change to the Draft EIR is required.

1-2: This comment states that Stipulation II.B of the *Memorandum of Understanding* (MOA) with the State Historic Preservation Office (SHPO) requires that the City analyze at least one alternative with adaptive reuse of representative structures "in situ." The comment further states that the relocation of historic structures, even 30 feet from their original sites, does not constitute "in situ" adaptive reuse, and moving an historic structure will render it ineligible for the National Register of Historic Places.

The proposed project satisfies the requirements of Stipulation II.D of the MOA. Stipulation II.D states that:

> "the City, as a condition of approval of the Project, shall require the incorporation of historically or architecturally significant features of the Sakai and Oishi Nurseries into the design of the project. The feasibility of retaining one or more buildings, including greenhouses 7, 8, 9, 17 and 18 of the Oishi Nursery shall be studied by the Project Sponsor for preservation in situ on the Oishi site. The Sakai House, the tank house, and one or more greenhouses (such as Greenhouse 20) shall be studied by the project Sponsor for preservation in situ on the Sakai site."

The proposed project incorporates historically and architecturally significant features through the preservation of the Sakai House, water tower, and Greenhouse 20. These structures are identified as among the most historically significant structures on-site in the report *Historic Architecture Evaluation, the Oishi, Sakai and Maida-Endo Nurseries* by Donna Graves, Ward Hill, and Woodruff Minor, which was prepared pursuant to Section 106 of the Na-

tional Historic Preservation Act. The Sakai buildings would be moved 30 feet from their present location to allow for the development of the affordable senior housing complex at the west side of the site and to allow for a new street, Endo Way, to align with South 46th Street. The relocated Sakai buildings would retain their present orientation and proximity to each other. The Oishi House and, in response to comments, either Oishi Greenhouse 9 or 17 would also be relocated and rehabilitated on-site. Finally, the project would also create an on-site interpretive exhibit.

Stipulation II.D does not require that particular buildings or a particular number of buildings be retained in situ; rather, it requires the City to *study the feasibility of* retaining and adaptively reusing the listed buildings in situ. The feasibility of preserving the Sakai buildings and the Oishi greenhouses in situ was considered during development of the site plan and set forth in the In-Place/Low Density Alternative and Increased Preservation Alternative. The in situ preservation and adaptive reuse of all eight structures listed in Stipulation II.D. was further analyzed in the *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008 (although cited in the Draft EIR, this report has now been added to the Draft EIR as Appendix J) and was determined to be financially infeasible. Thus, the project complies with Stipulation II.D of the MOA.

1-3: This comment states that because the National Register of Historic Places would establish the entire property as an historic district with either contributing or non-contributing individual structures, the Proposed Project should retain as much of the historic association and setting of the Oishi and Sakai Nurseries as possible.

The comment is noted. As revised in response to comments, the preservation of three Sakai structures as well as the main Oishi House and one Oishi greenhouse structure (either Greenhouse 9 or 17) represents the most viable preservation strategy, balancing historic preservation and fulfillment of project objectives with physical and financial constraints.

1-4: This is a suggestion that the historic boundaries of the nurseries be established with landscape elements and compatible uses to help meet the requirements of Stipulation II.D of the MOA.

Please refer to Response to Comment 1-2, above, related to the project's compliance with Stipulation II.D of the MOA. In addition, a portion of the open space area along Interstate 80 would be reserved for agricultural-oriented uses, and could incorporate architecturally consistent greenhouses to house growing activities. Note also that, as required in the MOA, the City would offer the greenhouses for reuse prior to demolition.

1-5: This is a statement of support for the establishment of an interpretive exhibit, as required by Stipulation II.C of the MOA. No change to the Draft EIR is required.

LETTER #2

Department of Toxic Substances Control

Linda S. Adams
Secretary for
Environmental Protection

Maziar Movassaghi
Acting Director
700 Heinz Avenue
Berkeley, California 94710-2721

Arnold Schwarzenegger
Governor

RECEIVED
AUG 07 2009
RICHMOND
PLANNING DEPARTMENT

August 4, 2009

Ms. Lina Velasco
Senior Planner
City of Richmond
450 Civic Center Plaza
P.O. Box 4046
Richmond, California 94804

Dear Ms. Velasco:

Thank you for the opportunity to comment on the Miraflores Housing Development draft Environmental Impact Report (EIR, SCH #2007082154). As you are aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released and regulates hazardous waste pursuant to the California Health and Safety Code, division 20, chapters 6.5 and 6.8. DTSC has overseen the preparation of a Remedial Action Plan (RAP) for the Miraflores Site (Site). DTSC will oversee the implementation of the RAP after it is approved. As a Responsible Agency, DTSC is submitting comments to ensure that the California Environmental Quality Act (CEQA) documentation prepared for this project adequately addresses any management of hazardous wastes and remediation of hazardous substance releases. The following comments intend to clarify certain sections of the draft EIR:

1) Page 3-12, Section g. Please revise this section to read: "Groundwater under the site has been found to contain petroleum, benzene, and volatile organic compounds. The latter were not used in historical nursery operations at the site. Investigations have shown that some of the groundwater contamination resulted from the USTs, but the volatile organic compound contamination is of an indeterminate source and no on-site source has been identified." **2-1**

2) Page 4.3-17, Section 7. Please revise the second sentence to read: "Groundwater contamination includes petroleum hydrocarbons as well as volatile organic compounds." **2-2**

3) Page 4.3-37, Fifth bullet. Please revise this bullet to read: "in accordance with BAAQMD and DTSC rules and regulations." **2-3**

4) Page 4.3-17, Section 7. Please revise the second sentence to read: "Groundwater contamination includes petroleum hydrocarbons as well as volatile organic compounds." **2-4**

5) Page 4.3-37, Fifth bullet. Please revise this bullet to read: "in accordance with BAAQMD and DTSC rules and regulations." **2-5**

6) Page 4.8-1, First and sixth bullets. The DTSC Public Participation Plan was approved in 2006, and the Fact Sheet was revised and approved in 2009. Please revise these bullets accordingly. **2-6**

7) Page. 4.8-26, Section f.
   - Please revise the second sentence to read: "The source of the petroleum hydrocarbons in groundwater beneath the Sakai property appears to be from the former USTs that were located at the Oishi and Sakai nursery properties and from unknown off-site source(s)."
   - Please revise this section to read: "Remediation of the groundwater underlying the former Sakai nursery property is not required based on the risk evaluation performed to assess the risk presented by upward diffusion of vapors originating from the underlying groundwater, and the fact that groundwater beneath the site is not used for drinking water." **2-7**

8) Page 4.8-31,32, Section m. Please revise this section to read: "Remediation of the groundwater underlying the former Oishi nursery property is not required based on the risk evaluation performed to assess the risk presented by upward diffusion of vapors originating from the underlying groundwater, and the fact that groundwater beneath the site is not used for drinking water." **2-8**

9) Page 4.8-48, Section c. Please add the following sentence as a new bullet to the end of this section: "Requiring preparation of a soil management plan prior to disturbance of contaminated soil beneath the streets." **2-9**

10) Page 4.9-11, Section 5.
   - Please revise the second paragraph to read: "including the VOCs perchloroethylene (PCE) and trichloroethylene (TCE) from off-site or undetermined sources."
   - Please revise the third paragraph to read: "However, active groundwater remediation is not proposed in the RAP prepared for the site, as groundwater beneath the site is not used for drinking water, and the risk of vapors emanating from groundwater into future residences was found not to be significant." **2-10**

11) Page 6-2, Section 2. Please revise the last sentence to read: "The RAP and Health and Safety Plan prepared for the remediation process would reduce the potential for accidents during site remediation." **2-11**

Please contact me at (510) 540-3838 if you have any questions or require any assistance from DTSC. Thank you in advance for your cooperation in this matter.

Sincerely,

Homayune Atiqee, Project Manager
Brownfields and Environmental Restoration Program
East Bay Urban Infill Team

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044

Mr. Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

Ms. Joanna Griffith
Community Housing Development Corporation of North Richmond
1535A Third Street
P.O. Box 1625
Richmond, California 94802

Ms. Katie Lamont
Eden Housing Inc.
409 Jackson Street
Hayward, California 94544

Mr. Kyle Flory
PES Environmental
1682 Novato Blvd.
Suite 100
Novato, California 94947

Mr. Nicholas Targ
Holland and Knight
50 California Street, Suite 2800
San Francisco, California 94111

Letter 2: Homayune Atiqee, Project Manager, Brownfields and Environmental Restoration Program, East Bay Urban Infill Team. Department of Toxic Substances Control. August 4, 2009.

2-1: The Draft EIR has been revised to include Comment 2-1. These revisions are included in Chapter 3 of this Final EIR.

2-2: The Draft EIR has been revised to include Comment 2-2. These revisions are included in Chapter 3 of this Final EIR.

2-3: The Draft EIR has been revised to include Comment 2-3. These revisions are included in Chapter 3 of this Final EIR.

2-4: This comment is a repeat of Comment 2-2. As noted under 2-2, text within the Draft EIR has been amended to reflect this comment.

2-5: This comment is a repeat of Comment 2-3. As noted under 2-3, text within the Draft EIR has been amended to reflect this comment.

2-6: The Draft EIR has been revised to include Comment 2-6. These revisions are included in Chapter 3 of this Final EIR.

2-7: The Draft EIR has been revised to include Comment 2-7. These revisions are included in Chapter 3 of this Final EIR.

2-8: The Draft EIR has been revised to include Comment 2-8. These revisions are included in Chapter 3 of this Final EIR.

2-9: The Draft EIR has been revised to include Comment 2-9. These revisions are included in Chapter 3 of this Final EIR.

2-10: The Draft EIR has been revised to include Comment 2-10. These revisions are included in Chapter 3 of this Final EIR.

2-11: The Draft EIR has been revised to include Comment 2-11. These revisions are included in Chapter 3 of this Final EIR.

LETTER #3

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 622-5491
FAX (510) 286-5559
TTY 711

Flex your power!
Be energy efficient!

August 12, 2009

CC080367
CC-080-2.06
SCH #2007082154

Ms. Lina Velasco
City of Richmond
Planning Department
450 Civic Center Plaza
Richmond, CA 94804

Dear Ms. Velasco:

Miraflores Housing Development Plan – Draft Environmental Impact Report

Thank you for including the California Department of Transportation (Department) in the environmental review process for the Miraflores Housing Development Plan Project. The following comments are based on the Draft Environmental Impact Report (DEIR). As the lead agency, the City of Richmond is responsible for all project mitigation, including any needed improvements to state highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. This information should also be presented in the Mitigation Monitoring and Reporting Plan of the environmental document. Required roadway improvements should be completed prior to issuance of the Certificate of Occupancy. Since an encroachment permit is required for work in the State right of way (ROW), and the Department will not issue a permit until our concerns are adequately addressed, we strongly recommend that the City of Richmond work with both the applicant and the Department to ensure that our concerns are resolved during the California Environmental Quality Act (CEQA) process, and in any case prior to submittal of a permit application. Further comments will be provided during the encroachment permit process; see the end of this letter for more information regarding encroachment permits. **3-1**

Signal Operations

On page 4.14-27, Table 4.14-7, the Cumulative Intersection Level of Service Summary indicates that Cutting Boulevard/San Pablo Avenue and Eastshore Boulevard/San Pablo Avenue intersection will have a Level of Service (LOS) F and E respectively, during the PM Peak. Please provide a Synchro Analysis that includes the queuing effects to project study area intersections, **3-2**

especially the State on-or off-ramps. From Synchro, the Department can determine the effectiveness of proposed mitigation measures.

Encroachment Permit

Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by the Department. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the address below. Traffic-related mitigation measures should be incorporated into the construction plans during the encroachment permit process. See the website link below for more information. 3-3
http://www.dot.ca.gov/hq/traffops/developserv/permits/

Michael Condie, District Office Chief
Office of Permits
California DOT, District 4
P.O. Box 23660
Oakland, CA 94623-0660

Please feel free to call or email Luis Melendez of my staff at (510) 286-5606 or Luis_Melendez@dot.ca.gov with any questions regarding this letter.

Sincerely,

Pat L for

LISA CARBONI
District Branch Chief
Local Development – Intergovernmental Review

c: State Clearinghouse

Letter 3: Lisa Carboni, District Branch Chief, California Department of Transportation. August 12, 2009.

3-1: This comment reiterates the responsibilities of the lead agency (City of Richmond) regarding resolution of the CEQA process and resulting mitigation measures.

This comment is both accurate and has been noted. It does not require a change to the Draft EIR.

3-2: The comment requests a Synchro analysis to analyze queuing impacts and assess the effectiveness of the proposed mitigation measures for the two intersections that have level of service E and F in the cumulative condition – San Pablo Avenue/Cutting Boulevard and San Pablo Avenue/Eastshore Boulevard.

The two intersections at issue were studied using two methodologies, consistent with CalTrans' scoping comments. In addition to CCTA methodology, the two intersections were also analyzed based on Highway Capacity Manual (HCM) methodology using Traffix software, one of the software programs cited in Caltrans' *Guide for the Preparation of Traffic Impact Studies*, January 2001. The HCM methodology was used to analyze the effect of project-generated traffic on queuing under cumulative conditions. The Draft EIR has been amended to include the HCM results for queuing impacts. These changes are included in Chapter 3 of this Final EIR. Based on the analysis, it was found that the project's contribution to the cumulative condition at these two intersections was not significant; thus, no Syncro Analysis is required, as there is no mitigation to assess.

3-3: The comment reiterates that a Caltrans-issued encroachment permit is needed to perform work in any State right of way.

This comment is accurate and has been noted. It does not require a change to the Draft EIR.

STATE OF CALIFORNIA – THE RESOURCES AGENCY

Arnold Schwarzenegger, *Governor*

OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION
P.O. BOX 942896
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LETTER #4

RECEIVED
AUG 17 2009
RICHMOND
PLANNING DEPARTMENT

Lina Velasco
Senior Planner
City of Richmond
450 Civic Center Drive
P O Box 4046
Richmond, CA 94804

August 12, 2009

- sent via facsimile (510) 620-6858 and United States Postal Service –

Miraflores Housing Development Draft Environmental Impact Report # 2007082154

Dear Ms. Velasco:

The State Office of Historic Preservation (OHP) has broad responsibility for the implementation of federal and state historic preservation programs in California. We thank you for the opportunity to comment on the above Draft Environmental Impact Report (DEIR) issued under the California Environmental Quality Act (CEQA) and for speaking with my staff regarding the project. We are concerned with the alternatives section of the DEIR and, moreover, we are concerned that it appears that some of the MOA stipulations were not addressed entirely.

A **Memorandum of Agreement** between the City of Richmond and the California State Historic Preserving Office regarding the Miraflores Housing Development **(MOA)** was developed for compliance with Section 106 of the National Historic Preservation Act (NHPA), as amended in 1966, and its implementing regulations found at 36 CFR part 800.

As a preface to our letter, we want to state that we know that there have been lengthy discussions with our office and the signatories of the MOA and other interested parties about this project in the past few years. This letter today addresses the Miraflores Housing Project in the context of its CEQA compliance. **4-1**

According to the MOA under stipulation (B) it states that the City shall review alternatives to the proposed Undertaking site under CEQA, including at least one alternative that involves practical adaptive reuse of representative historic resources in situ known to exist on the Project site.

The MOA under section (D) states that "the City, as a condition of approval of the Project, shall require the incorporation of historically or architecturally significant features of the Sakai and Oishi Nurseries into the design of the project. The feasibility of retaining one or more buildings, including greenhouses 7, 8,9,17 and 18 of the Oishi Nursery shall be studied for preservation by the Project Sponsor for preservation in situ on the Oishi site. The Sakai House, the tank house and one or more greenhouses (such as greenhouse 20) shall be studied by the Project Sponsor in situ on the Sakai site."

The DEIR states that the Oishi house would be relocated to the west side of Oishi Drive near the southern border of the site and the Sakai structures would be moved approximately 30 feet south east of their present location. (DEIR 4.5-18) Moving these buildings and structures does not equate to the in situ stipulation of the MOA. **4-2**

The DEIR proposes to preserve the Sakai House, the Sakai tank house, Greenhouse 20 and the Oishi House out of a total of 25 greenhouses and other contributing resources such as Flower Warehouses, worker housing, boiler and other related buildings from the two historic sites. However, to preserve one greenhouse out of over twenty cannot be called representative. **4-3**

Alternatives Section pursuant to CEQA

Unfortunately, the Alternatives section of the DEIR does not look at a reasonable preservation alternative to the project using a representative number of greenhouses for an adaptive reuse on site. For purposes of CEQA there should be a discussion of what is a representative number of greenhouses which in conjunction with the other proposed preserved contributors could preserve enough of the historic significance of the site to tell its story, and to retain its eligibility to the California Register. That unfortunately has not occurred. The DEIR proposes an Increased Preservation Alternative which would preserve all buildings recommended as historic by the Richmond Historic Preservation Advisory Committee but makes the project infeasible. And the In-Place/Low Density Alternative follows the stipulations of the MOA. **4-4**

To just preserve the two residences (Oishi and Sakai), the water tower, and one greenhouse (No. 20) does not preserve the history of the site which is significant for its flower industry of the Japanese in the Bay Area. "The Sakai and Oishi nursery buildings identified as significant in this report appear to be eligible for the National Register under Criterion A and the California Register under Criterion 1 because of their significant associations with Japanese American history and the history of the bay area nursery business." (DEIR 4.5-17) Hence, the City of Richmond has made a Determination of Eligibility and our office concurred (DOE),

In order to successfully interpret this history the proposed buildings and structures to be preserved cannot consist of merely one greenhouse and two residences, significant for their architectural style and one water tower. The preservation of such an assembly which moreover remains also not in situ, does not tell anything about the significance of the site since it will have lost its historical context, and, therefore will have lost its integrity. Additionally, the site would also no longer be eligible for any Register because of its loss of integrity. **4-5**

To objectively discuss any demolition of any historical resource is always a difficult matter; however, what is proposed in this DEIR to be preserved and what is proposed to be demolished, remains the same in the sense that there remains an adverse impact. It is not successful historic preservation to retain a mere fragment of a larger commercial-industrial complex such as proposed for the two Japanese nurseries which have a rich historical and cultural background. But unfortunately, the DEIR proposes just that. Adequate documentation of the historical resources and site interpretation requirements as delineated in the MOA although would be applicable mitigation measures under CEQA.

However, there is one question that should be asked and which should be posed in the DEIR process. This is the question of a viable preservation alternative to the project. The adaptive reuse of the residences, water tower as a central merchant or market location within the planned development and for the existing surrounding neighborhood has not been examined in lieu of the park. Such an adaptive reuse within the historic location of the existing nursery greenhouses would preserve the sense, location, feeling of the historical Sakai and Oishi nurseries. The retention of several representative greenhouses in their original location by the Sakai house and water tower with the greenhouses used for an agricultural growing purpose and a market or store alternative inside the planned development and for the surrounding existing neighborhood is a viable alternative which has not been discussed. Such an alternative could preserve more of the greenhouses, reuse them for an agricultural use and also provide the ability to interpret the history of the site while adaptively using the buildings and creating a cultural center/hub and sell produce. Such ideas or models for inter-urban growing activities are becoming more important in society and their viability should be examined. **4-6**

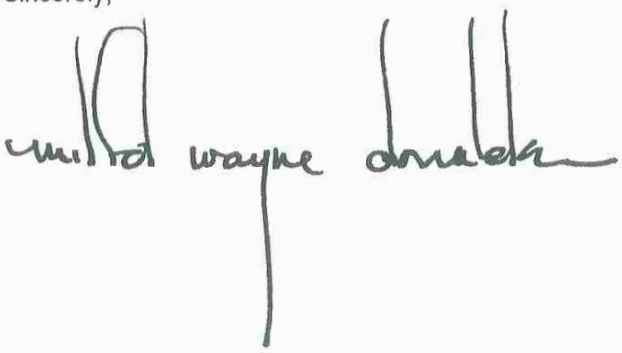
Pursuant to CEQA a reasonable range of alternatives should be developed. The DEIR should discuss a viable Preservation Alternative examining the preservation of the historical resource and still can accomplish most of the project objectives: the development mix of affordable and market-rate housing, day-lighting Baxter Creek, site remediation, creation of open space, and incorporation of historic features of site into project design.

While the DEIR discusses the preservation of the Sakai House, water tower, Greenhouse 20 and the Oishi House there is no discussion of their adaptive reuse. What will the planned uses for the buildings be? **4-7**

We thank you for the opportunity to comment on the above project. Please understand that our comments herein are specifically related to the environmental review process and adequacy of documents prepared for the environmental review purposes. We do not take positions in support of or against projects, but rather focus on the environmental review process itself.

If you have any further questions, please don't hesitate to contact Michelle C. Messinger, Historian II, CEQA Coordinator Local Government Unit at (916) 653-5099 or at mmessinger@parks.ca.gov.

Sincerely,



Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

Cc: Leigh Jordan, Coordinator, Northwest Information Center
Ric Borjes, Chief, Cultural Resources, Rosie the Riveter National Historic Park, NPS
Tom Butt, City Council Member, City of Richmond
Natalia Lawrence, Senior Development Project Manager, City of Richmond
Donna Graves, Director Preserving California's Japantown Project
State Clearinghouse

Letter 4: Milford Wayne Donaldson, State Historic Preservation Officer, Office of Historic Preservation. August 12, 2009.

4-1: This is an introductory comment that summarizes concerns and restates Stipulations B and D of the MOA.

Comment noted. No change to the Draft EIR is required.

4-2: This comment states the commenter's understanding that the Oishi House would be moved to the west of Oishi Drive, and states that moving the building does "not equate to the in situ stipulation of the MOA."

The project description has been revised and the Draft EIR has been amended to state that the Oishi House, along either the Oishi Greenhouse 9 or 17, would be relocated to the open space area to provide an anchor for the growing activities that would occur there. These revisions are included in Chapter 3 of this Final EIR. The proposed project would not retain historic buildings in situ; however, two alternatives to the project consider retaining historic structures in situ: the In-Place/Low Density Alternative and the Increased Preservation Alternative.

The proposed project satisfies the requirements of Stipulation II.D of the MOA with SHPO. Stipulation II.D states that:

> "the City, as a condition of approval of the Project, shall require the incorporation of historically or architecturally significant features of the Sakai and Oishi Nurseries into the design of the project. The feasibility of retaining one or more buildings, including greenhouses 7, 8, 9, 17 and 18 of the Oishi Nursery shall be studied by the Project Sponsor for preservation in situ on the Oishi site. The Sakai House, the tank house, and one or more greenhouses (such as Greenhouse 20) shall be studied by the project Sponsor for preservation in situ on the Sakai site."

The proposed project incorporates historically and architecturally significant features through the rehabilitation and reuse of the Sakai House, water tower, and Greenhouse 20, as well as the Oishi House and either Greenhouse 9 or 17 from the Oishi Nursery. The Sakai House, water tower, and Greenhouse 20 are identified as among the most historically significant structures on the site in the report *Historic Architecture Evaluation, the Oishi, Sakai, and Maida-Endo Nurseries* by Donna Graves, Ward Hill, and Woodruff Minor, which was prepared pursuant to Section 106 of the National Historic Preservation Act.

Stipulation II.D does not require that particular buildings or a particular number of buildings be retained in situ; rather, it requires the City to *study the feasibility of* retaining the listed buildings in situ. The feasibility of preserving and adaptively reusing the Sakai buildings and the Oishi greenhouses in situ was considered during development of the site plan and presented in the In-Place/Low Density Alternative. The in situ preservation and adaptive reuse of all eight structures listed in Stipulation II.D. was analyzed in the *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008, and was determined to be financially infeasible. Thus, the project complies with Stipulation II.D of the MOA.

The reports *Historic Architecture Evaluation, the Oishi, Sakai and Maida-Endo Nurseries* and *Miraflores Historic Preservation Feasibility Assessment*, which were cited in the Draft EIR, have been added to the appendices F and J of the Draft EIR for reference.

4-3: This comment notes that the project will preserve the Sakai House, water tank Greenhouse 20 and the Oishi House, but that to preserve one greenhouse is not representative.

As correctly noted, the proposed project would retain the Sakai House, water tower, and Greenhouse 20, as well as the Oishi House. In response to comments received on the Draft EIR, either Greenhouse 9 or 17 from the Oishi Nursery would also be retained. All the structures would be relocated on-

site. The Sakai ensemble would be moved 30 feet from its present location, but the buildings would be placed such that they retain their original position and relationship to each other. The Oishi House and accompanying greenhouses would be relocated to the open space area to anchor the community garden and other growing activities that would occur there. Therefore, the project would in fact retain "one or more" buildings from the Oishi Nursery and the full Sakai ensemble, although, as discussed below, it was found to be infeasible to retain the buildings in situ. Additionally, the project would include an interpretive exhibit.

Further, as required by the MOA, the Draft EIR considered "the feasibility of retaining one or more buildings, including greenhouses 7, 8, 9, 17 and 18 of the Oishi Nursery" and "the Sakai House, the tank house and one or more greenhouses (such as greenhouse 20)." As discussed in Response to Comment 4-2, that alternative was specifically presented in the In-Place/Low Density Alternative. Moreover the economic feasibility of this alternative, with various reuse scenarios, was explicitly analyzed in the *Miraflores Historic Preservation Feasibility Analysis* prepared by Conley Consulting Group and Architectural Resources Group in 2008 (added to the Draft EIR as Appendix J).

In sum, Stipulation II.D of the MOA recommends that "one or more" buildings be considered for preservation and requires the analysis of the feasibility of retaining certain structures as set forth above, but does not require that a representative number of greenhouses be preserved. As discussed in Response to Comment 4-2, the provisions of Stipulation II.D of the MOA have been met. No further response is required.

4-4: This comment states the commenter's belief that the Draft EIR did not consider a reasonable preservation alternative that adaptively reuses a representative number of greenhouses on-site.

The Draft EIR included a reasonable range of alternatives as required by CEQA. See Guidelines Section 15126.6 ("An EIR need not consider every conceivable alternative to a project. Rather, it must consider a reasonable

range of potentially feasible alternatives..."). With respect to alternatives that would address the significant impact to cultural resources, the Draft EIR included: (1) the Increased Preservation Alternative that would preserve the integrity of the nursery district; and (2) the In-Place/Low Density Alternative that satisfies the MOA analysis requirement, but would not preserve the integrity of the district.

In the Increased Preservation Alternative, the Draft EIR considered preserving all the structures contributing to the historical significance of the nurseries, which would retain the integrity of the district. In addition, the City explicitly considered a variety of different site layouts and uses to the proposed project, and such alternative uses included commercial reuse of the greenhouses. For example, reuse of the greenhouses as community gardens, as commercial retail, or as artist studios were all considered in the *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008.

The adaptive reuse scenarios analyzed are summarized in Table 5-1 below.

TABLE 5-1 **ADAPTIVE REUSE SCENARIOS FOR THE IN-PLACE/LOW DENSITY ALTERNATIVE**

Structure	Scenario 1	Scenario 2	Scenario 3
Sakai House	Residential	Public Use	Office Space
Water Tower	Groundskeeping Storage	Historical Exhibit	None
Sakai Greenhouse 20	Community Garden	Commercial Garden	Artist Studio
Oishi Greenhouses 7, 8, and 9	Community Garden	Commercial Garden	Artist Studio
Oishi Greenhouses 17 and 18	Community Garden	Commercial Garden	Artist Studio

Source: Conley Consulting Group and Architectural Resources Group, *Miraflores Historic Preservation Feasibility Assessment*, 2008.

These alternatives were found to be economically infeasible.

In the In-Place/Low Density Alternative, the City explicitly considered the minimum preservation mitigation alternative as required by the MOA, which would include preservation of the Sakai House, water tower, and Greenhouse 20 and Oishi Greenhouses 7, 8, 9, 17, and 18 in situ. As discussed above, the feasibility analysis found that even the minimum preservation alternative was infeasible. Thus, preservation of something more, such as preservation of "several representative greenhouses in their original location by the Sakai house and water tower" as suggested in the comment letter is not a feasible alternative. The feasibility assessment showed that preservation of 25 percent of the structures, much less any higher percentage, would not be feasible under any of the reuse scenarios.

CEQA does not require the lead agency to consider alternatives that are infeasible (CEQA Guidelines at 15126.6(a)). Thus, CEQA does not require the City to undertake an analysis of a virtually unlimited combination of building preservation alternatives, when even the minimum preservation alternative called for in the MOA was found to be infeasible and when the Draft EIR also includes an alternative that would preserve the district.

Nevertheless, in response to comments, the City revised the project description to include rehabilitation and reuse of one of the greenhouses from the Oishi Nursery. As discussed in Response to Comment 4-3, the Oishi House and accompanying greenhouse will be relocated to the open space area to anchor the community garden and other growing activities that would occur there.

4-5: This comment states that the proposed project would not preserve the integrity of the district and the site would no longer be eligible for listing in the National Register. It also notes that adequate documentation of the historical resource and site interpretation requirements would be applicable mitigation measures under CEQA.

The Draft EIR did find that the proposed project would have a significant, unavoidable impact on historic resources, as the preservation (with relocation on-site) of the Sakai House, the water tower, Greenhouse 20 and the Oishi House does not alone preserve the site's integrity as a district. Even with the revised project description, which would include rehabilitation and relocation of an additional greenhouse from the Oishi nursery, the integrity of the district is not presumed to be maintained. However, as required, the project includes mitigation measures that meet the Stipulations in the MOA to incorporate historically and architecturally significant features of the Sakai and Oishi nurseries into the design of the project, include an interpretive exhibit, and document all buildings and landscape features on the site as detailed in the MOA Stipulations.

4-6: This comment suggests that the residences and water tower should be considered for adaptive reuse as a central market with retention of the existing greenhouses for agricultural growing. The comment states that a reasonable range of alternatives is required and Preservation Alternative that meets most of the project objectives should be developed.

The commenter's suggestions for historic preservation alternatives are hereby noted. As discussed in Response to Comment 4-5, a reasonable range of adaptive reuse scenarios was considered. Those scenarios included commercial use of the greenhouses. Alternatives included in the Draft EIR were developed following a detailed study of the feasibility of project historic preservation consistent with the United States Secretary of Interior Standards. This study, the *Miraflores Historic Preservation Feasibility Assessment* (Conley Consulting Group and Architectural Resources Group, April 2008), assessed the financial feasibility of various initial reuse scenarios, considering scenario costs, available tax credits, and potential income generated. It is referenced in the Draft EIR and has been added as Appendix J.

In addition, as discussed in Response to Comment 4-5, the Draft EIR is consistent with CEQA guidelines concerning assessment of a "reasonable range" of alternatives. Section 15126.6(a) of the Guidelines states:

> "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason."

Section 15126.6(f) of the Guidelines describes the rule of reason guiding alternative development. The guideline states:

> "The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making."

In developing the alternatives to be analyzed in the Draft EIR, the City applied the rule of reason to identify a range that would allow for informed decision-making and public participation. The alternatives reflect careful consideration by City staff of the need to balance special site concerns, environmental site constraints and potential impacts, project objectives, and City policy. On this basis of this consideration, the City maintains that the alter-

natives presented are sufficiently different from one another so as to provide for meaningful comparison to the proposed project and one another.

Finally, in response to comments, the City revised the project description to include rehabilitation and reuse of one of the greenhouses from the Oishi Nursery. As discussed in Response to Comment 4-3, the Oishi House and accompanying greenhouse will be relocated to the open space area to anchor the community garden and other growing activities that would occur there.

4-7: This comment asks what the planned uses for the historic buildings will be.

The Draft EIR has been revised to include a discussion of the adaptive reuse of the Sakai House, water tower, Greenhouse 20, the Oishi House, and Oishi Greenhouse 9 or 17. These revisions are included in Chapter 3 of this Final EIR.

LETTER #5

EAST BAY
MUNICIPAL UTILITY DISTRICT

RECEIVED
JUL 22 2009
RICHMOND
PLANNING DEPARTMENT

July 16, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
Richmond, CA 94804

Re: Draft Environmental Impact Report - Miraflores Housing Development, Richmond

Dear Ms. Velasco:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Miraflores Housing Project located in the City of Richmond (City). EBMUD has the following comments.

WATER SERVICE

EBMUD's Central Pressure Zone, with a service elevation between 0 and 100 feet, will serve the proposed development. Main extensions, at the project sponsor's expense, will be required to serve the proposed development. Off-site pipeline improvements, also at the project sponsor's expense, may be required to meet domestic demands and fire flow requirements set by the local fire department. Off-site pipeline improvements include, but are not limited to, replacement of existing water mains to the project site. When the development plans are finalized, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions for providing water service to the proposed development. Engineering and installation of water meters and off-site pipeline improvements requires substantial lead-time, which should be provided for in the project sponsor's development schedule. **5-1**

EBMUD owns and operates 4-inch and 6-inch water mains located in South 47th Street and Florida Avenue (shown as Sakai Ave on the Figure 3-5 of the Draft EIR) near the project site that provide service to EBMUD customers in the area. The integrity of these pipelines must be maintained at all times. Any proposed construction activity in South 47th Street and Florida Avenue needs to be coordinated with EBMUD and may require relocation and/or abandonment of the water mains, at the project sponsor's expense. **5-2**

The Draft EIR indicates the presence of contaminated soils and groundwater within the project site boundaries. The project sponsor should be aware that the EBMUD will not inspect, install or maintain pipeline in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be **5-3**

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handled as a hazardous waste or that may pose a health and safety risk to construction or maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping in areas where groundwater contaminant concentrations exceed specified limits for discharge to sanitary sewer systems or sewage treatment plants. **5-3**

Project sponsor for EBMUD services requiring excavation in contaminated areas must submit copies of existing information regarding soil and groundwater quality within or adjacent to the project boundary. In addition, the project sponsor must provide a legally sufficient, complete and specific written remedial plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of all identified contaminated soil and/or groundwater. EBMUD will not design the installation of pipelines until such time as soil and groundwater quality data and remediation plans are received and reviewed and will not install pipelines until remediation has been carried out and documentation of the effectiveness of the remediation has been received and reviewed. If no soil or groundwater quality data exists or the information supplied by the project sponsor is insufficient, EBMUD may require the project sponsor to perform sampling and analysis to characterize the soil being excavated and groundwater that may be encountered during excavation or perform such sampling and analysis itself at the project sponsor's expense. **5-4**

WATER RECYCLING

The proposed project site is located approximately 4.4 miles southeast of EBMUD's North Richmond Water Reclamation Plant and about 3.8 miles northeast of City of Richmond's Wastewater Treatment Plant. The proposed project is not a likely candidate for recycled water due to minimal irrigation demands and the cost to provide recycled water to the project site may be cost prohibitive due to the long length of pipeline required to get to the site. However, EBMUD requests that the project applicant contact and coordinate with EBMUD during the planning of the project to confirm the feasibility of using recycled water at the project site. **5-5**

WATER CONSERVATION

The proposed project presents an opportunity to incorporate water conservation measures. EBMUD would request that the City to include in its conditions of approval a requirement that the project sponsor comply with the Landscape Water Conservation Section of the Municipal Code of the City of Richmond, Section 15.04.205 – Site Development Review. EBMUD staff would appreciate the opportunity to meet with the project sponsor to discuss water conservation programs and best management practices applicable to the integrated projects. A key objective of this discussion will be to explore timely opportunities to expand water conservation via early consideration of EBMUD's conservation programs and best management practices applicable to the project. **5-6**

If you have any questions concerning this response, please contact David J. Rehnstrom, Senior Civil Engineer, Water Service Planning at (510) 287-1365.

Sincerely,

William R. Kirkpatrick
Manager of Water Distribution Planning

WRK:AMW:djr
sb09_159.doc

Letter 5: William R. Kirkpatrick, Manager of Water Distribution Planning, East Bay Municipal Utility District. July 16, 2009.

5-1: This comment stresses that main extensions and off-site pipeline improvements may ultimately be required at developer expense.

Although noted, this comment pertains to progression of the project following resolution of the CEQA analysis. No change to the Draft EIR is required.

5-2: This comment stresses that project construction will ultimately need to be coordinated with EBMUD.

Although accurate and noted, this comment pertains to progression of the project following resolution of the CEQA analysis. No change to the Draft EIR is required.

5-3: In this comment, EBMUD states that it will not make pipeline improvements in contaminated soils.

Draft EIR Section 4.8 contains a discussion of site remediation and the Remedial Action Plan. Although noted, this comment pertains to progression of the project following resolution of the CEQA analysis. No change to the Draft EIR is required.

5-4: This comment discusses requirements for soil and groundwater information and a remediation plan before EBMUD will design installation of pipelines.

EIR Section 4.8 contains a discussion of site remediation and the Remedial Action Plan. This comment is hereby noted. No change to the Draft EIR is required.

5-5: This is a request that EBMUD be contacted in order to confirm the feasibility of using recycled water at the project site.

Although noted, this comment pertains to progression of the project following resolution of the CEQA analysis. No change to the Draft EIR is required.

5-6: This comment is a suggestion to include, as part of the conditions of approval (COA), a requirement that the project comply with the Landscape Water Conservation Section of the Richmond Municipal Code.

Since this section is a standard requirement in the City's Municipal Code, the project would be required to comply with it. Consequently, no change has been made to the Draft EIR.

LETTER #6

WCCTAC

West Contra Costa Transportation Advisory Committee

El Cerrito

Hercules

Pinole

Richmond

San Pablo

Contra Costa County

AC Transit

BART

WestCAT

RECEIVED
JUL 22 2009
RICHMOND PLANNING DEPARTMENT

July 16, 2009

Ms. Lina Velasco
Senior Planner
City of Richmond Planning Dept.
1401 Marina Way South
Richmond, CA 94804

Dear Ms. Velasco:

Thank you for the opportunity to comment on the Miraflores Housing Development Draft EIR. As the sub-regional agency addressing transportation issues for the local cities in West Contra Costa County, our comments extend to the following issues:

1. WCCTAC Action Plan: WCCTAC has a Draft Action Plan that outlines all Regional Routes of Significance (RRS) as well as projected trip increases, based on existing local general plan data. Based on the proposed Miraflores General Plan amendment, you are adding more than 100 new trips. Are these trips identified in the City's recent Draft General Plan update? If so, how will they affect the multi-modal traffic service objectives (MTSO's) identified in the WCCTAC Action Plan? Please refer to the Draft WCCTAC Action Plan 2008 available on our website at www.wcctac.org/wp-content/uploads/2009/03/dec-18-2008-latest-draft-west-county-action-plan.pdf **6-1**

2. Mitigations: The RRS for this proposed project include 1-80, San Pablo Avenue, McDonald Avenue and Cutting Blvd. All RRS that are assigned 50 or more new peak hour vehicle trips by a proposed project should be analyzed. Please confirm that this has occurred. **6-2**

3. Parking Reductions: On page 4-14-29 of the EIR, you discuss the reduction in off street parking ratios under the registered LEED-ND program. WCCTAC strongly supports the reduction of parking spaces in an effort to increase transit and other non-solo vehicle options. Please expand on how the residents will be encouraged and informed about their options? Is there any initial or ongoing incentive to the residents to use transit (i.e. a discount on monthly BART or AC Transit passes)? If so, please note in the Final EIR what these exact efforts include. **6-3**

Thank you for the opportunity to comment on this document.

Sincerely,

Joanna Pallock
Project Manager, WCCTAC

cc: WCCTAC Board

Letter 6: Joanna Pallock, Project Manager, West Contra Costa Transportation Advisory Committee. July 16, 2009.

6-1: This comment asked whether the project trips were identified in the Richmond Draft General Plan Update and whether they affect the multi-modal traffic service objectives (MTSOs) of the 2008 WCCTAC Action Plan Update.

The trips are not identified in the Richmond Draft General Plan Update. However, the following relevant MTSOs were included as standards of significance for the proposed project:

- Maintain LOS "E" or better at all signalized intersections along San Pablo Avenue (page 26).
- Maintain LOS "D" or better at all signalized intersections along Cutting Boulevard (page 36).

As indicated on page 4.14-27 of the Draft EIR, the signalized intersection of Cutting Boulevard and San Pablo Avenue is projected to operate below the MTSO standard with or without the addition of project-generated traffic in the PM peak hour under cumulative conditions. However, the project itself would not increase the volume-to-capacity ratio by over 0.01. Therefore, the project would have a less-than-significant impact on the established level of service under cumulative conditions.

6-2: The comment states that all Regional Routes of Significance (RSS) that have over 50 new trips should be analyzed, including Interstate 80, San Pablo Avenue, McDonald Avenue, and Cutting Boulevard,.

The traffic study evaluated RSS San Pablo Avenue and Cutting Boulevard, where the project would add 50 or more new peak hour vehicle trips. The study did not analyze MacDonald Avenue because trip assignment on this roadway would not exceed the threshold of 50 trips. Similarly, Interstate 80 was not selected for evaluation because the project's contribution would make up less than 0.5 percent of the freeway volumes. For instance, the pro-

ject would add 30 trips on Interstate 80 westbound in the AM peak hour, which represents 0.43 percent of the 2008 peak hour volumes based on data provided in the 2008 Action Plan. This level of volume would not likely result in noticeable change on the freeway or alter the delay index, which is a MTSO for Interstate 80.

6-3: This comment states the commenter's support of reduced parking ratios.

The Draft EIR has been amended to require the senior housing to meet the Richmond Code parking requirements, which are still lower than those for single-family units due to the nature of the use. Also, the Project Description has been revised in response to response to comments to change the parking requirements from 1.2 to 1.5 spaces per unit, which is still a reduction from the Zoning Ordinance. Pursuant to the project's pursuit of LEED-ND designation, the City of Richmond is currently working on establishing a vehicle-sharing program at the project site and a plan for publicizing availability of the program to project residents. No further response is required.

LETTER #7

Lina Velasco

From: Butt, Tom [tom.butt@intres.com]
Sent: Saturday, July 25, 2009 9:55 AM
To: Lina Velasco
Subject: Miraflores Draft EIR

Lina,

The following is my public comment:

1. There should be more emphasis on the proximity of the Richmond Greenway in both the transportation section and the site plan. It is only ¼ mile from the Greenway access to San Pablo Avenue, which is a high quality bus corridor, and it is only ½ mile further to the El Cerrito del Norte BART Station. There is also a trail access from the Greenway adjacent to Miraflores to Macdonald Avenue via the target property. These trail segments should be enhanced as a part of this project. There could be aesthetic and safety improvements, such as landscaping, surveillance cameras and increased lighting to increase the motivation of residents to use it. This could be a transit oriented development that looks more like Metro Walk than Merced. **7-1**
2. The density should be increased. Because of the access and proximity to Macdonald Avenue and San Pablo Avenue, this would be good location to offer off-street parking as a buyer's option and consider strategies such as ZipCar (http://www.zipcar.com/). This would actually reduce traffic and parking conflicts in the neighborhood while also reducing the cost of the housing. Also, see The *High Cost of Free Parking*, Donald Shoup and consult with Stuart Cohen (http://www.transformca.org). These alternative were not discussed in the DEIR although they have many environmental benefits. **7-2**
3. The plan to retain and rehabilitate the Sakai House, a greenhouse and water tower as a cluster in close to its existing location is a good one. Placing the other historic house next to the open space is good. I would suggest trying to enhance the connection of the Sakai cluster to the open space and the trail that runs along its western edge. If the buildings are going to be moved anyway, why not move them all the way back to connect them to the open space? Which brings up my next suggestion. **7-3**
4. Use several salvageable greenhouses to turn the open space into a year-round urban agriculture center. There are many organizations that would be excited about adopting a greenhouse. Contact park Guthrie at Urban Tilth (http://www.urbantilth.org). This would also provide additional context for the Sakai House cluster. **7-4**
5. Consider collaborating with the National Park Service to have the Sakai Cluster added to Rosie the Riveter WWII Home Front National Historical Park. This would add substantial value to the entire project at virtually no additional development cost. **7-5**
6. I was surprised that the homes adjacent to the open space are oriented towards narrow streets instead of the open space. They are isolated by streets and cul de sacs. The open space and the trail that runs along its western edge is an amenity that could add value to these sites and make them the most attractive in the neighborhood. Think about golf course communities. **7-6**
7. While I don't have any problem with moving Baxter Creek, the disconnect created at wall Avenue is disturbing. The southern end of the creek should curve around naturally to connect with the undergrounded part south of Wall Avenue. The plan shows it taking a 90 degree west turn at Wall, running westerly along (under?) Wall, then taking another 90 degree south turn o connect with the existing undergrounded portion south of Wall. This change would cause some redesign of the southern portion of the project, but it would also enable the creek to become an amenity, adding value. **7-7**

Tom Butt

Richmond City Councilman
117 Park Place
Point Richmond, CA 94801
Phone: 510.236.7435
Fax: 510.232.5325
E-mail: tom.butt@intres.com
Tom Butt Political Website: http://www.tombutt.com/

Letter 7: Tom Butt, City Councilman, Richmond City Council. July 25, 2009.

7-1: This comment suggests further emphasizing the proximity of the project site to the Richmond Greenway, via such strategies as trail enhancements, safety improvements, and new lighting, among others.

As reflected in the Draft EIR Project Description, the proposed pedestrian and bicycle path would connect to the completed Richmond Greenway. Although the comment is noted, the Richmond Greenway is outside the project property, and Phase 2 of the City of Richmond's Richmond Greenway Project is currently under construction. As a result, enhancements such as those suggested in this comment are outside the purview of the proposed project.

7-2: This comment suggests that the density should be increased and parking strategies such as Zip Car should be considered.

The Draft EIR considered a high density alternative in the Increased Housing/High Density Alternative. With respect to parking strategies, please refer to Response to Comment 6-3, above.

7-3: This comment suggests connecting the relocated Sakai structures to the open space area.

The proposed relocation of the Sakai House, water tower, and Greenhouse 20 approximately 30 feet would allow the ensemble to be close to the open space area while still being easily accessible to residents of the affordable senior complex. Instead, the project has been revised to relocate the main Oishi House and one greenhouse to the open space area to anchor the community garden and other growing activities that would occur there. The comment is noted for the record and will be provided to the Planning Commission and City Council. No change to the Draft EIR is required.

7-4: This comment suggests using salvageable greenhouses to turn project open space into a year-round urban agriculture center.

As currently proposed by the project, a portion of the open space area would be dedicated as available for agricultural uses. The project has been revised to relocate the main Oishi House and one greenhouse to the open space area to anchor the community garden and other growing activities that would occur there. Additionally, before demolition of existing buildings occurs, as required by the MOA with SHPO, nonprofit organizations interested in preserving additional historic greenhouses would have the opportunity to enter into an agreement with the City to rehabilitate and relocate greenhouses to the open space area in exchange for use of the greenhouses for agricultural activities. If no additional existing greenhouses are rehabilitated and relocated to this area, new greenhouses similar in form to the historic greenhouses would be permitted to be constructed in this location to house the agricultural activities. Although this suggestion has been noted, no change to the Draft EIR is required.

7-5: This comment suggests relocating historic structures to Rosie the Riveter WWII Home Front National Historic Park.

National Park Service property is outside the authority of the City. However, the City of Richmond will continue to coordinate with NPS on strategies to maximize historic preservation and maintain the historic integrity of the project site.

7-6: This comment states that the houses adjacent to the open space should be oriented towards the open space. This comment is design-related and contains an opinion about the proposed project that would be appropriately considered during the entitlement and design review process, rather than through the CEQA process.

The comment is noted for the record and will be provided to the Planning Commission and City Council. No change to the Draft EIR is required.

7-7: This comment suggests that the southern end of Baxter Creek should curve naturally to connect to the underground culvert.

As proposed in the Draft EIR, the restored Baxter Creek would connect to the storm drain system at Wall Avenue. The current configuration does not result in any adverse impacts. The suggested alternative route would require a significant amount of frontage along Wall Avenue in order to provide a sufficient floodplain and would significantly reduce the amount of space developable for housing.

B. Non-Profit Groups/Associations

LETTER #8

RECEIVED
JUL 7 2009
RICHMOND
PLANNING DEPARTMENT

July 6, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Dept.
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Dear Ms. Velasco:

As a co-founder of the citizens' group, Friends of Baxter Creek, I support the effort to daylight Baxter Creek on the Miraflores housing development site. The Friends—and the Urban Creeks Council and Waterways Restoration Institute as well as the cities of Richmond and El Cerrito—have worked diligently over the past decade to restore Baxter Creek in its upper and lower reaches: now it is time to focus on the middle reach and to build on these efforts and restore more of this watershed. Daylighting the creek will provide water quality benefits through the physical, chemical, and biological processes that will take place, treating urban runoff and improving water quality. As urban runoff will be a greater and greater focus of regulatory action in the near future, daylighting this creek would be a step in the right direction. The daylighted stream would also provide much-needed wildlife habitat as well as an amenity for residents of the development and the city. **8-1**

I strongly urge you to daylight this stretch of Baxter Creek.

Sincerely,

Lisa Owens Viani
1108 Chaucer Street
Berkeley, CA 94702

Letter 8: Lisa Owens Viani, Co-Founder, Friends of Baxter Creek. July 6, 2009.

8-1: This comment expresses support for the proposed restoration of Baxter Creek.

No change to the Draft EIR is required.

STEWART WEINBERG
DAVID A. ROSENFELD
WILLIAM A. SOKOL
VINCENT A. HARRINGTON, JR.
W. DANIEL BOONE
BLYTHE MICKELSON
BARRY E. HINKLE
JAMES RUTKOWSKI •
SANDRA RAE BENSON
CHRISTIAN L. RAISNER
JAMES J. WESSER
THEODORE FRANKLIN
ANTONIO RUIZ
MATTHEW J. GAUGER
ASHLEY K. IKEDA ••
LINDA BALDWIN JONES
PATRICIA A. DAVIS
ALAN G. CROWLEY
KRISTINA L. HILLMAN •••
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JANNAH V. MANANSALA
MANUEL A. BOÍGUES ••••
KERIANNE R. STEELE •••
ANA M. GALLEGOS
GARY P. PROVENCHER

PATRICIA M. GATES, Of Counsel
ROBERTA D. PERKINS, Of Counsel
RICHARD T. DRURY, Of Counsel

• Also admitted in Arizona
•• Admitted in Hawaii
••• Also admitted in Nevada
•••• Also admitted in Illinois

LETTER #9

RECEIVED
JUL 22 2009
RICHMOND
PLANNING DEPARTMENT

BY FAX AND US MAIL

July 15, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804
Fax: (510) 620-6542

Re: Miraflores CEQA Review

Dear Ms. Velasco;

I am writing on behalf of the Carpenters Union Local 152 concerning the Miraflores Housing Development project ("Project") (SCH Number: 2007082154). We hereby request that the City of Richmond ("City") fully comply with all requirements of the California Environmental Quality Act ("CEQA") in its review of the Project. In particular, we request that the City analyze all of the Project's environmental impacts, impose all feasible mitigation measures and alternatives to reduce the Project's significant environmental impacts. We are currently in the process of reviewing the Project and its CEQA documentation. Thank you. **9-1**

Sincerely,

Richard Drury

CC: Tom Quinn
Scott Littlehale
Ted Franklin

LOS ANGELES OFFICE
3435 Wilshire Boulevard, Suite 620
Los Angeles, CA 90010-1907
TEL 213.380.2344 FAX 213.381.1088

SACRAMENTO OFFICE
428 J Street, Suite 520
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1099 Alakea Street, Suite 1602
Honolulu, HI 96813-4500
TEL 808.528.8880 FAX 808.528.8881

Letter 9: Richard Drury, Of Counsel, Weinberg, Roger & Rosenfeld. July 15, 2009.

9-1: This letter is a statement of introduction and a notice that the commenter is reviewing the Draft EIR on behalf of the Carpenters Union Local 152 (see Letter 14 for substantive comments).

No change to the Draft EIR is required.

LETTER #10

RECEIVED
AUG 07 2009
RICHMOND
PLANNING DEPARTMENT

TO: Ms. Lena Velasco
Senior Planner, City of Richmond
450 Civic Center Plaza, P.O. Box 4046
Richmond, CA 94804

August 4, 2009

FROM: Chizu Iiyama and Don Delcollo
Executive Board Members
Contra Costa Japanese American Citizens League
6802 Glen Mawr Ave.
El Cerrito, CA 94530

Dear Ms. Velasco,

Thank you for your excellent Miraflora Housing Development Plan Draft EIR. The Contra Costa Japanese American Citizens League is very interested in the redevelopment plans especially in regard to historical preservation. **10-1**

We met with Mayor McLaughlin last year, and with the City Council on February 24th to indicate our concerns about JACL inclusion in the discussion regarding the historic preservation of buildings and the water tower in the project area.. Especially since the project will be based on the sites of the Sakai, Oishi, and Maida families. They are Japanese immigrants who settled in Richmond, and started their nurseries in the early 1900's. Many of the families are also chapter members of the Japanese American Citizens League. **10-2**

The Japanese American nurseries in this area are unique. Quoting from research conducted by the statewide project Preserving California's Japantowns, the El Cerrito Historical Society states "The Oishi and Sakai nursery properties hold the most extensive group of pre-World War II historic resources in the entire state of California that are associated with the Japanese-American flower growing industry. These nurseries are the last remnant of Richmond's once vibrant community of Japanese-American flower growers". They built a special economic and social enclave in areas of Richmond and El Cerrito. With the last of these nurseries closing in 2007 and the impending Oishi-Sakai properties, the physical reminders of the local Nikkei history are quickly fading. The Contra Costa JACL supports the plan's commitment to tell the important story through a combination of preserving historic structures and interpretive exhibit.. **10-3**

We support most of the statements in the El Cerrito Historical Society report with it's excellent job of researching and gathering information regarding the proposed Miraflora Project and their suggestions for historical preservation and interpretation.

Historian Donna Graves, one of the people responsible for the acclaimed Rosie the Riveter National Park, and Jill Shiraki of the Preserving California's Japantowns Project, Contra Costa JACL, the National Japanese American Historical Society in San Francisco, the National Japanese American Citizens League, most nursery families, and Japanese **10-4**

Americans in the area generally support the historical preservation plan. However they want to make sure that it will be located in an area which will keep them safe, well kept, and in good condition. We ask to be consulted on your plans, especially in regard to location. **10-4 cont.**

We would like more information regarding post-development plans, especially because of deteriorating conditions observable today. How will the historic resources be protected through the remediation phase, construction, and reuse. Who will be responsible for their upkeep? How would they be protected against defacing, violence, or destruction? Will the Sakai building be used for agencies or activities? historical exhibits? libraries? schools? **10-5**

We believe that the stories of the Japanese American nurseries of Richmond and their families are more than a successful immigration story. They are a part of our national history. Facing prejudice and legal systematic discrimination the Japanese immigrants in the early 1900's settled in Richmond and parts of El Cerrito. Through hard work, perseverance, and courage they were able to contribute to the financial and social growth of the city.

Then in 1942, as a result of the war between Japan and the United States, the American government ordered all people of Japanese ancestry to leave the West Coast . Most were put into detention centers. The Japanese people in Richmond were part of the 120,000 who were forced to leave their homes, personal properties, businesses, and careers often in the space of a few days.There was no specific charges against them, no trials, no opportunity to make a defense. Incarcerated into camps with barbed wire fences, at "assembly centers" housed in horse stalls and fairgrounds then later in desert and swamp areas in the middle states. Two thirds of those detained were American citizens with a median age of 17 years.

At the end of the war, some Richmond Japanese American families returned to their homes and restarted their nurseries. In their absence, the nurseries were vandalized, equipment was stolen or destroyed, weeds and garbage strewn on their properties. Again, they worked diligently , their flowers and greenery began to bloom, and they were able to cultivate a successful business. **10-6**

What is of importance nationally, is that there was a severe violation by the American government in depriving the Japanese Americans their basic civil rights. There was no sabotage or espionage on the part of the Japanese American people. Despite being forced into the camps, over 33,000 young men served valiantly in the American army, some who volunteered from the camps while their families were behind barbed wire fences. Some of the volunteers were from Richmond .

Many years later on August 10, 1988 Congress passed the Civil Liberties Act of 1988. They acknowledged the mistakes made by the government in its treatment of Japanese Americans during WW 2, an apology signed by President Reagan, and redress for the Japanese Americans affected by the evacuation orders. This is truly an American story.

We are encouraged that the Miraflora Project will work on historic preservation and interpretive exhibit and hope to be part of the process in making decisions.

Sincerely,

Don Delcollo

Mr. Don Delcollo
Executive Board Member
Contra Costa Japanese American Citizens League

Chizu Iiyama

Ms. Chizu Iiyama
Executive Board Member
Contra Costa Japanese American Citizens League

Letter 10: Chizu Iiyama and Don Delcollo, Executive Board Members, Contra Costa Japanese American Citizens League. August 4, 2009.

10-1: This comment is a statement of interest and introduction.

No change to the Draft EIR is required.

10-2: This comment is a statement of the commenter's past involvement in the proposed project.

No change to the Draft EIR is required.

10-3: This comment is a reiteration of the historic significance of Japanese American nurseries in Richmond and a statement of general support for the proposed project.

No change to the Draft EIR is required.

10-4: This comment is a request that the Japanese American Citizens League (JCAL) be consulted on future project planning.

The comment does not pertain to specific environmental issues that are germane to the CEQA analysis or Draft EIR. The comment is noted for the record and will be provided to the Planning Commission and City Council.

10-5: This comment is a request for more information on post-development plans for the historic structures.

The Draft EIR has been amended to include a discussion of adaptive reuse and provisions for the protection and adaptive reuse of historic resources. These changes are included in Chapter 3 of this Final EIR.

10-6: This comment further reiterates that the Japanese legacy in Richmond is of national significance.

No change to the Draft EIR is required.

LETTER #11

RECEIVED
AUG 10 2009
RICHMOND
PLANNING DEPARTMENT

3 August 2009

Lina Velasco, Senior Planner
City of Richmond
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Dear Ms. Velasco,

I am writing to comment on the Miraflores Housing Development Plan Draft EIR on behalf of the *Preserving California's Japantowns* project and its sponsor, the California Japanese American Community Leadership Council (CJACLC). *Preserving California's Japantowns* has conducted a statewide historic resource survey of pre-WWII Japanese American communities across California. The CJACLC is a network that coordinates strategic statewide and regional partnerships, including cultural and community preservation and leadership development programs. **11-1**

The historic nurseries that comprise the location for the Miraflores project are of great interest to us as they appear to be the last in the entire state of California that hold substantial numbers and representative building types reflecting the rich history of pre-WWII Japanese American flower-growing. For this reason, they are highly significant at the local, regional and state level. Additionally, they are of national significance because the largest concentration of Japanese immigrants and their descendants prior to WWII internment lived in California, so this state's history and Japanese American heritage are deeply intertwined.

As the Draft EIR notes, Japanese Americans were the major producers of greenhouse flowers in the Bay Area (p. 4.5-13) and the families that developed nurseries in Richmond were prominent figures in this industry. Kotaro Sakai and Seizo Oishi were founding members of the San Francisco California Flower Market (CFM) in 1912. Kotaro Sakai's son, Sam, is particularly important to this history. As an American-born citizen of the United States, Sam Sakai was appointed President of the CFM after Pearl Harbor and ran its operations from Rowher Relocation Center in Arkansas. He led the organization's rebuilding after the war and is widely regarded as a central figure in the history of Northern California flower growing. The history of these nurseries is an important part of the fabric of Richmond's heritage, and a critical piece of the WWII story on which Rosie the Riveter/WWII Home Front National Historical Park was founded. **11-2**

We support the City's aim to address the historic significance of this site as you develop new uses for the properties, and we commend the amount of work that staff from the Redevelopment Agency, Planning Department and Eden Housing has put into this effort. **11-3**

We strongly support the retention and rehabilitation of the Sakai home, watertower and greenhouse no. 20 on the Sakai property and the Oishi house as described in the Draft EIR. Our preference is that these structures remain "in situ" to protect their integrity. If they must be moved, we encourage that they be kept in the same relation to each other and with the same orientation. 11-4

We also support retention and rehabilitation of greenhouse no. 9 on the Oishi property, if possible. This structure is particularly significant as a reflection of the longevity and tenacity of these families commitment to their place in Richmond. Construction of this greenhouse was begun by Tom Oishi in Fall 1941, but suspended after the Japanese attack on Pearl Harbor. The greenhouse sat as an empty wood frame until the Oishis returned to reclaim their property after the war. Tom Oishi and his new brother-in-law, a Purple Heart-decorated veteran of the all-Japanese American 442nd Battalion, finished the structure, which continued to be used for growing carnations until 2005. 11-5

We understand the economic issues that have shaped the Miraflores development project and the difficult climate in which the City is operating. Should their be a change in the direction of the project, we hope that retention of more historic structures will be considered. For example, the bungalow houses on the south and west of the Sakai properties that were built as homes for Sam and Tets Sakai prior to WWII could be incorporated into a revised housing development rather than demolished. These structures have historic significance for their association with the multi-generational history of these family enterprises. 11-6

The Draft EIR includes language describing the possibility of devoting a portion of the green "buffer zone" near the 80 freeway to urban agricultural uses. We strongly support this creative measure for two reasons. 1). It provides a continuity of use for the site that reinforces its historic meaning. 2) Greenhouses at the eastern edge of the property will help visitors understand the scale of the nursery operations, which cannot be conveyed by the very small number of buildings proposed for preservation. 11-7

Finally, we strongly support plans for accessible interpretation of the history and meaning of these nurseries at their historic location. We believe that this will not only provide a more powerful experience for visitors, it will make the Miraflores development itself more distinctive and reinforce Richmond's unique character. 11-8

Sincerely,

Donna Graves, Project Director
Preserving California's Japantowns

CC: Paul Osaki and Kaz Maniwa, CJACLC
Contra Costa JACL
Rosie the Riveter/WWII Home Front National Historical Park
Rosie the Riveter Trust

Letter 11: Donna Graves, Project Director, Preserving California's Japantowns. August 3, 2009.

11-1: This comment is a statement of introduction. No change to the Draft EIR is required.

11-2: This comment stresses the national, historic significance of Japanese nurseries. No change to the Draft EIR is required.

11-3: This comment expresses support for the City's historic preservation efforts. No change to the Draft EIR is required.

11-4: This comment expresses support for the retention and rehabilitation elements of the proposed project and the commenter's preference that these structures be retained in situ, or at least that they be kept in the same orientation and relationship to each other.

As proposed, the relocation of the Sakai buildings would retain their present orientation and relationship to one another. Comment is noted. No change to the Draft EIR is required.

11-5: This comment expresses the commenter's desire for the retention and rehabilitation of Greenhouse 9 on the Oishi property.

The feasibility of preserving Greenhouse 9, along with other structures, in situ was studied and found infeasible in *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008. In response to comments, however, the project has been modified to include the rehabilitation and relocation on-site of Greenhouse 9 or 17 from the Oishi Nursery. Further, as required by the MOA with SHPO, prior to demolition, the greenhouses would be made available to individuals or organizations as discussed in Response to Comment 7-4.

11-6: This comment advocates the retention of additional historic structures.

The comment is noted. No change to the Draft EIR is required.

11-7: This comment expresses support for devoting a portion of the open space area along Interstate 80 to agricultural uses.

The comment is noted. No change to the Draft EIR is required.

11-8: This comment expresses support for an on-site interpretive exhibit. The comment is noted. No change to the Draft EIR is required.

LETTER #12

El Cerrito Historical Society

P O Box 304, El Cerrito, CA 94530
elcerritohistoricalsociety@yahoo.com

Our name dates to 1775; Castro Adobe started 1839; Incorporated 1917

RECEIVED
AUG 11 2009
RICHMOND
PLANNING DEPARTMENT

August 10, 2009

Lina Velasco, Senior Planner
The City of Richmond
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Dear Ms. Velasco,

The extension of time that the City of Richmond granted for comments on the Miraflores Housing Development Plan Draft EIR has allowed the Historical Society time to actually find and contact the Endo family, former operators of a nursery on the Miraflores site. On the basis of our preliminary conversations with the family, we have revised our comments in paragraph 5 of page 2 of our response to the Miraflores Housing Development Plan Draft EIR (attached). The remainder of the document remains unchanged.

Sincerely,

Tom Panas

cc: Katie Lamont, Eden Housing; Cindy Heitzman, California Preservation Foundation; Marie Nelson, State Historic Preservation Office; Richmond Planning Commission; Richmond Historic Preservation Advisory Committee; Ric Borjes, National Park Service; Donna Graves, Preserving California's Japantowns

El Cerrito Historical Society

P O Box 304, El Cerrito, CA 94530
elcerritohistoricalsociety@yahoo.com

Our name dates to 1775; Castro Adobe started 1839; Incorporated 1917

July 28, 2009

Lina Velasco, Senior Planner
The City of Richmond
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Dear Ms. Velasco,

On behalf of the El Cerrito Historical Society, I would like to present the following comments on the Miraflores Housing Development Plan Draft EIR. The Historical Society would be happy to discuss these comments with you, your staff, and other interested parties.

The Historic Resources discussion in Section 6 on page 3-19 of the Draft EIR states that the Sakai house, the adjacent water tower, and Greenhouse 20 will be relocated on the site and rehabilitated in accordance with the Secretary's standards. This section also states that the "Oishi house" will be relocated on the site and rehabilitated. The document must specify which one of the Oishi houses on the property will be rehabilitated and relocated. **12-1**

The Historical Society supports the relocation and rehabilitation of these four structures as described in the Draft EIR, as well as the interpretive exhibit and the design elements also described on page 3-19. Page 3-19 notes that the interpretive exhibit may be located off-site. The Historical Society feels that the interpretive exhibit must be placed on-site to provide a proper context for historical interpretation and study. **12-2**

The Historical Society believes that the Oishi Greenhouses 9 and 18 must also be preserved. Greenhouse 9 is a unique remnant of the Japanese experience during World War II, as its construction began before the internment but was not completed until after the Oishi family had returned from camp. Greenhouse 18 is believed to be the oldest of the Oishi greenhouses. Both of these greenhouses should be preserved on-site. If necessary, these two greenhouses could be moved to a proper location that clearly acknowledges their context and historical significance. **12-3**

In addition, the post-redevelopment plans for the Sakai house and Oishi house are absent from the document. The Draft EIR must include a specific plan for the houses or they will become derelict. **12-4**

Regarding the proposed moving of all the Historic Resources: will they be taken apart and then reassembled at the new location or will they be just picked up and moved? Some of the structures are in poor condition and are extremely fragile. A qualified preservation architect must assess whether these structures can be moved in one piece or will need to be carefully disassembled and then reassembled at the new location. This assessment must be obtained and integrated into the Draft EIR before it can be approved. **12-5**

The Draft EIR does not include a plan for protecting and conserving the Historic Resources during remediation, construction, and then until the time when they are put into regular use. The Draft EIR must be modified to include such a plan before it can be approved. **12-6**

Regarding broken and missing greenhouse glass: will it be replaced with glass or with a product such as Plexiglas? While the use of glass would result in a more historically accurate renovation, a tougher material would be more durable. In addition, the Historical Society suggests that some of the fixed greenhouse windows be replaced with movable windows. While less historically accurate, doing so would allow better temperature control and give rise to a more useable structure for community organizations. **12-7**

The Draft EIR states on page 4.5-12 that "Japanese American families began operating nurseries in Richmond as early as 1892." The Historical Society assumes that this date comes from the 1892 date found on page 38 of the October 2004 document *Historic Architecture Evaluation - The Oishi, Sakai, and Maida-Endo Nurseries*. The text on page 38 briefly describes the arrival of the first Japanese nationals with nursery skills, the Nabeta brothers, in the Richmond/El Cerrito area. The Historical Society believes that this date is wrong due to a misreading of the October 2004 *Historic Architecture Evaluation*. The Historical Society has reviewed this with the two living Nabeta daughters (Fumiko and Yoshiko), gone over the autobiographical statements made by the Nabeta family in the 1996 document *The Way We Were*, and consulted with Donna Graves, one of the authors of the October 2004 *Historic Architecture Evaluation*. The Historical Society believes a more accurate statement would indicate that the date is about 1900. **12-8**

The Draft EIR states on page 4.5-12 that "The railroad right-of-way of the Atchison, Topeka and Santa Fe Railroad, adjacent to the north boundary of the project site, is a historic property." Also it states on page 4.5-16 that "One historic property, site P-07-002599, is recorded immediately adjacent to the north boundary of the project property. This is the railroad right-of-way of the Atchison, Topeka and Santa Fe Railroad." On what basis are these statements (that the Atchison, Topeka and Santa Fe Railway right of way is a "historic property") made? **12-9**

On page 4.5-13 the list of families that once had nurseries on the Miraflores site does not include the Mayeda, Fukushima, or Hoshi families: "The Miraflores site was formerly occupied by three nurseries operated by Japanese-American families: the Sakai, Oishi and Maido-Endo families". Is this omission intentional or inadvertent? ("Maido" should be "Maida".) **12-10** The three non-listed families are cited on page 4 of Section 2.2.2 of Appendix D of the Draft EIR Appendices document and their presence can be verified on the 1926 Sanborn maps of El Cerrito and the 1930 Sanborn maps of Richmond. Also, the Draft EIR and the Appendices refer (multiple times) to the "Maida-Endo" families. Although these families operated nurseries on the same piece of property, they did so at different times and were separate families. The Historical Society believes that lumping the Maida and Endo families together in this fashion could lead to future misunderstandings about the families and the nursery operations; in addition it does not show proper respect for the individual families. **12-11**

On page 4.5-16 the Draft EIR states that "One historic property, site P-07-002599, is recorded immediately adjacent to the north boundary of the project property. This is the railroad right-of-way of the Atchison, Topeka and Santa Fe Railroad. The berm for the old railroad bed is still extant, although without rails or ties. The current BART tracks are just north of and parallel to the berm, apparently making use of the old right-of-way". The use of "apparently" is incorrect. The historical record clearly shows that this was the right of way of the Atchison, Topeka and Santa Fe Railway. At the inception of the BART system, BART arranged for the use of a portion of the Atchison, Topeka and Santa Fe Railway right of way. BART and the Atchison, Topeka and Santa Fe Railway co-existed in this space until 1979, when the Atchison, Topeka and Santa Fe Railway abandoned its rail line. **12-12**

The text that starts on page 4.5-16 and continues on page 4.5-17 reads "The Sakai and Oishi properties were the only remaining nurseries founded by Japanese Americans before WWII in the entire Bay Area, and were the last remaining of Richmond's community of Japanese American flower growers". This statement inaccurately describes the historic nature of the nurseries. A proper statement would read "The Oishi and Sakai nursery properties hold the most extensive group of pre-World War II historic resources in the entire state of California that are associated with the Japanese-American flower growing industry. These nurseries are the last remnants of Richmond's once-vibrant community of Japanese-American flower growers". **12-13**

There are two places where the street name "Wall Street" is used instead of the correct street name, "Wall Avenue". One is in the Draft EIR on page 4.5-17; the other is in the Draft EIR Appendices, on page 4 of section 2.2.3 ("Endo Nursery Parcel") of Appendix D. **12-14**

The Historical Society appreciates the opportunity to comment on the Draft EIR. Once again, we would happy to discuss our comments with you, your staff, and other interested parties.

Sincerely,

Tom Panas

cc: Katie Lamont, Eden Housing; Cindy Heitzman, California Preservation Foundation; Marie Nelson, State Historic Preservation Office; Richmond Planning Commission; Richmond Historic Preservation Advisory Committee; Ric Borjes, National Park Service; Donna Graves, Preserving California's Japantowns

Letter 12: Tom Panas, Member, El Cerrito Historical Society. August 10, 2009.

12-1: This comment states that the EIR must specify which of the Oishi houses would be rehabilitated and relocated.

The Draft EIR has been amended to indicate the relocation of the main Oishi house. These revisions are included in Chapter 3 of this Final EIR.

12-2: This comment states that the historical exhibit must be placed on-site for proper context.

The project requires an interpretive exhibit on-site, which may only be relocated off-site if it is proven to be infeasible prior to final site plan approvals. The proposed project is designed to comply with the Stipulation II.C of the MOA with SHPO, pursuant to which the City would develop such an exhibit on-site, or, if infeasible, at another appropriate location:

"The City shall develop a permanent, interpretive exhibit on the project site communicating the history of Richmond's Japanese American flower growing community in the vicinity of the project area in addition to information about the Sakai and Oishi nurseries. The exhibit should incorporate information from the historic report, historic photographs, and HABS documentation or other recordation materials and should be located and designed so that it is accessible to the public and of a durable design. The interpretive exhibit should be developed and designed by a qualified team including an historian and a graphic designer or exhibit designer. If the exhibit cannot be accommodated in the new development, another appropriate public venue can also be considered."

The comment is noted. No change to the Draft EIR is required.

12-3: This comment states that Greenhouses 9 and 18 should be preserved, even if they are relocated.

The feasibility of preserving Greenhouses 9 and 18, among other structures, was studied and found infeasible in *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008 (added to the Draft EIR as Appendix J). In response to comments, however, the project has been modified to include the rehabilitation and relocation of either Greenhouse 9 or 17. Furthermore, as required in the MOA with SHPO, prior to demolition the greenhouses would be made available to individuals or organizations as discussed in Response to Comment 7-4.

12-4: This comment states that the Draft EIR must include a specific plan for the historic structures.

The Draft EIR has been amended to include discussion on the adaptive reuse of the structures. These changes are included in Chapter 3 of this Final EIR.

12-5: This comment states that the process for moving the historic structures must be analyzed in the Draft EIR.

Relocation of the historic resources would be done in consultation with a qualified preservation architect. Further, Architectural Resources Group, a preservation architecture firm, analyzed the requirements for relocating the historic resources. This information is included in the *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008; this report has been added to the Draft EIR as Appendix J.

12-6: This comment states that a plan for protecting and conserving the historic structures during the redevelopment process must be included.

The Draft EIR has been amended to clarify provisions for the protection of historic resources during remediation and construction and until they have

been put into regular use. These changes are included in Chapter 3 of this Final EIR.

12-7: This comment asks whether the greenhouse glass will be replaced with plexiglass.

The reuse of these buildings would be conducted in consultation with a preservation architect and the materials selected will be pursuant to the Secretary of Interior's Standards for Historic Preservation.

12-8: This comment states the commenter's belief that Japanese American families began operating nurseries in Richmond in about 1900, rather than 1892.

The Draft EIR has been revised to address Comment 12-8. These revisions are included in Chapter 3 of this Final EIR.

12-9: This comment requests the basis for the identification of an historic railroad right of way.

The basis of these statements is the City of Richmond's *Archaeological Survey Report, Miraflores Housing Development Project, Richmond, Contra Costa County, California*, prepared by Archaeological/Historical Consultants in June, 2004.

12-10: This comment states that the list of families that once had nurseries on site should also include the Mayeda, Fukushima, and Hoshi families.

The Draft EIR has been revised to address Comment 12-10. These revisions are included in Chapter 3 of this Final EIR.

12-11: This comment states that Maida and Endo are separate families and that Maida is misspelled.

The Draft EIR has been revised to correct the spelling and note that the Maida and Endo families are separate. These revisions are included in Chapter 3 of this Final EIR. However, in order to retain consistency with usage in reports and studies cited in the Draft EIR, references to the "Maida-Endo Nursery," which refers to one parcel, in the Draft EIR have not been changed.

12-12: This comment notes that the use of the word "apparently" in describing that the BART tracks follow the old historic railroad right-of-way is incorrect.

The Draft EIR has been revised to address Comment 12-12. These revisions are included in Chapter 3 of this Final EIR.

12-13: This comment provides a suggested revision to a statement regarding Japanese American nurseries.

The Draft EIR has been revised to address Comment 12-13. These revisions are included in Chapter 3 of this Final EIR.

12-14: This comment notes that Wall Street should be changed to Wall Avenue.

The Draft EIR has been revised to address Comment 12-14. These revisions are included in Chapter 3 of this Final EIR.

NATIONAL TRUST FOR HISTORIC PRESERVATION®
Western OFFICE

LETTER #13

BY EMAIL

August 11, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
Richmond, CA 84804

Re: Comments on the Miraflores Housing Development Draft EIR, Richmond, CA

Dear Ms. Velasco:

On behalf of the National Trust for Historic Preservation, thank you for the opportunity to comment on the Miraflores Housing Development Draft Environmental Impact Report.

The National Trust for Historic Preservation provides leadership, education, advocacy and resources to a national network of people, organizations and local communities committed to saving places, connecting us to our history and collectively shaping the future of America's stories.

The National Trust has been involved in planning regarding the future of the Oishi and Sakai nurseries for over two years, advocating for the preservation of historical features of the nurseries as part of the proposed Miraflores housing development. The Oishi and Sakai nurseries may be the sole examples remaining in the entire state of California in which substantial numbers and representative building types reflecting the rich history of pre-WWII Japanese American flower-growing are extant.

Our review of the Draft EIR focused on the degree to which the proposed project may impact the historic integrity of the Oishi and Sakai nurseries and the opportunity to interpret their history and the history of the Japanese American presence in Richmond. We applaud the City of Richmond's Redevelopment Agency, the Planning Department, and Eden Housing's exploration of an alternative that would preserve the nurseries and consideration of devoting a portion of the green "buffer zone" near the 80 freeway to urban agricultural uses. **13-1**

However, we are concerned that the Draft EIR appears to violate the letter and spirit on an agreement between the City of Richmond and the California State Historic Preservation Office that the Miraflores Housing Development EIR would include at least one alternative with practical adaptive reuse of representative historic structures "in situ." **13-2**

The National Trust strongly supports a Miraflores project that retains as much of the historic association, setting, and feeling of the Oishi and Sakai nurseries as possible. In particular, we support the retention and rehabilitation of the Sakai home, watertower and greenhouse no. 20 on the Sakai property and the Oishi house, but we underscore the importance of leaving the structures in place, thus preserving their historic physical relationship and orientation. In addition, we support retention and rehabilitation of greenhouse no. 9 on the Oishi property. **13-3**

We furthermore support a robust interpretive program and exhibit that allows the historic features of the property to tell the story of the last remaining Japanese American nursery in the San Francisco Bay area. **13-4**

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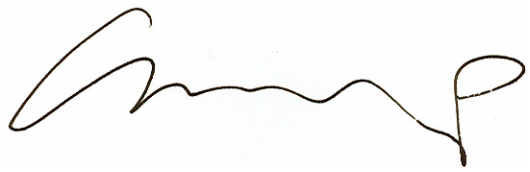
The National Trust fully supports the development of sorely needed quality affordable housing in Richmond, and recognizes that existing historic structures will need to be removed in order to accommodate new housing development on the site. However, we believe that a more appropriate balance between preservation and new construction can be accomplished than has been analyzed in the Draft EIR. Maintaining the historic structures in situ will require a creative site plan that accommodates and is inspired by the historic development patterns, but the benefit will be will be a visually and culturally richer and more engaging environment. **13-5**

Thank you again for the opportunity to comment on this important project.

Sincerely,



Anthony Veerkamp
Senior Program Officer

Letter 13: Anthony Veerkamp, Senior Program Officer, National Trust for Historic Preservation, Western Office. August 11, 2009.

13-1: This comment is a statement of introduction and appreciation, and contains information summarizing subsequent comments in the letter.

No change to the Draft EIR is required.

13-2: This comment expresses concern about whether the project meets the terms of the MOA with SHPO.

Please refer to Response to Comment 1-2 and response to Comment Letter 4, related to proposed project compliance with the MOA.

13-3: This comment states commenter's preference that the Sakai ensemble and Oishi House be preserved in situ and that Oishi Greenhouse 9 be preserved.

Please refer to Response to Comment 1-2, related to proposed project compliance with Stipulation II.D. of the MOA. Also, see Response to Comment 11-5 regarding Oishi Greenhouse 9.

13-4: This comment is a statement of support for an interpretive program and exhibit.

This comment is hereby noted. No change to the Draft EIR is required.

13-5: This comment states that a better balance between preservation and construction could be achieved by maintaining historic structures "in situ."

Please refer to Response to Comment 1-2, related to proposed project compliance with Stipulation II.D. of the MOA. See also Response to Comment 11-5 regarding retaining structures in situ.

STEWART WEINBERG
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PATRICIA M. GATES, Of Counsel
ROBERTA D. PERKINS, Of Counsel
RICHARD T. DRURY, Of Counsel

• Also admitted in Arizona
•• Admitted in Hawaii
••• Also admitted in Nevada
•••• Also admitted in Illinois

LETTER #14

BY EMAIL, FAX AND US MAIL

August 12, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804
Fax: (510) 620-6542
Email: Lina_Velasco@ci.richmond.ca.us

Re: Comments of Carpenters Union Local 152 on Draft Environmental Impact Report for the Miraflores Housing Development project (SCH Number: 2007082154)

Dear Ms. Velasco;

I am writing on behalf of the Carpenters Union Local 152 concerning the Draft Environmental Impact Report ("DEIR") for the Miraflores Housing Development project ("Project") (SCH Number: 2007082154). We hereby request that the City of Richmond ("City") fully comply with all requirements of the California Environmental Quality Act ("CEQA") in its review of the Project. After reviewing the DEIR, it is evident that the document contains numerous errors and omissions that preclude accurate analysis of the Project. As a result of these inadequacies, the DEIR fails as an informational document, fails to identify environmentally superior Project alternatives, and fails to impose feasible mitigation measures to reduce the Project's impacts.[1] A supplemental DEIR should be prepared and circulated for full public comment to address these issues. **14-1**

[1] We reserve the right to supplement these comments at later hearings and proceedings for this Project. See, *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109.

I. BACKGROUND

The Miraflores Project would involve the construction of 226 market-rate housing units and 110 affordable rental units for seniors on a 14-acre parcel in the City. The market-rate units would include a combination of attached and detached single family residences. The Project is expected to house 971 residents. The site is approximately half a mile directly northwest of the El Cerrito del Norte BART station in the City of El Cerrito. The project site is bounded on the north by the BART tracks and a roadbed berm of the old Atchison, Topeka, and Santa Fe Railroad line. From the roadbed berm, the west project boundary runs south along South 45th Street, then east along Florida Avenue, south on South 47th Street and east along Wall Avenue almost to Interstate 80. There are also a few lots at the southwest corner of Florida Avenue and South 47th Street that are within the site boundary. Interstate 80 forms the site's eastern boundary.

The Project would be built on heavily contaminated soil. The Project would place future residents approximately 220 feet from Interstate 80 (I-80), posing significant health risks as discussed below.

II. STANDING

14-2

Members of Local 152 live, work and recreate in the immediate vicinity of the Project site. These members will suffer the impacts of an inadequately mitigated Project, just as would the members of any nearby homeowners association, community group or environmental group. Hundreds of Local 152 members live and work in areas that will be affected by traffic, air pollution, and water pollution generated by the Project.

In addition, construction workers will suffer many of the most significant impacts from the Project as currently proposed, such as from air pollution emissions from poorly maintained or controlled construction equipment, possible risks related to hazardous materials on the Project site, and other impacts. Therefore, Local 152 and its members have a direct interest in ensuring that the Project is adequately analyzed and that its environmental and public health impacts are mitigated to the fullest extent feasible.

III. LEGAL STANDARDS

14-3

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") (except in certain limited circumstances). (See, e.g., Pub. Res. Code § 21100.) The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.) "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of

the statutory language." (*Communities for a Better Environment v. Calif. Resources Agency* (2002) 103 Cal. App. 4th 98, 109.)

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 Cal. Code Regs. ("CEQA Guidelines") § 15002(a)(1).) "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR 'protects not only the environment but also informed self-government.'" (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564) The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." (*Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs*. (2001) 91 Cal. App. 4th 1344, 1354 ("Berkeley Jets"); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810)

Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and all feasible mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); See also, *Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced." (Guidelines §15002(a)(2)) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." (Pub.Res.Code § 21081; 14 Cal.Code Regs. § 15092(b)(2)(A) & (B)) **14-3**

While the courts review an EIR using an "abuse of discretion" standard, "the reviewing court is not to 'uncritically rely on every study or analysis presented by a project proponent in support of its position. A 'clearly inadequate or unsupported study is entitled to no judicial deference.'" (*Berkeley Jets*, 91 Cal. App. 4th 1344, 1355 (emphasis added), quoting, *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal. 3d 376, 391 409, fn. 12 (1988)) As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

> A prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 722]; *Galante Vineyards v. Monterey Peninsula Water Management Dist*.

(1997) 60 Cal. App. 4th 1109, 1117; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 946) 14-3

IV. THE DEIR FAILS TO PROVIDE SUBSTANTIAL EVIDENCE TO SUPPORT A FINDING OF OVERRIDING CONSIDERATIONS

The DEIR concludes that the Project will have significant, unmitigated environmental impacts. As a result a statement of overriding considerations will be required. Under CEQA, when an agency approves a project with significant environmental impacts that will not be fully mitigated, it must adopt a "statement of overriding considerations" finding that, because of the project's overriding benefits, it is approving the project despite its environmental harm. (14 Cal.Code Regs. §15043; Pub. Res. Code §21081(B); *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212, 1222) A statement of overriding considerations expresses the "larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes and the like." (*Concerned Citizens of South Central LA v. Los Angeles Unif. Sch. Dist*. (1994) 24 Cal.App.4th 826, 847)

A statement of overriding considerations must be supported by substantial evidence in the record. (14 Cal.Code Regs. §15093(b); *Sierra Club v. Contra Costa Co*. (1992) 10 Cal.App.4th 1212, 1223)) The agency must make "a fully informed and publicly disclosed" decision that "specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project." (15 Cal.Code Regs. §15043(b)) As with all findings, the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515) 14-4

Key among the findings that the lead agency *must* make is that:

> "Specific economic, legal, social, technological, or other considerations, including ***the provision of employment opportunities for highly trained workers*****,** make infeasible the mitigation measures or alternatives identified in the environmental impact report.. [and that those] benefits of the project outweigh the significant effects on the environment."

(Pub. Res. Code §21081(a)(3), (b))

Thus, the City must make specific findings, supported by substantial evidence, concerning both the environmental impacts of the Project, and the economic benefits including "the provision of employment opportunities for highly trained workers"

created. The DEIR fails to provide substantial evidence to support a statement of overriding considerations.

The DEIR makes no effort whatsoever to analyze the fiscal impacts related to jobs to be created by the Proposed project, or the quality of the new jobs. In particular, the DEIR is devoid of any analysis of whether the new jobs to be created will be higher or lower wage than the jobs to be displaced in the existing buildings. As discussed above, CEQA expressly requires an analysis of: "Specific economic, legal, social, technological, or other considerations, including ***the provision of employment opportunities for highly trained workers.***" (Pub. Res. Code §21081(a)(3), (b)) The Fiscal Analysis makes no attempt to determine whether new jobs created by the Project, in either the construction phase or the operational phase, will be for "highly trained workers," and what the likely salary and wage ranges of these jobs will be. Without this information, the City lack substantial evidence to make any statement of overriding considerations. **14-4**

In short, the City cannot find that the economic benefits of the Project outweigh the environmental costs if it does not know what the economic benefits will be. A revised DEIR is required to provide this information.

V. THE DEIR FAILS TO ANALYZE AND MITIGATE ALL POTENTIALLY SIGNIFICANT IMPACTS

An EIR must disclose all potentially significant adverse environmental impacts of a project. (Pub. Res. Code § 21100(b)(1); 14 Cal.Code Regs. § 15126(a); *Berkeley Jets*, 91 Cal. App. 4th 1344, 1354) CEQA requires that an EIR must not only identify the impacts, but must also provide "information about how adverse the impacts will be." (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831). The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692). The DEIR for this Project fails to do so. **14-5**

A. The DEIR Fails to Adequately Analyze and Mitigate the Project's Impacts Related to Toxic Chemicals.

The Project site is heavily contaminated with an array of highly toxic chemicals at levels many times above state standards. Contamination on the Project site includes toxic chemicals such as lead, dieldrin, DDD, DDE, DDT, petroleum hydrocarbons, benzene, toluene, ethylbenzene, and xylenes. Construction workers may be exposed to significant levels of these toxic chemicals during excavation of contaminated soil, earth **14-6**

moving, and other construction activities. Future residents may also be exposed if the Project is not adequately remediated. 14-6

The DEIR proposes to remediate lead in soil to 248 mg/kg site-wide. (4.8-16) This level is not sufficiently health protective. Remediation should be at least to a level of 200 mg/kg. 14-7

The health effects of lead are well-documented. Lead has been identified by the State of California as a chemical known to cause cancer and reproductive toxicity in humans.[2] According to the United States Environmental Protection Agency ("US EPA"), lead can cause brain damage, learning deficits, hearing problems, headaches, difficulties during pregnancy, high blood pressure, memory and concentration problems, and muscle and joint pain.[3] Reduced IQ is one of the most common effects of lead poisoning in children. Each three microgram increase in lead poisoning has been found to result in a one-point drop in IQ.[4] Adults can be exposed to lead in soil through ***construction and excavation activity***, gardening or other outdoor activities, but children are at much greater risk of lead poisoning due to the fact that they often place their hands, yard toys, soil, and other objects into their mouths.

There is no "safe" level of lead exposure, and it is best to minimize exposure to lead to the maximum extent practicable. However, in July 2003, the Regional Water Quality Control Board ("RWQCB") established an "environmental screening level" ("ESL") for lead for residential shallow soil of 200 ppm.[5] This level superseded the previous level of 400 ppm based on new data concerning lead toxicity. The Department of Toxic Substances Control ("DTSC") recently published a study showing that typical children can be exposed to dangerous levels of lead[6] if exposed to lead in soil at levels from 139 ppm to 247 ppm. The same study showed that children who eat large amounts of soil ("pica children") can have lead poisoning from as little as 89 ppm to 218 ppm lead in soil.[7] California's Safe Drinking Water and Toxics Enforcement Act (Proposition 65) establishes a "safe threshold" for lead of 15 micrograms per day, which translates into a soil lead level for an average child of below 200 ppm. The "safe" exposure levels for 14-8

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[2] Proposition 65 Status Report.
[3] US EPA Lead Fact Sheet.
[4] Lead Health Effects and Sources of Exposure.
[5] San Francisco Regional Water Quality Control Board, Table A: Environmental Screening Levels.
[6] Above 10 micrograms per deciliter of blood.
[7] DTSC, Updated Version of the California EPA Lead Risk Assessment Spreadsheet Model for Predicting Blood Lead in Children and Adults.

pregnant women are even lower – 0.5 micrograms per day. Thus, the threshold level of 200 ppm is well-supported by recent governmental research and publications. 14-8

The mitigation proposed by the DEIR is inadequate to reduce this impact to a level of insignificance. A supplemental DEIR should be prepared to propose more stringent remediation. 14-9

Furthermore, the DEIR proposes to finalize a clean-up plan only after the DEIR is approved, thereby improperly deferring mitigation until after the completion of the CEQA process. The DEIR states, "DTSC is expected to finalize the RAP and issue a RAP approval letter after this EIR is certified." 4.8-15

CEQA does not permit deferral of the development of mitigation measures until after project approval. The overall effectiveness of the proposed mitigation must be evaluated in the Draft EIR and subjected to public comment. (CEQA Guidelines § 15126.4(a)(1)(B); *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309) An agency may not rely on mitigation measures of uncertain efficacy or feasibility. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727) This approach helps to "insure the integrity of the process of decision-making by precluding stubborn problems or serious criticism from being swept under the rug." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935) By deferring approval of the clean-up plan until after certification of the CEQA document, the EIR "sweeps under the rug" questions concerning the effectiveness, and potential adverse impacts of the measure in violation of CEQA. 14-10

B. The DEIR Fails to Adequately Analyze and Mitigate the Project's Impacts Related to Construction Phase Air Pollution.

The DEIR admits that the Project will have significant air quality impacts during the construction phase, including emissions of reactive organic gases ("ROGs" a/k/a "VOCs"), nitrogen oxides (NOx), and particulate matter (PM). (4.3-23) Obviously, construction workers will be most heavily exposed to such pollution. Nevertheless, the DEIR fails to adopt all feasible mitigation measures to reduce this impact.

Scientific research regarding particulate matter ("PM") pollution shows that "the inhalation of particulate matter, particularly the smallest particles, causes a variety of health effects, including premature mortality, aggravation of respiratory (e.g., cough, shortness of breath, wheezing, bronchitis, asthma attacks) and cardiovascular disease, declines in lung function, changes to lung tissues and structure, altered respiratory defense mechanisms, and cancer, among others. (*National Ambient Air Quality Standards for Particulate Matter: Proposed Decision*, Federal Register, v. 61, no. 241, 14-11

December 13, 1996, pp. 65638-65675). A recent article linked long-term exposure to combustion-related fine particulate air pollution to cardiopulmonary and lung cancer mortality. Particulate matter is a non-threshold pollutant, which means that there is some possibility of an adverse health impact at any concentration. See *American Trucking v. EPA: Unjustified Revival of the Nondelegation Doctrine*, 23-SPG Environs Envtl. L & Pol'y J. 17, 26.

14-11

The State of California (California Air Resources Board) listed diesel exhaust as a toxic air contaminant on August 27, 1998. The BAAQMD modified its CEQA Guidelines in December 1999 (BAAQMD 12/99) to acknowledge the impact of diesel exhaust. These Guidelines state with respect to diesel exhaust that: "Because of the potential public health impacts, however, the District strongly encourages Lead Agencies to consider the issue and address potential impacts based on the best information available at the time the analysis is prepared."

Feasible mitigation measures exist to reduce PM impacts during the construction phase, which have not been required for this project. CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); See also, *Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564)

14-12

Feasible measures include switching to cleaner fuels such as alternative fuels (compressed natural gas, liquefied natural gas, propane, ethanol, and methanol) or alternative diesel fuels (emulsified diesel), and fuel borne-catalysts; replacing, repowering, or rebuilding old equipment; and retrofitting equipment with diesel particulate filters, diesel oxidation catalysts, selective catalytic reduction, lean NOx catalyst technology, and exhaust gas recirculation; all of which have been demonstrated on off-road equipment. In addition, the following best management measures can help reduce exposure to diesel pollution and generation of ozone precursors:

- Require on-site electrical service for hand tools;
- Require preparation of a traffic control plan;
- Demonstrate proper inspection and maintenance of construction equipment;
- Limit idling to 5 minutes;
- Configure construction parking to minimize traffic interference;
- Consolidate truck deliveries when possible;
- Provide dedicated turn lanes for movement of construction trucks and equipment on and off site;

- Suspend use of all construction equipment operations during second stage smog alerts;
- Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abutters and the general public; and
- Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows.
- Provide on-site lunch, e.g., a lunch wagon;
- Implement a carpool program for construction workers.
- Require all deliveries to the construction site to be made with trucks that meet clean engine standards or are otherwise equipped with post-combustion controls that reduce emissions compared to uncontrolled equivalents by 50% for NOx, 90% for ROG and CO, and 80% for PM10/PM2.5.
- Prohibit the use of conventional cut-back asphalt for paving and restrict the maximum VOC content of asphalt emulsion;
- Use low-ROG paints and other low-ROG construction materials;
- Employ a construction site manager to verify that engines are properly maintained and keep a maintenance log; **14-12**
- Configure construction parking to minimize traffic interference;
- Consolidate truck deliveries when possible;
- Provide dedicated turn lanes for movement of construction trucks and equipment on and off site;
- Suspend use of all construction equipment operations during second stage smog alerts;
- Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abutters and the general public;
- Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows;
- Require all diesel trucks used by construction contractor(s) at the site, or for on-road hauling of construction material, to be post-1996 models; and
- Diesel portable generators less than 50 hp shall not be allowed at the construction site.

A supplemental DEIR should be prepared to analyze these impacts and consider these mitigation measures.

C. The DEIR Fails to Adequately Analyze and Mitigate the Project's Impacts Related to its Proximity to I-80.

The Miraflores Housing Development Plan proposes to place residential units approximately 220 feet from Interstate 80. (4.3-27) The *California Air Resources Board ("CARB") Air Quality and Land Use Handbook* (p.4) advises that residential development not be placed within 500 feet of major road. In April 2005, CARB released the final version of the *Air Quality and Land Use Handbook: A Community Health Perspective*, which is intended to encourage local land use agencies to consider the risks from air pollution prior to making decisions that approve the siting of new sensitive receptors near sources of air pollution. CARB recommends that where residential uses are proposed within 500 feet of a freeway, that a health risk assessment be conducted.

The DEIR uses an indefensible cancer risk analysis. Rather than using EMFAC 2007, as required by the controlling Bay Area Air Quality Management District CEQA Handbook (BAAQMD CEQA Guidelines p. 31), the DEIR adjusts the EMFAC data downward significantly. The DEIR states, "However, the effect of the adopted regulation reducing DPM was accounted in this assessment ***by adjusting the EMFAC2007 DPM [Diesel Particulate Matter] emission rates***." (4.3-30) The DEIR explains that it reduced the cancer risk calculated based on the EMFAC model by assuming that emission controls would be phased in at very high rates in the future to reduce diesel emissions. (4.3-29-30) Even using this extremely biased calculation, the DEIR concludes that the cancer risk would be 9.6 per million – just slightly below the 10 per million significance threshold. "Over the course of a 70-yearlifetime exposure, the incremental risk for the maximally exposed individual (MEI) is calculated at about 9.6 excess cancer cases per million people, which is below the threshold of 10 in a million." (4.3-33) There is no question that using the EMFAC 2007 model without any adjustments would result in a cancer risk far greater than 10 per million, which would be significant under CEQA.[8] 14-13

The DEIR's analysis is fatally flawed. In *Endangered Habitats League v. County of Orange,* the court held that a lead agency under CEQA must apply the assessment methodologies that have been adopted for use under CEQA and not other methodologies. In *Endangered Habitats League*, the agency adopted CEQA significance standards for traffic, but used a different, and allegedly more accurate, method for determining traffic impacts in an EIR. (*Id.* (2005) 131 Cal.App.4th 777) Under the adopted methodology, traffic impacts would have been considered significant, while under the new method, they were not. The court held that the adopted method was mandatory, and the impacts were therefore significant under CEQA. (*Id*. at 783) Similarly, in this case, the BAAQMD

[8] Furthermore, a more appropriate significance threshold for cancer risk would be 1 per million, which is the threshold that has been adopted by some other air districts and laws.

CEQA Guidelines require the use of EMFAC emission data. Using the unmodified EMFAC model, there is no question that this impact would be significant. The DEIR fails to comply with CEQA by abandoning the EMFAC methodology and adopting a makeshift risk assessment methodology that is found nowhere in law or science.

14-13

Indeed, it should not be surprising that placing residents 220 feet from one of the busiest freeways in the nation (I-80) (less than half the distance recommended by CARB) would result in a significant cancer risk. The DEIR must go through indefensible mathematical gymnastics to make the cancer risk fall slightly below the CEQA significance threshold. This type of misleading analysis is prohibited under CEQA and makes the DEIR fail as an informational document.

Furthermore, CEQA law is clear that the CEQA analysis must be based on the actual environment, not on a hypothetical environment that may or may not come to pass. By assuming that diesel truck emission controls will become widely adopted, the DEIR makes indefensible hypothetical assumptions about the future environment. Furthermore, these assumptions appear to be unfounded because diesel engines are known to last much longer than gasoline engines, often lasting hundreds of thousands of miles, and even longer in California. For this reason, agencies have had significant difficulty encouraging trucking companies to replace older dirty diesel trucks with newer cleaner models.

CEQA prohibits such wishful thinking about future environmental conditions, and requires the analysis to be based on the actual environment as it exists at the time of CEQA review, not some hypothetical future environment that may or may not come to pass. CEQA Guidelines §15125(a) requires that the CEQA analysis be based on the ***actual*** environment as it exists at the time environmental analysis is commenced, not a ***hypothetical*** environment that may or may not exist in the future. "[T]he impacts of the project must be measured against the 'real conditions on the ground.'" (*Save Our Peninsula Com. v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 121-123 *("Save Our Peninsula"*); *Environmental Planning and Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 358 ("*EPIC*"); *City of Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229 ("*City of Carmel*")) "An EIR must focus on impacts to the existing environment, not hypothetical situations." (*Save Our Peninsula*, citing *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 955.) In *Riverwatch,* the court stated, "we note the generally accepted principle that environmental impacts should be examined in light of the environment as it exists when a project is approved." (*Riverwatch, supra,* 76 Cal.App.4th at 1453; see also, *Bloom v. McGurk* (1994) 26 Cal.App.4th 1307, 1315) In *City of Carmel,* the court held that the impacts of a project must be measured against the actual existing environment, not against maximum build-out permitted by a previous general plan. (*City of Carmel, supra*, 183 Cal.App.3d at 246) The court stated, "[i]n assessing the impact of rezoning, it

14-14

is only logical that the local agency examine the potential impact on the existing physical environment." (See also, *EPIC, supra,* 131 Cal.App.3d 350) The cases establish that the baseline for evaluating environmental impacts of a project must be the actual present conditions, not hypothetical future ones.

14-14

Applying the EMFAC model to the actual current environment would unquestionably result in a finding that the Project's cancer risk exceeds 10 per million, which is significant under CEQA. This would require the DEIR to identify the impact as significant and propose mitigation measures to reduce these impacts.

The cancer risk from the nearby I-80 is a highly significant impact. Diesel exhaust has been identified by the California Air Resources Board as a toxic air contaminant and is identified by the State as a known human carcinogen. Studies have demonstrated that children living near major roadways are exposed to high levels of diesel exhaust and have poorer lung function than children living in cleaner areas[9].

Diesel exhaust has been officially recognized by the State of California as a chemical that causes cancer in humans since October 1990[10]. On August 27, 1998, after extensive scientific review and public hearing, the California Air Resources Board ("CARB") formally identified particulate emissions from diesel-fueled engines as a toxic air contaminant ("TAC"). Diesel exhaust is a serious public health concern. It has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death. Fine diesel particles are deposited deep in the lungs and can result in increased respiratory symptoms and disease; decreased lung function, *particularly in children* and individuals with asthma; alterations in lung tissue and respiratory tract defense mechanisms; and premature death. (CARB 6/98.[11])

14-15

CEQA requires analysis not only of direct impacts of the Project, but also indirect impacts resulting from the placement of sensitive receptors near hazardous conditions. The Bay Area Air Quality Management District ("BAAQMD") modified its CEQA Guidelines in December 1999 (BAAQMD 12/99) to acknowledge the impact of diesel exhaust. These Guidelines (p. 47) state with respect to diesel exhaust that:

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[9] Pekkanen, et al., Effects of ultrafine and fine particles in urban air on peak expiratory flow among children with asthmatic symptoms. Environ. Res (1997) 74(1):24-33

[10] California Environmental Protection Agency, Chemicals Known to the State to Cause Cancer or Reproductive Toxicity (Exhibit 5 to Fox Comments).

[11] California Air Resources Board (CARB), Initial Statement of Reasons for Rulemaking, Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, Staff Report, June 1998.

> Because of the potential public health impacts, however, the District strongly encourages Lead Agencies to consider the issue and address potential impacts based on the best information available at the time the analysis is prepared. *Particular attention should be paid to projects that might result in sensitive receptors being exposed to high levels of diesel exhaust. This applies to situations where a new or modified source of emissions is proposed near existing receptors and to* ***new receptors locating near an existing source***.

14-15

Furthermore, the DEIR fails entirely to analyze non-cancer health risks such as asthma. It is well documented that children living within 500 feet of a major roadway experience significantly elevated levels of asthma. (R. McConnel, et al, Traffic, Susceptibility, and Childhood Asthma VOLUME 114, NUMBER 5, May 2006, Environmental Health Perspectives) An EIR must analyze the impacts of a Project on human health. This includes impacts such as asthma as well as cancer.

The court held in *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004), 124 Cal. App. 4th 1184, 1220:

> Guidelines section 15126.2, subdivision (a) requires an EIR to discuss, inter alia, "health and safety problems caused by the physical changes" that the proposed project will precipitate. Both of the EIR's concluded that the projects would have significant and unavoidable adverse impacts on air quality. It is well known that air pollution adversely affects human respiratory health. (See, e.g., Bustillo, Smog Harms Children's Lungs for Life, Study Finds, L.A. Times (Sept. 9, 2004).) Emergency rooms crowded with wheezing sufferers are sad but common sights in the San Joaquin Valley and elsewhere. Air quality indexes are published daily in local newspapers, schools monitor air quality and restrict outdoor play when it is especially poor and the public is warned to limit their activities on days when air quality is particularly bad. Yet, neither EIR acknowledges the health consequences that necessarily result from the identified adverse air quality impacts. Buried in the description of some of the various substances that make up the soup known as "air pollution" are brief references to respiratory illnesses. However, there is no acknowledgement or analysis of the well-known connection between reduction in air quality and increases in specific respiratory conditions and illnesses. After reading the EIR's, the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin. On remand, the health impacts resulting from the adverse air quality impacts must be identified and analyzed in the new EIR's.

14-16

Similarly, in the Miraflores DEIR fails as an informational document because it falsely informs the public that the Project will have no adverse health impacts due to the proximity to I-80. The DEIR's conclusion is patently false with respect to cancer risks and ignores asthma risks entirely, which are also significant. A supplemental DEIR is necessary to analyze these impacts and propose feasible mitigation measures. **14-17**

There are many feasible mitigation measures available to reduce the Project's potentially significant health impact. These impacts can be mitigated by locating people outside of the hazard zone, where impacts are significant, by including a buffer or setback from I-80. These impacts can also be mitigated by designing buildings to maintain indoor air concentrations below levels of concern. Limiting indoor concentrations of diesel exhaust could be accomplished by minimizing outdoor air infiltration, limiting building ventilation rates to the minimum required for comfortable habitation, and using air cleaning devices. Windows could be designed to remain permanently closed, and all doors could be designed to automatically close. The Project could also incorporate box and bag filters, high-efficiency particulate air ("HEPA") filters, and ultra-low particulate air ("ULPA") filters. Such measures must be analyzed in a supplemental DEIR. **14-18**

D. The DEIR Fails to Adequately Analyze and Mitigate the Project's Odor Impacts.

The DEIR contains a false and misleading odor analysis. DEIR states that there are no significant odor sources nearby. (4.3-35) This statement is flatly wrong and renders the DEIR inadequate as a public information document.

The BAAQMD CEQA Guidelines state:

> "Any project with the potential to frequently expose members of the public to objectionable odors would be deemed to have a significant impact. Odor impacts on residential areas and other sensitive receptors warrant the closest scrutiny, but consideration should also be given to other land uses where people may congregate, such as recreational facilities, worksites and commercial areas. Analysis of potential odor impacts should be conducted for both of the following situations: 1) sources of odorous emissions locating near existing receptors, and 2) receptors locating near existing odor sources. Determining the significance of potential odor impacts involves a two-step process. First, determine whether the project would result in an odor source and receptors being located within the distances indicated in Table 4. Table 4 lists types of facilities known to emit objectionable odors. The Lead Agency should evaluate facilities not included in Table 4 or projects separated by greater distances than indicated in Table 4 if warranted by local conditions or special circumstances. Second, if the proposed

14-19

project would result in an odor source and receptors being located closer than the screening level distances indicated in Table 4, a more detailed analysis, as described in Chapter 3, should be conducted.

TABLE 4, entitled, PROJECT SCREENING TRIGGER LEVELS FOR POTENTIAL ODOR SOURCES, lists the following odor sources and screening distances: Wastewater Treatment Plant (1 mile); Sanitary Landfill (1 mile); Transfer Station (1 mile); Composting Facility (1 mile); Petroleum Refinery (2 miles); Asphalt Batch Plant (1 mile); Chemical Manufacturing (1 mile); Fiberglass Manufacturing (1 mile); Painting/Coating Operations (e.g. auto body shops) (1 mile); Rendering Plant (1 mile); Coffee Roaster (1 mile). (BAAQMD CEQA Guidelines, p. 18)

14-19

A simple Google search indicates that there is an auto body shop within one-half mile of the Miraflores Project – less than half the BAAQMD screening distance. Steves Auto Care II, 12267 San Pablo Ave, Richmond, CA 94805 (0.5 miles). There may be other BAAQMD-listed odor sources as well. A supplemental DEIR must be prepared to analyze the Project's odor impacts, and to determine if other listed odor sources are within the screening distances.

By placing workers and hotel guests within one mile of these potential odor sources, the Project "would be deemed to have a significant impact" under the applicable BAAQMD CEQA Guidelines. This impact must be analyzed in a supplemental DEIR and mitigation measures proposed.

14-20

Furthermore, by falsely stating that there are no odor-causing sources within one mile of the Project, the DEIR both fails to properly describe the Project's environmental setting and fails to accurately describe the Project itself. A CEQA document is legally defective if it fails to accurately describe the proposed project. *(Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180; CEQA Guidelines §15071(a)). The courts have repeatedly held that "an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient [CEQA document]." (*County of Inyo v. City of Los Angeles*, (1977) 71 Cal.App.3d 185, 193.) A CEQA document "must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, from both a local and a regional perspective." (CEQA Guidelines § 15125; *see Environmental Planning and Info. Council v. County of El Dorado* (1982)131 Cal.App.3d 350, 354.) The DEIR is therefore deficient as a matter of law.

E. The DEIR Fails to Adequately Analyze and Mitigate the Project's Criteria Air Pollution Impacts.

The DEIR concludes all operational emissions from the Project will be insignificant, including emissions of nitrogen oxides (NOx), reactive organic gases (ROGs) and particulate matter (PM). (4.3-26) This conclusion is inconsistent with the applicable BAAQMD CEQA Guidance.

The Project includes 336 residential units. The cumulative impacts of the Project include 368 residential units in the area plus 206,000 square feet of commercial development. (4-5)

The BAAQMD CEQA Guidance provides a table for thresholds of significance (total emissions from project operations) based upon the project end use (Table 6: Projects with Potentially Significant Emissions). (BAAQMD CEQA Guidelines, p.25) Table 6 provides size or activity levels for various types of land uses which, based on default assumptions, would result in mobile source emissions exceeding the District's CEQA threshold of significance for NOx of 80 pounds per day. According to Table 6, a residential development exceeding 320 units is likely to generate significant NOx emissions. Also, according to Table 6, commercial development exceeding 44,000 square feet is likely to generate significant NOx pollution. **14-21**

The Miraflores Project's 336 residential units are therefore likely to generate individually significant NOx pollution, since it exceeds the BAAQMD's threshold of 320 units. The cumulative emissions of 368 units will also be significant. The Project's cumulative NOx emissions from 206,000 square feet of commercial space from past, present and reasonably foreseeable future projects will also be significant – exceeding the BAAMQD's threshold of 44,000 square feet by almost 5 times.

The DEIR needs to be revised to identify the Project as a potential significant source of NOx pollutants.

The DEIR should also propose adoption of all feasible NOx mitigation measures. While the Project already includes several measures that will reduce NOx, many other feasible mitigation measures exist and should be implemented. The Project includes greenhouse gas reduction measures that may also reduce NOx, such as LEED-ND (Leadership in Energy and Environmental Design – Neighborhood Development) standards, proximity to transit, the infill nature of the housing, close proximity to transportation, energy-efficient construction methods, inclusion of solar photovoltaic panels to produce energy, passive solar design, regionally-appropriate landscaping, water recycling systems, and comprehensive on-site recycling. (4.7-27) **14-22**

Additional mitigation measures should be considered. First, LEED-ND is no standard at all. LEED-ND is in a draft format only. It has not a fixed or adopted standard. The US Green Building Council, the private entity that publishes LEED, is taking comments on a wide variety of possible options for LEED-ND, which vary from fairly aggressive to very mild. (http://www.usgbc.org/ShowFile.aspx?DocumentID=6073) The Green Building Council's website states, "LEED-ND is currently undergoing a development process in anticipation of a late summer launch of the post-pilot version of the rating system." (http://www.usgbc.org/DisplayPage.aspx?CMSPageID=148) It will be up to this private body to decide the scope and nature of LEED-ND. The Green Building Council's board includes representatives from private corporations such as Starbuck's Coffee, Pulte/Del Webb Homes, Forbo Linoleum Inc., HDR Architecture, CALMAC Manufacturing Corporation, Bank of America, Columbia Forest Products, and many other private companies, many of which appear to have economic interests in the final decision. (http://www.usgbc.org/AboutUs/BoardMemberList.aspx?CMSPageID=131) Since the Green Building Council is a private body, conflict of interest law that would apply to governmental entities do not apply to the Council. There is no way of knowing at this point whether the private body that is developing LEED-ND will adopt meaningful measures.

14-23

The courts have held that an agency may not place the development of mitigation measures in the hands of private entities that are not accountable to the lead agency or the public. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 302-308.) In *Sundstrom* the court found that a proposed mitigation scheme was improper because it would have allowed the applicant itself, subject only to planning staff approval, to conduct the analysis and formulate the mitigation measures. (*Sundstrom*, 202 Cal.App.3d at 302-308.) The court held that only the board of supervisors, as the ultimate decision maker, could grant such an approval, explaining that:

> the conditions improperly delegate the County's legal responsibility to assess environmental impact by directing the Applicant himself to conduct the hydrological studies subject to the approval of the Planning Commission staff. Under CEQA, the EIR or negative declaration must be prepared "directly by, or under contract to" the lead agency. The implementing regulations explicitly provide: "The draft EIR which is sent out for public review must reflect the independent judgment of the lead agency." Moreover, the EIR must be presented to the decision making body of the agency. In *Kleist v. City of Glendale* (1976) 56 Cal.App.3d 770, 779, the court held that the city council cannot delegate responsibility for considering the EIR to a planning board. By necessary

> inference, the Board of Supervisors cannot delegate the responsibility to the staff of the Planning Commission. (*Id.* at 307 (citations omitted).)

Deferral of mitigation is impermissible if it removes the CEQA decision-making body from its decision-making role. By relying on the undeveloped LEED-ND standard, the City improperly places development of mitigation measures in the hands of the private Green Building Council, which is unaccountable to the City or the public, in violation of CEQA.

CEQA also disallows deferring the formulation of mitigation measures to post-approval studies, unless the lead agency relies upon fixed standards and "'meaningful information' reasonably justifying an expectation of compliance." (*Sundstrom* at 308; *see also Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028-29 (mitigation measures may be deferred only "for kinds of impacts for which mitigation is known to be feasible").) A lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation because there was no evidence that replacement water was available).) This approach helps "insure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.) **14-23**

By relying on the yet undeveloped LEED-ND standards, the City violates CEQA. LEED-ND is not a fixed standard because it has not yet been developed. Thus, it is entirely uncertain whether these standards will provide meaningful mitigation.

Furthermore, LEED-ND merely proposes to require buildings to be LEED-certified at the most basic level. (http://www.usgbc.org/ShowFile.aspx?DocumentID=6073) LEED certification for buildings ranges from basic LEED certification, to silver, gold and platinum. In LEED 2009 there are 100 possible base points plus an additional 6 points for Innovation in Design and 4 points for Regional Priority. Buildings can qualify for four levels of certification:

* Certified - 40-49 points
* Silver - 50-59 points
* Gold - 60-79 points
* Platinum - 80 points and above

The Richmond green building ordinance requires all City building projects to achieve a LEED "Silver" rating under the appropriate LEED rating system for the project type or a GreenPoint Checklist score of 70 points for residential projects.

LEED-ND proposes only to require basic LEED certification for buildings. A supplemental DEIR should be prepared to explore the feasibility of requiring the buildings in the Miraflores Project to meet LEED-Platinum, Gold or Silver standards. This would be a feasible way to mitigate the Project's significant greenhouse gas and NOx impacts. 14-23

VI. THE CITY SHOULD PREPARE AND RECIRCULATE A SUPPLEMENTAL DEIR

A supplemental draft EIR ("SDEIR") should be prepared and circulated for full public review to address the impacts identified above and to propose feasible mitigation measures. CEQA requires re-circulation of an EIR when significant new information is added to the EIR following public review but before certification. (Pub. Res. Code § 21092.1.) The Guidelines clarify that new information is significant if "the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project" including, for example, "a disclosure showing that … [a] new significant environmental impact would result from the project." (CEQA Guidelines § 15088.5.) The above significant environmental impacts have not been analyzed in the EIR and must be addressed in a supplemental DEIR that is re-circulated for public review. 14-24

Sincerely,

Richard Drury

CC: Tom Quinn
Scott Littlehale
Ted Franklin

Letter 14: Richard Drury, Of Counsel, Weinberg, Roger & Rosenfeld. August 12, 2009.

14-1: This comment states that the Draft EIR is inadequate and that a supplemental Draft EIR is required.

This comment states the commenter's opinion. Substantive comments are addressed in subsequent comments. The comment is noted. No further response is required.

14-2: The comment summarizes the proposed project.

No further response is required.

14-3: The comment discusses CEQA requirements.

No further response is required.

14-4: This comment restates the Draft EIR conclusion that the Project requires a statement of overriding considerations, restates the law that the lead agency must make findings that the benefits of the project outweigh the impacts, and asserts that the Draft EIR fails to provide evidence to support such a finding as it does not analyze the fiscal impacts related to whether jobs will be displaced or new jobs will be created.

The Miraflores site is currently vacant and employs no workers; therefore, redevelopment of the site would not displace any existing jobs. Implementation of the project would create the need for skilled workers to fill remediation, abatement, and construction jobs. The Project Description of the Draft EIR has been amended to include a list of project benefits, including job creation, to support the statement of overriding considerations. These changes are included in Chapter 3 of this Final EIR.

14-5: The comment discusses CEQA requirements.

No further response is required.

14-6: The comment summarizes contamination of the project site.

No further response is required.

14-7: The comment states that soil remediation level should be to 200 mg/kg, rather than 248 mg/kg.

The cleanup objective of 248 mg/kg for lead is a site-specific, risk-based number derived by the Department of Toxic Substances Control (DTSC) through lead spread modeling. This cleanup objective represents the cleanup level necessary to be protective of residents, including children, and is based on current toxicology research and the specific parameters of the project site, as discussed further below. Implementation of the Remedial Action Plan would not result in significant adverse impacts to the environment. No change to the Draft EIR is required and no supplemental Draft EIR is warranted.

The comment states that the lead cleanup standard adopted by the RAP (248 milligrams per kilogram (mg/kg)) should have been less than or equal to 200 mg/kg, which is the Tier I Environmental Screening Level (ESL) for lead established by the Bay Area Regional Water Quality Control Board (RWQCB) and the California's Safe Drinking Water and Toxics Enforcement Act (Proposition 65) as a "Safe Harbor" level.

As stated by the RWQCB in their guidance document entitled "Screening For Environmental Concerns at Sites with Contaminated Soil and Groundwater," Interim Final, November 2007 (Revised May 2008) (ESL Guidance), the ESLs are intended to help expedite the identification of potential environmental concerns at sites where contamination is known to be present, and to expedite the evaluation of the need for cleanup. As noted in the ESL Guidance, “The Tier 1 ESLs presented in the lookup tables are NOT regulatory cleanup

levels." Additionally, "The presence of a chemical at concentrations in excess of an ESL does not necessarily indicate that adverse impacts to human health or the environment are occurring; this simply indicates that a potential for adverse risk may exist and that additional evaluation is warranted. Use of the ESLs as cleanup levels should be evaluated in view of the overall site investigation results and the cost/benefit of performing a more site-specific risk assessment."

Accordingly, and consistent with the ESL Guidance, a site-specific risk assessment was performed. The lead cleanup level adopted under the RAP was developed to achieve safe conditions, using the DTSC LeadSpread model under conservative, site-specific conditions. The site-specific risk assessment included evaluating the exposure to lead in air and drinking water, the potential uptake of lead in home-grown produce, and the concentration of lead in soil.

The risk for lead in soil at the Miraflores property was assessed by comparing measured lead concentrations in soil samples to screening levels developed using the DTSC LeadSpread Version 7.0. LeadSpread provides estimates of blood lead concentrations in children and adults for residential and industrial land use scenarios based on a multiple pathway analysis. LeadSpread evaluates five exposure pathways (soil contact, soil ingestion, inhalation, drinking water ingestion, and food ingestion) and the potential for adverse health effects resulting from those exposures.

An acceptable lead concentration in soil must result in an estimated blood lead concentration of no greater than 10 micrograms per deciliter (μg/dl). LeadSpread outputs two values, Preliminary Remedial Goal (PRG)-95 and PRG-99, for the acceptable concentration of lead in soil. If soil lead concentrations are at or below the PRG-95 value, at least 95 percent of individuals are expected to have blood lead levels at or below the Center for Disease Control's (CDC) ceiling level of 10 μg/dl blood lead concentration. In contrast, if soil lead concentrations are at or below the PRG-99 value, at least 99 percent of individuals are expected to have blood lead levels at or below the CDC's 10

μg/dl ceiling level. Therefore, the soil lead concentration represented by PRG-95 is invariably higher, that is, less conservative, than that for PRG-99. DTSC typically uses PRG-99 for determining if soil lead concentrations at a site exceed acceptable levels, rather than PRG-95, because the former is expected to result in a lower incidence of blood lead levels in excess of the CDC ceiling level.

The LeadSpread spreadsheet showing the input parameters and output is provided in the Draft RAP prepared for the Miraflores property. The acceptable concentration of lead are the PRG-95 and PRG-99 values of 383 mg/kg lead and 248 mg/kg lead, respectively. Thus, DTSC considers remediation of soil to lead concentrations of 248 mg/kg to be protective of human health and appropriate for the planned use of the property. Since current data indicate that average lead-in-soil concentration on the Miraflores site is 106 mg/kg, the LeadSpread model shows that at a cleanup level of 248 mg/kg, at least 99 percent of individuals on the Miraflores site would be expected to have blood lead levels below the CDC's 10 μg/dl ceiling level.

The Proposition 65 Safe Harbor level is not an appropriate standard for use at the Miraflores property for several reasons. First, the Proposition 65 intake values for lead of 0.5 ug/day or 15 ug/day are older values calculated using an approach applied to chemicals generally, whereas the currently accepted approach for evaluating lead is based on a more robust, lead-specific database that relates blood lead levels to neurobehavioral changes. Second, the assumptions made for the Proposition 65 standard are developed for generic exposures to lead in consumer products and the environment, whereas the cleanup standards developed for the Miraflores Project are site-specific and are designed using protective assumptions for children in a residential setting.

While the proposed project would already reduce lead conditions to below the significance threshold, to further reduce lead concentrations in soil, the site-specific cleanup confirmation methodology would use 248 mg/kg as the ceiling value for lead concentrations found on the Miraflores property. This

approach would result in an even lower average lead concentration subsequent to the soil remediation.

14-8: The comment discusses the health effects of lead exposure.

No further response is required.

14-9: This comments states that the mitigation proposed to reduce the lead impact to a less-than-significant level is inadequate and that a supplemental EIR should be prepared.

Please refer to Response to Comment 14-7 above.

14-10: This comment states that the project proposes to defer approval of the clean up plan until after approval of the Draft EIR and that this is improperly "deferred" mitigation.

The Draft EIR does not improperly defer mitigation of site contamination. As noted in the Project Description, the Draft RAP for the Miraflores site is a component of the project, is included in the Draft EIR, and is subject to review during the CEQA process. The Draft RAP is included as Appendix D of the Draft EIR. Just like the City, which cannot approve the proposed project development until after certification of the EIR, the Department of Toxic Substances Control cannot approve the RAP until after the EIR is certified.

14-11: The comment summarizes health effects of and policy guidance on particulate matter pollution.

No further response is required.

14-12: The Comment states that feasible mitigation measures exist to reduce PM impacts and that a supplemental Draft EIR should be prepared to analyze the impacts and consider these mitigation measures.

Particulate matter emissions and impacts have been thoroughly analyzed in of in Section 4.3 of the Draft EIR. of While all the air district requirements were incorporated as mitigation, the Draft EIR has been changed to include additional mitigation measures for PM air pollution during the construction phase of the project. These mitigation measures are included in Chapter 3 of this Final EIR. Since implementation of the mitigation measures originally included in the Draft EIR would reduce the impacts of construction emissions to a less-than-significant level, and adding additional measures would only further reduce the impacts, a supplemental EIR to analyze the impacts of the additional mitigation measures is not needed.

14-13: The comment restates the California Air Resources Board (CARB) recommendation to conduct a health risk analysis when residential uses are proposed within 500 feet of a freeway, states that the Draft EIR uses an indefensible cancer risk analysis (because it assumed emission controls would be phased out "at very high rates"), and states that this led to a faulty finding of a less-than-significant impact, which renders the Draft EIR "fatally flawed."

Per the CARB *Air Quality and Land Use Handbook,* a health risk analysis was conducted since the project proposes residential units within 500 feet of freeways. The guidance recognizes that there is variability based on site specific conditions, and that the potential impact to health risks should be analyzed within 500 feet of a freeway.

As noted in the comment, the Draft EIR did conduct a health risk assessment using the most recent models – the EMFAC2007 model. This model was released by CARB in November 2006.
The EMFAC2007 model uses information on regulations and standards to predict emissions from various vehicle types and vehicle technologies (e.g. gasoline catalyst or diesel) in the future and is the basis for on-road vehicle emissions inventories for California. These emissions inventories are primarily used to develop air quality control plan strategies. Updates to the model usually occur in cycles of about five years, depending on the significance of changes to the prediction methodology. Default use of the current version of

the model includes regulations and standards adopted only through 2005. This default does not take into account emission reductions required by law. On December 12, 2008, CARB approved a new regulation to accelerate the phase-out of older diesel trucks and buses. The new regulation is a comprehensive plan to significantly reduce diesel particulate matter (DPM) emissions from existing on-road diesel vehicles in California through performance standards requiring retrofits and/or replacement of truck and bus fleets between 2011 and 2023. By January 1, 2023, almost all heavy duty diesel vehicles will be required to have a 2010 model year engine or equivalent. CARB predicts that by 2020, this measure will reduce the health risk from DPM emissions exposure by over 80 percent from 2000 levels.

Among the inputs to the EMFAC2007 model is the vehicle model year, or multiple model years in the case of a vehicle fleet. This allows the model to measure how changes in vehicle fleet distribution (by age, fuel type, or quantity) may affect emission factors for a single year or multiple years in the future. For the health risk assessment in the Draft EIR, the vehicle age distribution inputs to the EMFAC2007 model were adjusted to reflect the newly-adopted CARB regulations and measure their effect on future DPM emissions. These inputs assumed that there would be some non-compliance with new regulations, just as the model assumes some non-compliance with State inspection and maintenance programs.

The Miraflores project team, including City of Richmond staff, the developer, and EIR consultants, met with the Bay Area Air Quality Management District (BAAQMD) on September 30, 2008 to discuss the health risk analysis for the project. The District recommended that current regulations be incorporated into the analysis and acknowledged the 220-foot buffer from Interstate 80. About two months after that meeting, CARB adopted the new regulations discussed above.

The application of the CARB diesel vehicles regulation will significantly reduce DPM emissions and is appropriate for the health risk analysis in the Draft EIR. Inputs were adjusted to reflect future conditions that can reasona-

bly be expected to occur. The model was not improperly manipulated. No change to the Draft EIR is needed, and no supplemental Draft EIR is warranted.

14-14: This comment states that CEQA analysis must be based on the actual environment, not a hypothetical one, and that because diesel engines are known to last longer than standard engines, they will take longer to replace.

This comment confuses the environmental baseline, which is based on the actual environment, with the requirements of a risk assessment, which by its very nature is required to make assumptions about future conditions. As discussed above in Response to Comment 14-13, the assumptions used in the EMFAC2007 model are reasonable, and indeed, they are conservative, as they also assume a degree of non compliance with CARB's 2008 regulation accelerating the retrofits and replacement of older diesel trucks. The result of the regulation will be that by 2023, nearly all heavy-duty diesel trucks on California highways will meet 2010 new engine standards. This adopted regulation will remove the older, more polluting vehicles from the roadway.

As such, the health risk assessment in the Draft EIR is not based on "a hypothetical environment that may or may not come to pass" but on a reasonable analysis of the effect of adopted regulation that realistically accounts for some non-compliance.

The health risk from exposure to DPM emissions is predicted for a 70-year exposure period that would begin in the near future. During that time, emissions from vehicles and vehicle activity would change. All air quality studies attempt to predict future conditions based on a set of factors that can reasonably be assumed to occur. These include future growth projections, traffic conditions and emission factors. The Draft EIR analysis assumed that traffic will increase at a rate consistent with projections by Caltrans and Contra Costa County Transportation Authority, and that DPM emission rates will change in a manner consistent with the EMFAC2007 model using inputs reflecting the latest adopted regulations to reduce emissions from existing diesel

vehicles. These are reasonably foreseeable conditions that are more accurate than assuming existing conditions would prevail for the next 70 years.

No change to the Draft EIR is needed, and no supplemental Draft EIR is warranted.

14-15: The comment discusses the health impacts of diesel exhaust, particularly on sensitive receptors, and CARB and BAAQMD policy regarding diesel exhaust.

No further response is required.

14-16: The comment states that the Draft EIR provides false conclusions with respect to cancer risk and fails to analyze non-cancer health risks, such as asthma.

The Draft EIR analysis of the health risks associated with diesel particulate matter (DPM) emissions, and conclusions that the resulting cancer risk is below the threshold of significance, are correct and supported by evidence in the record, as discussed in Responses to Comments 14-13 and 14-14 above.

The health risk analysis in the Draft EIR is based on conditions specific to the Miraflores site. The specific geometry, traffic volume, vehicle mix, and meteorological conditions of the site were taken into account. Meteorological conditions were characterized by actual meteorological data collected by BAAQMD near the site. These data, illustrated in the Figure F-1 below, show that the project site is located in a position that is upwind of Interstate 80 the majority of the time. The project site is located southwest of Interstate 80. Wind blows from the freeway to the project site about 20 percent of the time, while wind blows from the freeway to locations on the opposite side of the highway about 60 percent of the time. The location of the project site with respect to the freeway and the prevailing wind flow, along with the 220-foot open space area between residential units and the freeway, are the pri-

mary reasons that cancer risk from DPM emissions would be less than significant.

Additionally, asthma and respiratory illnesses can be caused by air pollution, and this is specifically discussed in the Draft EIR. Additional modeling of risk associated with $PM_{2.5}$ emissions has been added to the Draft EIR. The $PM_{2.5}$ analysis results show that asthma risk associated with proximity to Interstate 80 would be below the lowest current proposed draft significance threshold. These changes are included in Chapter 3 of this Final EIR.

A supplemental Draft EIR is therefore not necessary.

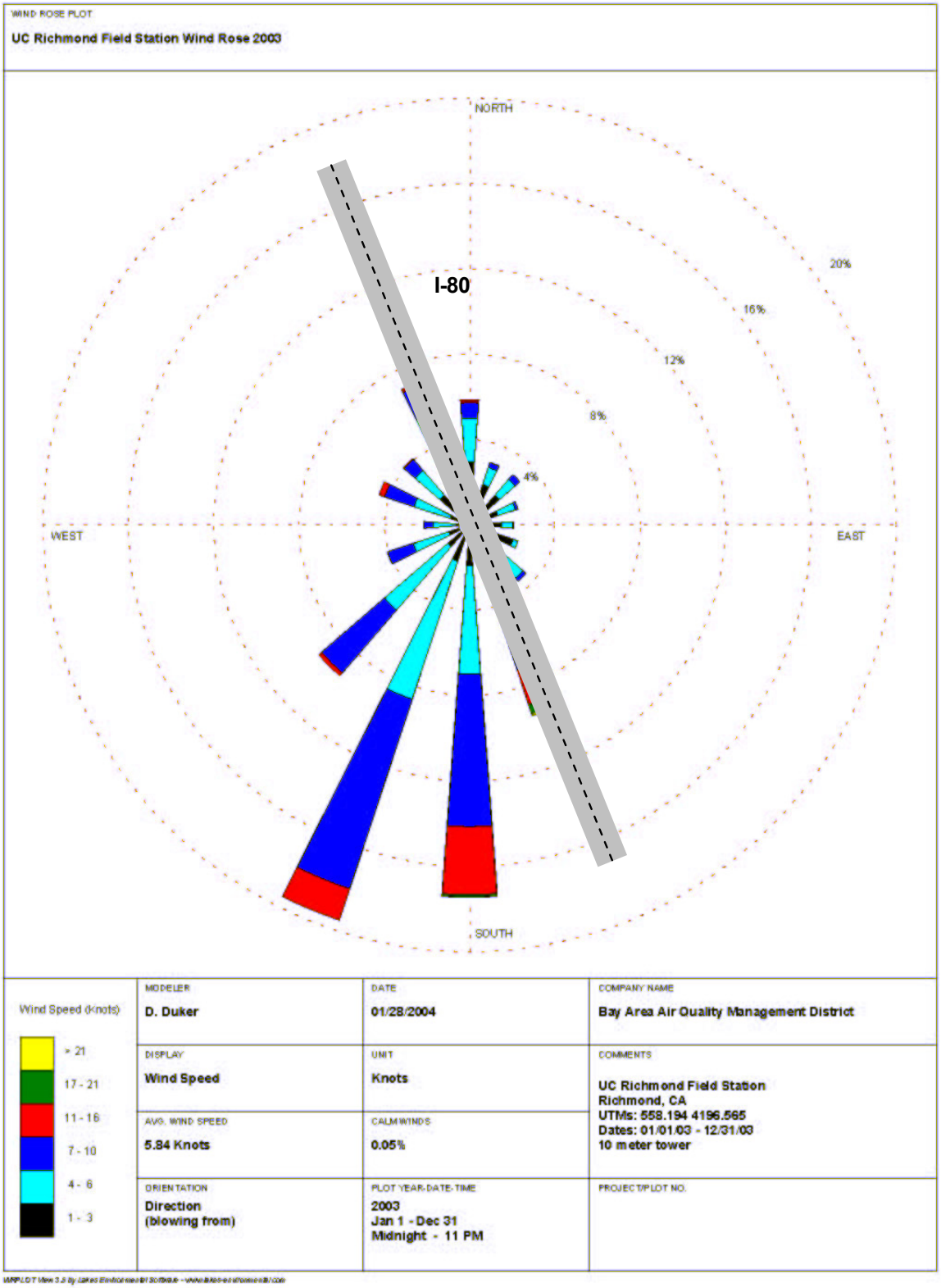
14-17: This comment summarizes the commenter's conclusions regarding health risks, stating that the Draft EIR incorrectly concludes that the cancer risk is not significant and fails to discuss asthma risks, and therefore requires that a supplemental EIR be prepared.

The comment is addressed in Responses to Comments 14-13, 14-14, and 14-16, above. No change to the Draft EIR is needed, and no supplemental Draft EIR is warranted.

14-18: This comment states that there are feasible mitigation measures to reduce the health risk from PM, including air filtration, and that these measures must be considered in a supplemental Draft EIR.

As discussed in Responses to Comments 14-13, 14-14, 14-16, and 14-17, the health risk impacts of the proposed project are less than significant. In addition, it should be noted that the health risk assessment assumed outdoor air quality even though according to studies by the CARB, California residents spend over 90 percent of their time indoors and total exposure levels of diesel particulate matter in residences without HVAC systems equipped with

Figure F-1: Richmond Wind Rose 2003



filtration systems are approximately one-third lower than outdoor levels.[1] As a result, the health risk assessment for the Draft EIR can be considered conservative, since residents spend the vast majority of their time indoors, where concentrations of DPM are approximately 30 percent lower. There is no need for additional mitigation measures.

14-19: The comment states that the Draft EIR was "false and misleading" in stating that there were no odor sources and therefore no odor impacts. The commenter identifies Steve's Auto Care II, located at 12267 San Pablo Avenue, as an odor source.

The Draft EIR was correct in concluding there are no odor sources nearby. BAAQMD identifies auto body shops as potential odor sources when they qualify as "painting/coating" operations (BAAQMD CEQA Guidelines, p. 18). The potential "source" identified by the commenter, Steve's Auto Care II, does not provide painting and coating services and therefore does not fall under any of BAAQMD's odor source categories. No BAAQMD-listed odor sources exist within the screening distance of the project. A supplemental Draft EIR is therefore not necessary.

14-20: This comment states that by failing to identify Steve's Auto Care II as an odor source, the Draft EIR did not adequately describe the baseline and is therefore deficient.

No BAAQMD-listed odor sources exist within the screening distance of the project. See Response to Comment 14-19, above.

14-21: This comment states that the conclusion in the Draft EIR that operational air impacts are not significant is inconsistent with BAAQMD guidance because the number of housing units and commercial square footage are

[1] California Air Resource Board (CARB), 2003, Recommended Interim Risk Management Policy for Inhalation-Based Residential Cancer Risk, October 9, 2003. ARB, 2005, Summary of Adverse Impacts of Diesel Particulate Matter. BAAQMD, 2005, Air Toxics NSR Program Health Risk Screening Analysis (HRSA) Guidelines.

higher than the BAAQMD table "Projects with Potentially Significant Impacts."

As the title suggests, the referenced table provides guidance as to what general level of project *may* exceed BAAQMD's significance thresholds. Although the air study analyzed a commercial component, there is no commercial development proposed in the project description, so the air analysis is overly conservative. Moreover, rather than relying on general assumptions, the Draft EIR analyzed the specific air emissions from the proposed project.

The air quality analysis in the Draft EIR uses the URBEMIS2007 model to predict daily emissions. The URBEMIS2007 model was developed with support from CARB and local air districts, and is recommended by BAAQMD for this type of analysis. The model combines project-specific traffic forecasts with the latest vehicle emission factors developed by CARB; as such, it reflects the most current knowledge available regarding vehicle emissions. The data from BAAQMD CEQA Guidelines referenced in the comment were published in 1999 and therefore do not reflect current methods for quantifying emissions. The Draft EIR presents a more up-to-date analysis of the expected long-term project emissions, which shows the project would result in less-than-significant operational emissions, including emissions of nitrogen oxides.

The air quality analysis also included an analysis of whether the project would have a potentially significant cumulative impact on regional air quality (e.g. concentrations of ozone and particulate matter that exceed ambient air quality standards in the region). Since the project's emissions of ozone precursor pollutants (i.e. ROG and NOx) and PM_{10} would be below the BAAQMD significance thresholds, it would not have a cumulatively considerable contribution to these air pollutant levels. The BAAQMD CEQA Guidelines recommend that project cumulative impacts be based on the project-level impacts and the evaluation of the consistency of the project with the local General Plan, and consistency of the General Plan with the regional air quality plan. The analysis of cumulative air quality impacts on page 4.3-35 of

the Draft EIR addresses these impacts and found the project to have less-than-significant impacts to regional air quality and a less-than-significant cumulative impact.

14-22: This comment states that the Draft EIR should include adoption of all feasible NO_x mitigation measures.

Since the project and cumulative impacts related to NO_x emissions would be less than significant, no additional NO_x mitigation measures are required as mitigation.

14-23: This comment states that LEED-ND certification is not an adequate mitigation measure because it is in draft form and is managed by a private body; therefore it is improper deferred mitigation.

The proposed project intends to pursue LEED-ND Gold certification. The project does not rely on LEED certification as mitigation. Nevertheless, the Project Description of the Draft EIR has been modified to include an expanded list of measures that will be included as features of the project. These changes are included in Chapter 3 of the Final EIR.

14-24: This comment states the commenter's belief that a supplemental Draft EIR should be prepared when significant new information is identified.

As discussed in Response to Comments 14-1 to 14-23, no new significant information and no new significant adverse impacts have been identified. As a result, preparation and re-circulation of a Supplemental Draft EIR are not necessary.

C. *Private Individuals*

LETTER #15

Sophie Mintier

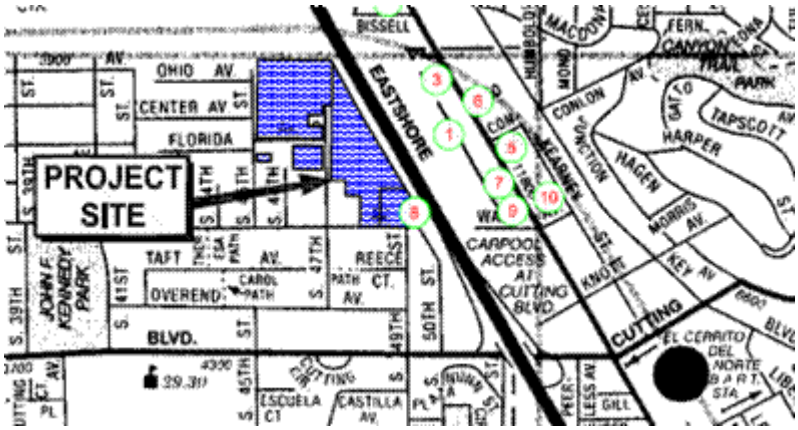
Subject: FW: TOM BUTT E-FORUM: Housing at Richmond nursery site would hurt history, report finds

From: Sherry Padgett <sherrybp@pacbell.net>
To: 'Butt, Tom' <tom.butt@intres.com>
Cc: Gayle McLaughlin; jeffritterman@yahoo.com <jeffritterman@yahoo.com>; Bill Lindsay; Steve Duran
Sent: Thu Jul 02 11:23:23 2009
Subject: RE: TOM BUTT E-FORUM: Housing at Richmond nursery site would hurt history, report finds
Tom –

Current and ongoing top-drawer scientific studies continue to prove beyond any doubt that vehicle emissions cause severe negative human health impacts to those living within 300 feet (greatest impact) to 1,000 feet of major roads and freeways.

Links to just a few of the recent articles are below. The last link gives a direct example of current guidance from the Air District.

- Why are 336 housing units being considered for the contaminated nursery site which shares a property line with Interstate 80? **15-1**
- Why would Richmond continue to intentionally allow low income housing be built next to freeways and railroads where air pollution is directly linked to poor or severely poor health? **15-2**



- Why doesn't the General Plan call for a no-residence zone within x-feet of major freeways and railroad tracks? **15-3**
- Could/would Richmond Redevelopment and the City of Richmond Planning Department change course to discourage or stop "affordable housing" being built where difficult personal circumstances will undoubtedly grow worse through heavy traffic air pollution exposure? **15-4**
    - Predictable serious health problems are directly tied to living a stone's throw from one of the busiest freeways in the country.

http://oem.bmj.com/cgi/reprint/64/1/8
Occupational and Environmental Medicine
Published online 8/15/2006

"Respiratory health and individual estimated exposure to traffic-related air pollutants in a cohort of young children"

http://aje.oxfordjournals.org/cgi/reprint/164/12/1190
American Journal of Epidemiology
10/10/2006
"Living near Main Streets and Respiratory Symptoms in Adults"

http://www.ajph.org/cgi/reprint/96/9/1611
Research and Practice
September 2006
"Proximity of Licensed Child Care Facilities to Near-Roadway Vehicle Pollution"

http://ajrccm.atsjournals.org/cgi/content/abstract/166/8/1092?ijkey=c7e9a351842d74290f0c475c1cfc9bc4b7001f3f&keytype2=tf_ipsecsha
American Journal of respiratory and Critical Care Medicine
2002, pp 1092-1098
"Air Pollution from Traffic and the Development of Respiratory Infections and Asthmatic and Allergic Symptoms in Children"

http://pediatrics.aappublications.org/cgi/reprint/123/Supplement_3/S168
Journal of The American Academy of Pediatrics
2009
"Outdoor Air Pollution, Genetic Susceptibility, and Asthma Management: Opportunities for Intervention to Reduce the Burden of Asthma"

page 5170, pdf page 4, first paragraph
"Traffic-related air pollutants also seem to increase the risk of asthma, as shown in results from the CHS (Fig 2). Children living within 75 m of a major road with elevated estimated levels of traffic-related pollution showed an increased risk of asthma. Residence within 75 m of a major road was associated with a 1.5-fold increased risk of lifetime asthma and wheeze. This association was not explained by differences in ethnicity or other socio-demographic characteristics of children living near major roads. Ongoing work also shows a strong relationship between traffic and new-onset asthma during school years. These findings are consistent with a growing body of evidence from international studies that breathing fresh vehicle exhaust increases the risk of new-onset asthma.5"

http://toxsci.oxfordjournals.org/cgi/reprint/102/1/76
Toxicological Sciences
November 27, 2007
"Combined Inhaled Diesel Exhaust Particles and Allergen Exposure Alter Methylation of T Helper Genes and IgE Production In Vivo"

http://envirohealthhouston.org/files/Highways%20and%20Health%20Fact%20Sheet.pdf
Baylor College of Medicine
2004 Fact Sheet

http://oem.bmj.com/cgi/content/abstract/53/4/241
Occupational and Environmental Medicine

1996
"Chronic respiratory symptoms in children and adults living along streets with high traffic density."

http://www.ehponline.org/members/2005/113-5/ehp0113-a00310.pdf
Environmental Health Perspectives
May 2005
"***Dwelling Disparities: How Poor Housing Leads to Poor Health"***

http://www.pe.com/localnews/inland/stories/PE_News_Local_D_air10.30cf633.html
The Press-Enterprise PE.Com
12/10/2007
"Breathing Distance: Air officials call housing near freeways a health risk"

"Regional air-pollution officials want cities and counties to stop allowing homes to be built next to busy freeways and roads where harmful pollution from trucks and cars is at its worst.

"So far, cities have largely dismissed the South Coast Air Quality Management District's warnings pointing out that homes and apartments should be at least 500 feet from the nearest heavily used thoroughfare.

"The district cites studies showing increased risks of heart attack, lung ailments and other illness among people who live near heavy traffic.

"The health data is clear: We shouldn't have residences, schools, parks and sensitive uses immediately next to larger transportation corridors," said Barry Wallerstein, the air district's executive officer."

http://articles.latimes.com/2007/jan/26/science/sci-lungs26
Los Angeles Times
1/26/2007
"Freeway Air Damages Young Lungs"

"In the largest and longest study of its kind, USC researchers have found that children living near busy highways have significant impairments in the development of their lungs that can lead to respiratory problems for the rest of their lives."

http://articles.latimes.com/2007/jan/30/entertainment/et-notebook30
Los Angeles Times
1/30/2007
"It may be time to hit the brakes"

"A new study from researchers at USC about the effects of local highway pollution on children's health would be alarming under any circumstances, especially for parents. But it happens to arrive just as Los Angeles is building or planning scores of projects -- including housing, parks and schools -- right on the edge of major freeways."

http://www.envplan.com/abstract.cgi?id=b32124
Environment and Planning B: Planning and Design
January 2007
"The exposure of disadvantaged populations in freeway air-pollution sheds: a case study of the Seattle and Portland regions"

http://www.aqmd.gov/CEQA/igr/2007/nov/DEIRbaseline.pdf
South Coast Air Quality Management District

11/16/2007
"Draft Environmental Impact Report (Draft EIR) for the proposed Base Line Road 45-Unit Affordable Housing"

Sherry Padgett

From: Butt, Tom [mailto:tom.butt@intres.com]
Sent: Thursday, July 02, 2009 8:26 AM
Subject: TOM BUTT E-FORUM: Housing at Richmond nursery site would hurt history, report finds

Housing at Richmond nursery site would hurt history, report finds

local flavor vs. development
By Katherine Tam
West County Times
Posted: 07/01/2009 02:30:05 PM PDT
Updated: 07/02/2009 06:20:59 AM PDT

By Katherine Tam

STAFF WRITER

Demolishing 38 greenhouses and other structures from a trio of prewar Japanese nurseries to make way for 336 units of affordable and market-rate housing would hurt local historic resources, a city report found.

The structures at the South Richmond site, some dating to the 1920s, are the state's last-remaining Japanese nurseries of this kind.

"Although the most significant structures from the Sakai nurseries would be retained, implementation of the proposed project would result in demolition of other contributing structures on-site and therefore would cause a significant adverse impact to historical resources," the draft environmental impact report states.

The 464-page report on the Miraflores Housing proposal lists several potential impacts, including on air quality and noise, as well as mitigation measures to reduce the impacts to less-than-significant levels. The loss of historic resources is the only one listed as "significant" and "unavoidable."

The public comment period for the report ends July 29.

Richmond, which owns the site, wants to build 110 rental units for seniors and 226 single-family homes to be sold at market rate. The site is bounded by BART tracks to the north, South 45th Street to the west, Interstate 80 to the east and Wall Avenue to the south. About 575 feet of Baxter Creek now hidden in an underground culvert would be uncovered. A path along the creek's west side would be created.

Most of the Sakai, Oishi and Maida-Endo greenhouses and other structures on the site would be demolished. One greenhouse, two houses and a water tower would be saved. An interpretive exhibit would detail the history of the Japanese-American flower-growing community. The city would honor that history in its selection of street names and landscaping.

The soil and groundwater have been contaminated by years of pesticides and other substances, and must be cleaned up before anything is built. A remedial action plan calls for excavating soil, removing underground storage tanks and monitoring groundwater.

The Planning Commission and City Council are expected to review the project before the end of the year, said Lina Velasco, senior planner.

The draft environmental impact report lists four alternatives:

- Build nothing.
- Preserve six greenhouses, the Sakai house and a water tower and reduce the number of new houses to 99. It would be harder to open Baxter Creek because some greenhouses sit in the creek's path.
- Preserve 28 greenhouses, the Sakai house, the Oishi house and several other structures considered historically important. No more than 77 new homes would be built. It would be harder to open Baxter Creek.
- Increase the number of new housing units to 471 by allowing buildings of up to four stories.

The Oishi, Sakai and Maida-Endo nurseries were among a number of other flower-growing businesses in the Bay Area in the early 20th century. Many families bought land before the 1913 Alien Land Law barred Japanese immigrants from owning property, according to local historian Donna Graves. The immigrants carved out a livelihood for themselves with nurseries they spent decades building.

Following the attack on Pearl Harbor in 1941, Japanese-Americans were forcefully relocated to internment camps. A number could not pay their mortgages and property taxes during internment and lost their nurseries; some were able to keep them and revived their businesses after the war. Operations continued for decades and ended relatively recently.

Today, the Oishi, Sakai and Maida-Endo nurseries carry 39 gable-roofed greenhouses, eight houses, sheds, pump houses, water tanks and other structures. A few have deteriorated and are no longer eligible for the National and California Historic Register; others still have enough historical integrity to make it on the list.

"The Sakai and Oishi properties are the only extant cut-flower nurseries begun by Japanese Americans before World War II in the entire Bay Area, and are the last remaining of Richmond's community of Japanese American flower growers," according to Graves.

Reach Katherine Tam at 510-262-2787 or ktam@bayareanewsgroup.com.

Read it yourself
The draft environmental impact report for the proposed Miraflores development is available at City Hall, 450 Civic Center Plaza; Richmond Main Library, 325 Civic Center Plaza; and Point Richmond Library, 135 Washington Ave. It also can be downloaded through the city's Web site at www.ci.richmond.ca.us under the "Planning and Building Services" section.
The 45-day public comment period ends at 5 p.m. July 29.

WANT TO RECEIVE TOM BUTT E-FORUM AND OTHER ACTION ALERTS ON RICHMOND POLITICAL AND COMMUNITY ISSUES DELIVERED TO YOUR EMAIL ADDRESS? EMAIL YOUR NAME AND EMAIL ADDRESS AND/OR THE NAMES AND EMAIL ADDRESSES OF OTHERS WHO WOULD LIKE TO BE PLACED ON THE MAILING LIST AND THE MESSAGE "SUBSCRIBE" TO tom.butt@intres.com. COMMENTS, ARGUMENTS AND CORRECTIONS ARE WELCOME. TOM BUTT IS A MEMBER OF THE RICHMOND CITY COUNCIL WHEN OPINIONS AND VIEWS EXPRESSED, WITHOUT OTHER ATTRIBUTION, IN TOM BUTT E-FORUM, THEY ARE THOSE OF TOM BUTT AND DO NOT REFLECT OFFICIAL VIEWS OR POSITIONS OF THE CITY OF RICHMOND OR THE RICHMOND CITY COUNCIL UNLESS OTHERWISE NOTED. VISIT THE TOM BUTT WEBSITE FOR ADDITIONAL INFORMATION ABOUT TOM BUTT'S ACTIVITIES ON THE RICHMOND CITY COUNCIL: http://www.tombutt.com. PHONE 510/236-7435 OR 510/237-2084. SUBSCRIPTION TO THIS SERVICE IS AT THE PERSONAL DISCRETION OF THE RECIPIENT AND MAY BE TERMINATED BY RESPONDING WITH “UNSUBSCRIBE.” IT MAY TAKE A FEW DAYS TO REMOVE ADDRESSES FROM THE DISTRIBUTION LIST

Letter 15: Sherry Padgett. July 2, 2009.

15-1: The comment asks why a residential project is proposed for the Miraflores site given its contamination and proximity to Interstate 80.

The proposed project would be infill development, located in an existing residential neighborhood with transit and services available nearby. The contamination of the site would be addressed through implementation of the Remedial Action Plan, which would remediate the site to a level safe for human occupancy. Remediation and redevelopment of the site would replace the vacant and deteriorated structures of the existing site with housing that reflects the development and architectural character of the surrounding neighborhoods. The health risk assessment prepared for the project determined that risk levels for exposure to diesel particulate matter emissions from Interstate 80 would fall below the threshold of significance for all residential units. Additional modeling of risk associated with $PM_{2.5}$ emissions has been added to the Draft EIR. The $PM_{2.5}$ analysis results show that asthma risk associated with proximity to Interstate 80 would be below the lowest current proposed draft significance threshold. These changes are included in Chapter 3 of this Final EIR. More detail is provided in Response to Comment 14-14 above. No change to the Draft EIR is necessary.

15-2: This comment asks why the City of Richmond intentionally allows low-income housing to be built next to freeways and railroads, where air pollution is directly linked to poor health and provides a list of citations to studies related to health risks next to roadways.

To the extent this question is related to the proposed project, it is important to note that no housing is proposed adjacent to the freeway; rather, there would be a 220-foot-wide open space area adjacent to the freeway, then market rate housing, then affordable senior housing, which would be located approximately 450 feet from the freeway. Additionally, the health risks of the project were adequately analyzed as discussed in the responses to Comment Letter 14. To the extent this question is related to past development decisions

made by the City of Richmond, it is unrelated to the proposed project. As such, it does not pertain to environmental issues that are germane to the CEQA analysis or Draft EIR.

15-3: This comment questions land use policy contained in the City of Richmond General Plan.

This comment does not pertain to environmental issues that are germane to the CEQA analysis or Draft EIR.

15-4: This comment questions the City of Richmond's future development policy.

This comment does not pertain to environmental issues that are germane to the CEQA analysis or Draft EIR.

LETTER #16

LAW OFFICE OF ROBERT SAKAI
26429 Chatham Ct
HAYWARD, CALIFORNIA 94542
TELEPHONE (510)538-6407
FACSIMILE (510)550-4955
EMAIL ROBERTSAKAI@ROBERTSAKAI.NET

July 16, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Steve Duran, Executive Director
Richmond Community Redevelopment Agency
440 Civic Center Plaza, Suite 200
P.O. Box 4046
Richmond, California 94804

Dear Ms. Velasco and Mr. Duran,

On behalf of the Sakai and Oishi families, I present the following thoughts:

I understand that the Richmond Community Redevelopment Agency is moving forward with plans for the property that was the Sakai & Oishi families home and business for three generations. We are very happy that other families and residents of Richmond will be able to enjoy the property as we did.

We are honored that the developer wishes to preserve the history of the land and memory of our families, however, the preservation of our homes, tank house, and greenhouse 20 is more than we expected and more than we feel is necessary. We suggest that an interpretive exhibit comprised of relics, audio, visual and/or a video would be a more appropriate way of preserving that history. **16-1**

We look forward to sharing memories of our community's life and work with the designer of the interpretive exhibit and hope that the exhibit will be situated so that it reaches the widest possible audience.

Thank you for the opportunity to submit this letter. On behalf of my family, we wish you every success.

Sincerely,

Robert Sakai

Robert Sakai

Letter 16: Robert Sakai, 26429 Chatham Court, Hayward, CA. July 16, 2009.

16-1: The comment expresses appreciation for the applicant's historic preservation efforts, and states the commenter's belief, as former nursery owner of the site, that an interpretive exhibit would be sufficient to preserve the site's history.

This comment is hereby noted. No change to the Draft EIR is required.

LETTER #17

To: Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Fr: Carolyn Washington CW
4830 Wall Avenue
Richmond, Ca 94804
CarolWW@sbcglobal.net
(510) 529-2166

Re: Review and Comment Period: Miraflores Housing Development

Da: August 11, 2009

Dear Ms. Velasco,

My name is Carolyn Washington, and I own my home and have lived at the corner of South 49th and Wall Avenue for over 40 years.

I have read the Draft Environmental Impact Report (DEIR) for the Miraflores Housing Development project and have the following concerns / comments:

"The DEIR concludes that the Project could result in significant impacts associated with air quality; biological resources; cultural resources; geology, seismicity and soils; hydrology and water quality; and noise. Potential environmental impacts and any associated mitigation measures for the Project are discussed in the DEIR. " - City of Richmond DEIR, Miraflores Housing Development

- **Proactive Rodent / Pest control**: After reviewing the DEIR, I am concerned with the level of proactive measures being taken to ensure the residents are protected from the inevitable invasion of rodents and other pests into our existing homes. As an example, when the new homes were built on the corner of South 47th and Wall Avenue in the early '80s, my home was inundated by gophers, rats and other unseemly pests. What is being done to **proactively** prevent this from happening with the Miraflores development? **17-1**

- **Air Quality Control**: I am a Senior suffering from Chronic Obstructive Pulmonary Disease (COPD).
  As such, I am concerned with the potential levels of harmful / hazardous particulates in the air during and after construction. What plans are in place to **proactively** provide temporary relocation support during the height of construction activity? I understand this level of support has been extended to other neighborhoods in the recent past. **17-2**

Thank you for reviewing my concerns and comments. Please feel free to contact me at the above referenced phone number and / or email address should you have any questions.

Regards,
Carol Washington

cc: Park Plaza Neighborhood Council

Letter 17: Carol Washington, 4830 Wall Avenue, Richmond, CA. August 11, 2009.

17-1: This comment questions whether measures are being taken to prevent the invasion of rodents into existing homes.

Section 6.4 of the Draft Remedial Action Plan (contained in Appendix D of the Draft EIR) for the site includes provisions for the elimination of rodents during the demolition phase. Elimination of rodents would be conducted by a licensed exterminator. Elimination practices would be conducted moving west to east and south to north across the Miraflores property to minimize the potential for rodent migration into surrounding residential properties.

17-2: The comment asks about plans to temporarily relocate existing residents to avoid air quality impacts during construction.

As recorded the Draft EIR, potentially significant impacts related to air quality during project construction would be mitigated to less-than-significant levels. As a result of these measures, the relocation of existing residents is considered unnecessary.

LETTER #18

Rosemary M. Corbin
114 Crest Avenue
Richmond, CA 94801

Lina Velasco, Senior Planner
City of Richmond
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Dear Ms Velasco,

I am writing to comment on the Miraflores Housing Development Plan Draft EIR. I am writing as an individual, however, I am the Chair of Richmond's Historic Preservation Advisory Committee, and I am a member of the Board of the Rosie the Riveter Trust.

The historic nurseries which comprise the area of the proposed Miraflores project are important to Richmond's history, to the history of Japanese people in the United States, and to the telling of the story of the WWII home front, which is the charge of the Rosie the Riveter WWII Home Front National Historical Park.

Because of the significance of the Japanese nurseries I urge the City of Richmond to insure that enough of the buildings and artifacts are preserved in their historic locations to be able to tell and illustrate the significant story of the Japanese in Richmond and throughout California. The preservation of the historic homes of the the Oishis and the Sakais, together with, at least Greenhouse 20, and hopefully Greenhouse 9, and the water tower will allow us to tell the story of the significant contributions the Japanese immigrants made to the economy of Richmond and the surrounding areas. **18-1**

In a development of this size the mitigations mentioned above are entirely reasonable, and, hopefully, the City of Richmond will require them.

Thank you,
Rosemary M. Corbin
Former Mayor

Letter 18: Rosemary M. Corbin, 114 Crest Avenue, Richmond, CA. August 12, 2009.

18-1: This comment stresses the historical significance of the nurseries and supports the preservation mitigation measures in the Draft EIR.

This comment is hereby noted. No change to the Draft EIR is required.

LETTER #19

525 32nd Street
Richmond, CA 94804

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
P.O. Box 4046

Dear Lina Valasco,

As a resident of Richmond, I favor the Increased Preservation followed by the In Place/Low Density Alternate. When I tell people that I live in Richmond, the first thing they think of is crime. Increasing the density of housing in this area to Middle or High density will not help with our crime. Providing communities with jobs and mixed use (with shops, cafes, and neighborhood stores) will provide healthier communities.

My first preference is Increased Preservation with the hope that the greenhouses could be turned into a Butterfly Farm attraction. Since butterflies are often thought of as the symbol of change, maybe it would change Richmond's image to something positive. Also, saving the buildings without preserving much of the greenhouses will not make the site as interesting to visit. **19-1**

My second preference would be the In Place/Low Density Alternate. That alternative would also preserve a significant amount of the greenhouses while not increasing the housing density. My concern when I look at the new development projects is they look the same and do not create a distinct Richmond. Preserving some of Richmond's heritage is important. **19-2**

Sincerely,

Jayma Brown

Jayma Brown
525 32nd Street
Richmond, CA 94804
jaymabrown@earthlink.net
(510)237-0231

Letter 19: Jayma Brown, 525 32nd Street, Richmond, CA. August 12, 2009.

19-1: This is a statement of support for the Increased Preservation alternative and suggestion that the greenhouses be turned into a butterfly farm.

This comment is hereby noted and will be forwarded to the City of Richmond Planning Commission and City Council for consideration. No change to the Draft EIR is required.

19-2: The commenter states that the second preference for the project is the In-Place/Low Density alternative.

This comment is hereby noted and will be forwarded to the City of Richmond Planning Commission and City Council for consideration. No change to the Draft EIR is required.

LETTER #20

08/12/2009 02:18 17074511898 DBARNETT PAGE 02

RECEIVED
AUG 1 2 2009
RICHMOND
PLANNING DEPARTMENT

Mira-Flora Project
Richmond Ca

Lina Velasco, Senior Planner
City of Richmond Planning Dept
450 Civic Center Plaza
P.O Box 4046 Richmond, Ca 94804

PAGE 03
DBARNETT
08/12/2009 02:18 17074511898

Official Comment

- Arlen Barnett
- 270 so 46st
- Richmond Ca 94804
- I protest forcing residents to sell their property
- If they don't want to sell. 20-1
- The amount paid to those who will sell must be above
- The market value.

- 8-12-09 .....Owner

Letter 20: Arlen Barnett, 270 South 46th Street, Richmond, CA. August 12, 2009.

20-1: The comment objects to the forced sale of nearby properties and states that residents who do sell property to accommodate the project must be paid more than market value.

During the process of land acquisition for the proposed project, no property owners were forced to sell their land. Following a process of due diligence that included three appraisals, the Agency paid fair market value for all private property acquired for the project.

D. Public Hearing Transcript

PUBLIC FORUM

CITY OF RICHMOND

PLANNING COMMISSION

PARTIAL TRANSCRIPT

In the Matter of:)
)
)
Miraflores Housing Development)
Project)
_____)

OFFICES OF THE CITY OF RICHMOND

CITY COUNCIL CHAMBERS, MULTIPURPOSE ROOM

440 CIVIC CENTER PLAZA

RICHMOND, CALIFORNIA

THURSDAY, JULY 16, 2009

7:13 P.M.

Reported by:
Richard Friant

1 APPEARANCES

2
PLANNING COMMISSIONERS
3
Ms. Virginia Finlay, Chair
4
Mr. Nagaraja Rao, Vice Chair
5
Mr. Charles Duncan
6
Ms. Jovanka Beckles
7
Ms. Sheryl E. Lane
8
Ms. Carol Teltschick-Fall
9

10 PLANNING COMMISSION STAFF

11 Ms. Mary Renfro, Legal Counsel

12 Ms. Janet Harbin

13 Ms. Lina Velasco, Senior Planner

14
PUBLIC SPEAKERS
15
Mr. Steve Noack, Design Community & Environment
16
Mr. Patrick Lynch, City of Richmond
17
Mr. Tom Panas, El Cerrito Historical Society
18
Ms. Paula Shiu
19
Ms. Katie Lamont, Eden Housing and Community Housing
20 Development Corporation of North Richmond

21

22

23

24

25

1 I N D E X

2 PAGE

3 Opening of Hearing for Item 1. PLN09-026, 1

4 Miraflores Housing Development Project

5

6 Certificate of Reporter 48

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1 P R O C E E D I N G S

2 CHAIRPERSON FINLAY: I will open the hearing and
3 explain any deviation from the standard speaker rules.
4 City staff will present a preliminary analysis of
5 the project being reviewed. The Applicant will explain
6 the proposal. And the Applicant is allowed five minutes
7 for their presentation. Now, an individual or group that
8 has requested before the meeting to speak in opposition to
9 the project may address the Commission for up to five
10 minutes as well. Members of the public who have submitted
11 speaker forms may address the Commission for up to two
12 minutes each.
13 The Applicant and/or proponents may rebut the
14 item, and there will be a two-minute time limit for that
15 rebuttal. The opponents may then offer a rebuttal, and
16 there will be a two-minute time limit for the opponent's
17 rebuttal.
18 Now, on projects that are complex and/or have
19 attracted significant public interest, the Chair may grant
20 the Applicant and opponent up to an additional ten minutes
21 to present and to speak in opposition of the project. If
22 ten or more speakers have signed up, the Chair may limit
23 the time of each speaker to one minute.
24 The Chair has the ability to determine the order
25 of the speakers. How many speakers do we have on this

item, Ms. Velasco?

MS. VELASCO: Three, Madam Chair.

CHAIRPERSON FINLAY: Thank you.

The Commission, after we've heard from these speakers, the Commission will then ask any follow-up questions of any of the speakers. City staff will then present its summary and recommendations to the Commission. The Commission will discuss the item. The Commission will then vote to close or to continue the public hearing.

After additional discussion, the Commission will vote to approve, approve in a modified form, deny, deny without prejudice, continue, take the application under advisement, or to make recommendations to the city council when council action is required.

The Chair of the Commission will then inform the audience of the Commission's action, outline the appeal procedure, and indicate when this action becomes final.

Decisions of the Planning Commission may be appealed to the city council. The Planning Commission's decisions for tonight's hearings may be appealed by notifying the city clerk in writing and paying the appeal fee of $150 by 5:00 p.m. on Monday, the 27th, 2009, stating wherein the planning Commission's decision is in error.

Please note that if you challenge a decision on

1 any of the items listed on this agenda in court, you may
2 be limited to raising only those issues you or someone
3 else raised in writing or at public hearings on the item.
4 Because of the complexity of the Miraflores
5 project, I'm going to grant a 15-minute time frame for the
6 initial speakers for both the proponents and the
7 opponents. That does not mean that you must take the
8 entire 15 minutes if, in fact, you don't need them, but
9 again, you certainly have that in this instance.
10 We will leave the speakers two minutes each to
11 discuss the item who are not the initial speakers, for
12 both sides of the application.
13 Mr. Chair, may we -- would you read the next
14 agenda item, please?
15 COMMISSIONER DUNCAN: Yes. The next agenda item
16 is item 1. PLN09-026, the Miraflores Housing Development
17 Project. There's no action by the Planning Commission
18 tonight. We are to receive and provide comments only.
19 CHAIRPERSON FINLAY: And, Commissioner Duncan,
20 I've called you Commissioner Lee, and now I just called
21 you the chair, but I plead (inaudible); and so it just is.
22 I'm sorry, everyone. I know who you are, Charlie.
23 All right. Thank you.
24 All right. Shall we begin.
25 May I hear from the Applicant.

1 Ms. Velasco, are you going to lead us off?
2 MS. VELASCO: Yes.
3 Good evening, Madam Chair, Mr. Vice Chair,
4 Commissioners. Lina Velasco, senior planner.
5 The item before you tonight is a request to hold
6 a public hearing to receive and provide staff comments on
7 the Draft Environmental Impact Report. The Draft EIR has
8 been prepared by Design Community & Environment, the
9 city's consultant, to analyze the potential environmental
10 impacts of the Miraflores Housing Development Project in
11 accordance with CEQA, the California Environmental Quality
12 Act.
13 A Notice of Completion and Notice of Availability
14 were filed June 15th, 2009, to provide notification that
15 the Draft EIR was completed and available for public
16 comment. This hearing is an opportunity for the public
17 and Planning Commission to provide verbal comments to
18 staff. The purpose of the hearing is only to receive
19 comments. Questions and comments will not be responded to
20 during the hearing nor will any action be taken by the
21 Planning Commission.
22 All comments received during the public comment
23 period, including those received tonight, will be
24 evaluated and responded to by the consultant either as a
25 revision to the Draft Environmental Impact Report or a

1 separate section in the final EIR that's presented for
2 certification. The public comment period will close on
3 July 29th at 5:00 p.m., and written comments can be made
4 up until that date.
5 A court reporter is here tonight to document
6 comments, so we're requesting that commenters state their
7 name, first and last, for the record.
8 So I want to introduce Steve Noack, who is the
9 principal at DC&E, who will be doing a presentation on
10 both the project but also the analysis of the Draft
11 Environmental Impact Report.
12 CHAIRPERSON FINLAY: All right. And do we have
13 the timer on? Is someone taking care of that?
14 MS. VELASCO: Yes.
15 CHAIRPERSON FINLAY: Okay. Thank you very much.
16 Yes, sir.
17 MR. NOACK: Good evening. My name is Steve
18 Noack, and I'm the principal, a principal with Design
19 Community & Environment. Tonight I'm just going to walk
20 you through a very brief presentation on the Miraflores
21 project and the Environmental Impact Report.
22 CHAIRPERSON FINLAY: And may we also have your
23 city of residence, please?
24 MR. NOACK: My office is in Berkeley, California.
25 CHAIRPERSON FINLAY: Thank you.

1 MR. NOACK: So I'm just briefly going to go over
2 the project description.
3 The site is about a 14-acre site, and the site
4 basically includes 226 for sale market rate residences and
5 110 affordable rental units for seniors. It also includes
6 recreation facilities in the form of a tot lot and small
7 park, space for community gardening or agricultural
8 cultivation in raised beds, and also rehabilitation of a
9 component of the historical elements of the property as
10 they are now, and that would be rehabilitation of the
11 Sakai house, the water tower, and greenhouse 20.
12 And as I probably should have mentioned, the site
13 was formerly used as an agricultural facility growing
14 flowers, and it primarily includes greenhouses as well as
15 a few residential homes and supporting buildings.
16 And here's just a brief site plan of the site.
17 I have to put my glasses on here.
18 So the senior housing facility is to the west
19 side of the property. Along the east side is
20 Interstate 80. And there's a buffer zone, including kind
21 of a green area and rehabilitation of Baxter Creek on the
22 site. And then the remaining components of the project
23 itself include the for sale units.
24 And I will add, I believe that the Applicant
25 tonight is going to provide a more detailed description of

1 the project. So I'm just going to quickly go through the
2 areas that we looked at.
3 Well, first of all, the actions on the project
4 are the general plan amendment, zoning change, and
5 approval of a Remedial Action Plan, but that will be done
6 by Department of Toxic Substances Control, the State of
7 California. It also -- city actions also include approval
8 of a tentative subdivision map and then design review of
9 the housing development.
10 The issues that we looked at in the EIR pretty
11 much run the full gamut of environmental issues,
12 including, as you see, aesthetics, agricultural resources,
13 given the former use of the site, air quality, biological
14 resources, cultural resources, geology, seismicity, and
15 soils.
16 We looked at greenhouse gas emissions, we looked
17 at the hazards and hazardous materials on the property, we
18 analyzed hydrology and water quality, land use
19 compatibility of the property with adjoining properties,
20 noise, population and housing, public services and
21 recreation, traffic, and utilities and infrastructure.
22 And a number of potentially significant impacts
23 were identified in Chapter 4 of the EIR, and they related
24 primarily to air quality, biological resources, cultural
25 resources, geology, seismicity and soils, hydrology and

1 water quality, and noise. And all except for cultural
2 resources were found that they could be mitigated to less
3 than significant levels by implementation of mitigation
4 measures.
5 In terms of the cultural resources, it was
6 determined that the project would result in demolition of
7 other contributing structures on site and would cause a
8 significant and adverse impact to historical resources.
9 In terms of project alternatives, we looked at
10 four alternatives, including the no project alternative,
11 which would basically -- the site would remain in its
12 current use and state. In-place low density alternative.
13 We looked at increased preservation alternative. And also
14 an increased housing high-density alternative. And the
15 environmental document found that the project would be --
16 the most environmentally-sensitive project is the project
17 that's proposed.
18 And I do want to reiterate, tonight we're here to
19 address -- to listen to comments by the Commission as well
20 as the public, any questions they have on the Draft EIR;
21 we're really not here to discuss the merits of the project
22 or issues in the EIR. I look forward to coming back to
23 you with a final EIR, and at that time we'll do a full
24 presentation and discussion of the findings and the
25 mitigation measures.

1 So the next step here is to receive all of the
2 comments on the Draft EIR, which the comment period closes
3 July 29th; and then we will prepare a final EIR, which
4 will include a Response to Comments as well as any
5 potential changes to the Draft EIR as a result of those
6 comments. We'll also prepare a mitigation monitoring and
7 reporting program, which will outline how the mitigation
8 measures included in the EIR will be monitored through
9 duration of project, construction, and then we will go
10 into the final hearings at that time.
11 So that concludes my presentation at this time.
12 CHAIRPERSON FINLAY: Any questions?
13 Very good. Thank you.
14 Were there going to be any other speakers from
15 either Community Housing Development Corp or Eden?
16 MS. VELASCO: No. I believe some of them have
17 signed up to speak tonight, but there's no formal
18 presentation since we're not talking specifically about
19 the project.
20 CHAIRPERSON FINLAY: Very good. All right.
21 COMMISSIONER DUNCAN: Well, if that's the case,
22 then I do have some questions for Mr. Noack.
23 CHAIRPERSON FINLAY: Questions or comments?
24 COMMISSIONER DUNCAN: Comments.
25 CHAIRPERSON FINLAY: Let's hold our comments

until after the public has had an opportunity, and then we'll come in after that, if that's all right. Thank you.

I'm not going to separate -- well, no, that's not true. Is there anyone here who wishes to speak against the project?

Okay. Very good. In that case, let's call the three speakers.

MS. VELASCO: Okay. I have Paula Shiu and Thomas Panas and Katie Lamont.

CHAIRPERSON FINLAY: Thank you. And while these speakers are coming up to the front to speak, I want the record to reflect that I did have a meeting today with Norma Thompson, who is the director of Real Estate Development with Community Housing Development Corporation, with Joanna Griffith, assistant director for Real Estate Development with the Community Housing Development Corporation of North Richmond, Katie Lamont, who is the associate director of Real Estate Development for Eden Housing, Linda Mandolini, executive director of Eden Housing. And they are all part of -- they're not the applicants, but they're the people that will be developing the site. And Steve Duran, director of Richmond's Community and Economic Development Agency.

Now, Commissioners, did anyone else have any meetings that you wish to have on the public record?

1 Yes, Commissioner Teltschick-Fall?
2 COMMISSIONER TELTSCHICK-FALL: I would just like
3 to say that I went to visit the site the day before
4 yesterday, and Patrick showed me around out there, if that
5 could be called a meeting.
6 CHAIRPERSON FINLAY: Patrick being whom?
7 COMMISSIONER TELTSCHICK-FALL: Patrick with the
8 Housing --
9 CHAIRPERSON FINLAY: Patrick Lynch?
10 COMMISSIONER TELTSCHICK-FALL: Yes.
11 CHAIRPERSON FINLAY: All right. Very good.
12 Thank you.
13 All right. Call the first speaker, please.
14 MS. VELASCO: Paula Shiu.
15 (Conversation beyond range of microphone.)
16 CHAIRPERSON FINLAY: We'll need your name and
17 your city of residence, please.
18 MR. PANAS: Good evening, Chairman Finlay,
19 Planning Commission members, members of the staff. My
20 name is Tom Panas. I live at 7345 Fairmount in
21 El Cerrito. I'm an active member of the El Cerrito
22 Historical Society, and the historical society in turn has
23 been an active participant in the Miraflores redevelopment
24 exploration and planning.
25 I'd like to start by commending the staff and the

consultants on the tremendous job they've done on the Draft EIR. I mean, it was a monumental undertaking, and while at times we sort of feared they were shirking the task, they've done a great job; and I'd like to thank you guys all for the wonderful job you've done and the community outreach that you've done.

The nursery properties are a unique piece of our history, both for El Cerrito and Richmond, more so for Richmond than El Cerrito in fact; not only our local history, but also our country's history as evidenced by the fact that a number of these buildings have been suggested or considered to be eligible for the National Register. I believe the treatment of these historic resources as proposed is a natural starting point. My comments are going to be strictly on the cultural section here; the rest of it is way beyond me. **S1-1**

These historic resources are unique in that they represent one of the longest standing indigenous industries in Richmond before 1900. We don't have a lot of those in Richmond or in El Cerrito. In addition, these resources uniquely represent a story of an immigrant community that came in, built itself up, was shipped out of town in a very unfortunate manner, and came back and rebuilt an industry as vital as it had been before.

The historical society has a number of technical **S1-2**

1 comments on the document that we'll be forwarding to the
2 planning staff, but we'd like to suggest that there's a
3 couple of other buildings that probably we should consider
4 for preservation. In particular, there's one greenhouse
5 that was started before the war and after the war, in our
6 opinion, that uniquely represents the story that we're
7 trying to record here.

S1-2

8 I'd like to thank the Commission for its time,
9 and any questions we'd be happy to address with the staff
10 of the Commission.
11 CHAIRPERSON FINLAY: Thank you. We look forward
12 to getting your written comments so you can go a little
13 further than that.
14 COMMISSIONER DUNCAN: I have a question of the
15 speaker.
16 CHAIRPERSON FINLAY: Certainly.
17 MR. PANAS: Oh, certainly, sir, I'm sorry.
18 CHAIRPERSON FINLAY: Commissioner Duncan.
19 COMMISSIONER DUNCAN: Which greenhouse was that?
20 MR. PANAS: It's either greenhouse nine or ten --
21 eight or nine on the --
22 COMMISSIONER DUNCAN: The Oishi property, okay.
23 Thank you.
24 CHAIRPERSON FINLAY: Would you call the next
25 speaker, please.

MS. VELASCO: Yes. Paula Shin.

MS. SHIU: Hello. My name is Paula Shiu, that's S-h-i-u.

MS. VELASCO: Oh, sorry.

MS. SHIU: I'm a resident of Richmond, property owner, 4901 Wall, which is the remaining agricultural property at the end of the greenhouse.

I, as a Asian American, think the history of the greenhouses is very important, and I applaud and appreciate any efforts to preserve any part of that heritage that we have on site. **S2-1**

As a property owner and a community member, I am concerned about this project. **S2-2**

COMMISSIONER RAO: Pardon me. Would you please speak into the mic, please. People in the back can't hear you.

MS. SHIU: Oh, okay. As a concerned community member, I am concerned that this project move forward expediently. We've been waiting a long time. And the property in its present state is not something we like to see. **S2-3**

So that's all I have to say. Thank you.

CHAIRPERSON FINLAY: Thank you.

Any questions for this speaker?

Thank you.

1 Next speaker, please.
2 MS. VELASCO: Katie Lamont.
3 MS. LAMONT: Good evening, Commissioners. My
4 name is Katie Lamont. I'm the associate director of Real
5 Estate Development with Eden Housing, and I'm here to
6 represent Eden Housing and Community Housing Development
7 Corporation of North Richmond.
8 The folks that Virginia mentioned earlier, most
9 of them are here in the audience. Linda Mandolini is our
10 executive director, Joanna Griffith is the associate
11 director for Real Estate Development at CHDC. And we just
12 wanted to let you know that we're here today. We're very
13 pleased to be here finally.
14 We've been working very closely with the Richmond
15 Redevelopment Agency and with the planning department over
16 the last six years to assess the environmental conditions
17 of the site and to develop a reuse plan that cleans up the
18 property from the contamination that is there, addresses
19 the environmental concerns, and tries to develop a
20 sensitive response to those. S3-1
21 We have been engaged with the community for quite
22 some time. The property is located in the Park Plaza
23 neighborhood. We've been meeting since 2004 with folks at S3-2
24 the Park Plaza, Laurel Park, and Pullman neighborhood
25 councils.

1 When the redevelopment agency bought the property
2 in 2006, we created a resident advisory committee. In
3 addition to Paula Shiu, we also have Madalyn Law and Annie
4 Johnson here in the audience who are also members of our
5 resident advisory committee. We also have Eva Hills from
6 the Park Plaza Neighborhood Council who is here today as
7 well. And we really appreciate the time that they have
8 shared with us to work with us to develop a plan that
9 meets their needs as well as respects some of the
10 environmental concerns like, particularly, the historic.
11 There's also a creek that we're restoring. And so we're
12 very thankful for everyone's time helping us develop this
13 sensitive solution.

S3-2

14 I'd also like to acknowledge Larry Oishi, who is
15 here with us in the audience, and to thank him and his
16 family for all the help that they have been. We were in
17 escrow on the property for a very long time; it was a very
18 difficult acquisition. They've been very patient, and
19 they've remained supportive and engaged with us as we've
20 developed the reuse plans. And they actually have
21 submitted a letter. I'm not sure if Lina received it
22 today, but they did submit a letter in support of our
23 proposed redevelopment.

S3-3

24 So we're pleased to be here before you today and
25 look forward to coming back over the next couple months.

1 Thank you.

2 CHAIRPERSON FINLAY: Thank you.

3 Any questions for this speaker?

4 Thank you very much.

5 In that case, we can continue on. Let's open

6 this up for comments then from the Planning Commission. I

7 can start at one end, or I can just wait for you to raise

8 your hand. And who wishes to go forward?

9 Commissioner Duncan.

10 COMMISSIONER DUNCAN: Thank you. I have some

11 comments and some questions. Perhaps, Mr. Noack, I would

12 start with you.

13 First of all, I wanted to congratulate you. As

14 Draft EIRs go, this is very complete, and for the most

15 part things were clear. My comments will be centered in

16 the cultural resources section primarily because that's

17 sort of the dangling piece in the project.

18 First of all, in reference to the historic

19 resources on the site and the narrative, there's a real

20 disconnection between the narrative and your graphics.

21 The Oishi house and the Sakai house are not figured in the

22 graphics in any way. All the greenhouses are numbered,

23 but for this uninitiated reader to sort of slog through

24 the narrative and try to peg which of the resources were

25 going to be saved and then tie this back to the schematic

S4-1

plan was pretty difficult. So in the final EIR, if you could be clearer about making those connections, I think it would be very helpful to the reader. **S4-1**

Number two, I understand that the Sakai house and the outbuildings associated with it will be moved about 30 feet; is that correct? **S4-2**

MR. NOACK: Yes.

COMMISSIONER DUNCAN: Why 30 feet? Is it because of a road alignment? **S4-2**

MR. NOACK: I believe so. It's -- I guess I don't -- I can't necessarily speak to the, kind of, the merits of the project or the design --

COMMISSIONER DUNCAN: Understood.

MR. NOACK: -- but I believe it was to bring it into, number one, a historical -- a cluster of historical features, and number two, to be able to design around it in terms of the site design itself.

COMMISSIONER DUNCAN: Okay. Tandem to that question, the Oishi house, it's not clear based on the existing site plan and the proposed site plan where that's going to wind up. It's a much more significant move, is it not? **S4-3**

MS. VELASCO: Commissioner Duncan, I can probably answer some of those questions.

The first, in terms of the moving of the ensemble

of the Sakai house, the water tower, and the greenhouse, they currently exist approximately where you see Endo Way. And so because of the road alignment in the area --

COMMISSIONER DUNCAN: Okay. That's what I thought. They're just going to be --

MS. VELASCO: Yeah.

COMMISSIONER DUNCAN: And they will retain the same relationship and proportion to each other?

MS. VELASCO: Correct. They're shown in the same proportions and distance and spacing as originally, as they exist today.

COMMISSIONER DUNCAN: And then the Oishi house, that -- that doesn't really show up clearly on the proposed site plan.

MS. VELASCO: And I think your point is well taken. It's currently shown on the east side of Oishi Drive, the most northern house. And that's on the concept plan.

CHAIRPERSON FINLAY: To make sure that we're all on the same page, would you give us the page number, please?

MR. NOACK: 3-14.

MS. VELASCO: Yeah.

COMMISSIONER DUNCAN: Could you repeat that for me, Lina, so I can look at the plan?

MS. VELASCO: So it's on the east side of Oishi Drive --

COMMISSIONER DUNCAN: I see, okay.

MS. VELASCO: -- and the most northern house --

COMMISSIONER DUNCAN: Okay.

MS. VELASCO: -- closest to the creek.

COMMISSIONER DUNCAN: So that is a more substantial move I think.

In terms of the Sakai complex, as a small move, I think that kind of passes muster in terms of preservation, because it's essentially the same site. **S4-4**

One of the -- if you're going to do this for a housing development, one of the things that maintains the historic character of the building is to not relocate it. In this instance, for the sake of a road alignment, I think the Sakai complex is okay. **S4-5**

The Oishi house, on the other hand, is it not possible to design around it and leave it where it is? Because from the interpretive point of view, what you want to do is build up layers of the new stuff over the old that's undisturbed to maintain its integrity. And I was wondering if it might be possible to leave the Oishi house where it is. **S4-6**

CHAIRPERSON FINLAY: Would you identify yourself, sir.

1 MR. LYNCH: Patrick Lynch, director of housing
2 for the City of Richmond.
3 CHAIRPERSON FINLAY: Thank you.
4 MR. LYNCH: And we're the developing agency, and
5 this is one of our projects.
6 I'd like to shed a few lights.
7 Thank you for your comments, Commissioner Duncan.
8 Those are some of the challenges that we're facing as we
9 develop the site. We do have a more complete site plan
10 that you will see next time, because on simultaneous track
11 we are, if you will, on parallel tracks happening
12 simultaneously, we are developing the documents.
13 And we are also working with nonprofits in trying
14 to determine a way in which we can create, if you will,
15 the relationship between some of the structures and how
16 those structures are to be maintained on site and try to
17 get as many eyes, if you will, on the site and then how
18 we -- how the nonprofits may act in terms of their --
19 their program oversight. And is this public space that's
20 available? Is it more of a museum?
21 It's also -- we are working with the service
22 providers to create the environment that works best for
23 that. And I'd like to think that we will have that
24 completed the next time that you see us. But I want you
25 to know those are some of the exact challenges that we are

1 discovering.

2 COMMISSIONER DUNCAN: And I understand that we're

3 very much in a beginning schematic phase, and so stuff is

4 moving at this point.

5 MR. LYNCH: Right. But it is our intention, we

6 are going to save them, we're just trying to figure out

7 what's the best configuration to do that.

8 COMMISSIONER DUNCAN: So the source of my comment

9 has to do with good preservation practice. If you don't

10 have to move things absolutely, you shouldn't. And so as

11 a mitigation measure, something that maintains the site's

12 historic integrity, I would shoot for that, as a comment.

S4-7

13 MR. LYNCH: Thank you.

14 COMMISSIONER DUNCAN: Number two -- I have to

15 pull my page back up again -- there was a statement in

16 Chapter 4 that really sort of had to do with your

17 pro forma and your ability to retain some of these

18 buildings, and I'll quote this. This is on page 4.5-24.

19 "Miraflores Historic Preservation Feasibility

20 Assessment conducted by Connolly Consulting Group and

21 Architectural Resources Group evaluated the financial

22 feasibility of multiple preservation scenarios. It

23 analyzed rehabilitation costs of historic structures,

24 potential eligibility for historic preservation tax

25 credits, and potential retail income from adaptive reuse

S4-8

1 of historic structures to determine financial feasibility.
2 The report concluded that all scenarios analyzed,
3 including the preferred alternative and the in-place low
4 density alternative, were economically infeasible because
5 they would require subsidies beyond the historic
6 preservation tax credit to cover rehabilitation costs."
7 What is the implication to your commitment to
8 saving the Sakai complex and the Oishi house?
9 MR. LYNCH: In practical sense, it's not. We
10 have many layers of financing on this particular project.
11 This was just one particular that members of the public
12 were well aware of. And we've been asked in a number of
13 our community meetings over the years to pursue this line
14 of finance, possible financing, and it doesn't work.
15 We are -- we have built into our budget in other
16 funding line items to maintain the structures. We even
17 have considered if we -- is it economically viable to grow
18 vegetables in the greenhouses versus flowers. I mean, we
19 are looking at --
20 COMMISSIONER DUNCAN: Exactly. Exactly.
21 MR. LYNCH: -- a number of activities. It just
22 doesn't work for the historical tax credits, and that was
23 a commitment that we had made to the public, to pursue
24 that line of thinking first.
25 COMMISSIONER DUNCAN: Okay. Thank you.

S4-8 cont.

1 Couple more comments as suggestions for items in
2 the EIR. First of all, in keeping with I believe what
3 Mr. Panas suggested, I came up with the same suggestion
4 you did independently. I think in addition, despite your
5 pro forma difficulties, that if the Sakai house is sort of
6 a complex that includes a greenhouse, then the Oishi house
7 should include one greenhouse as well. Speaking in the
8 abstract from the interpretive point of view, just a
9 comment.

S4-9

10 MR. LYNCH: Yes, thank you.
11 COMMISSIONER DUNCAN: And finally, I would
12 suggest -- you say that because somewhat -- we're losing
13 so much of the site that are potential historic resources,
14 you suggest photographing the site as a matter of
15 documentation. The pre-war Japanese American community
16 and the cultural landscape is disappearing very quickly.
17 I would go to a greater length to document the site. I
18 would do a Level I HABS documentation with complete
19 drawings as well as photographs, because the landscape
20 plan is very important there. And if you could draw that
21 as well as photograph it, it would make an excellent
22 record that would wind up in the Library of Congress.
23 In terms of your development costs, the costs of
24 a HAB set of drawings is small compared to the other
25 things that you have to deal with, and I think the

S4-10

1 cultural benefit is very large. And so as a line item in
2 the EIR, I would suggest that as a mitigation, that you
3 would include a full set of HAB (inaudible) and
4 photographs.

S4-10 cont.

5 MR. LYNCH: Thank you.
6 COMMISSIONER DUNCAN: That's all I have.
7 CHAIRPERSON FINLAY: Very good. Commissioners,
8 anyone else wish to speak to the item?
9 COMMISSIONER RAO: I have just a question
10 (inaudible) if I may.
11 CHAIRPERSON FINLAY: Commissioner Rao.
12 COMMISSIONER RAO: I would like to know if you
13 could describe a little bit on the major contaminants in
14 the soil there and how we wish to address that issue.
15 MR. NOACK: Sure. Okay. Well, without getting
16 into the document to read the -- what the contaminants
17 are, suffice to say that over the many years of use on the
18 property as for floriculture, that there was a significant
19 amount of pesticides and herbicides that were used.
20 And one very important component of this project
21 is implementation of the Remedial Action Plan, which is
22 actually a document that's approved by DTSC, as I had
23 mentioned earlier. And it's a comprehensive description
24 of the existing contaminants on the site as well as
25 exhaustive in terms of its description of the mitigation

1 clean up levels that -- and the process by which that will
2 occur, as well as what the final acceptable clean up
3 levels are on the site before it can be occupied for
4 residential use. So it's a very detailed report in and of
5 itself. We provide a summary in this report; and as I
6 say, it's a separate action that is covered here, but will
7 be approved by the state DTSC as part of the project.
8 I mean, we -- I'm happy to provide a description
9 if you'd like of the listing of the contaminants, but I
10 can provide more of that at the next hearing (inaudible).
11 COMMISSIONER RAO: You can just read it, it's
12 okay; if it's not a problem, just read a couple lines,
13 couple paragraphs.
14 MR. LYNCH: Just the summary is Appendix D if
15 anyone is following along. And if anyone would care, we
16 have a full document in our office, and we will go over it
17 with anyone, as we have already with the community.
18 CHAIRPERSON FINLAY: I believe that document is
19 also available on disc.
20 MR. LYNCH: Yes.
21 CHAIRPERSON FINLAY: And the summation of the
22 available chemicals at the site are in 4.8, hazardous --
23 hazards and hazardous material. There's one page that
24 outlines it all and then a series of definitions of what
25 you're going to be finding there.

COMMISSIONER BECKLES: Madam Chair --

CHAIRPERSON FINLAY: Excuse me. Did you have anything further?

COMMISSIONER RAO: I have one more question.

Did I hear you say that Park Plaza Neighborhood Council and Laurel Park Neighborhood Council are in support of this project; am I correct?

MR. LYNCH: Yes. Yes.

COMMISSIONER RAO: Okay. Thank you.

CHAIRPERSON FINLAY: Might I also comment that Pullman Neighborhood Council was also involved in the discussions, and thank you for that kind of outreach into the community, not only the primary neighborhood council, but the adjacents were also included. Thank you.

Did that complete your comments?

COMMISSIONER RAO: Yes. Thank you. Thank you very much.

CHAIRPERSON FINLAY: Thank you.

Commissioner Beckles.

COMMISSIONER BECKLES: Thank you, Madam Chair.

My question is one of the concerns I have are -- is one that the community mentioned, and that was the problem of rodents. And I wonder if there is a strategy in place or in development to deal with that, what will happen, you know, once the site, you know, is disturbed.

S5-1

1 MR. NOACK: Yeah, I believe as part of the
2 preparation before any remediation takes place, that the
3 site will be fully remediated from rodents if you will. I
4 mean, they'll have exterminators out there, and they will
5 address that issue before any ground disturbance would
6 create a problem.
7 And certainly everybody is very much aware of
8 that. I think at every meeting I've attended, I've said
9 not let's forget that issue, because that was -- came
10 across loud and clear during the public scoping comments
11 when we were going through the initial parts of this EIR.
12 COMMISSIONER BECKLES: Thank you.
13 MR. LYNCH: Along those lines, just from sort of
14 a programmatic point, the funds available to clean this
15 site are State of California CALReUSE funds. So we know
16 what's going on with the state budget. We are going to
17 prepare these responses as quickly as possible so that we
18 can begin to draw down those dollars.
19 Now, how does that relate to your comment? We've
20 already begun to contact extermination firms, so that when
21 our documents are approved, we can hit the ground running
22 and draw down those state funds and to meet what we
23 consider to be not only just our -- (inaudible) somewhat,
24 not only just our community commitment, this is the right
25 thing to do. And so we've already begun.

1 CHAIRPERSON FINLAY: Gentlemen, when you're
2 answering a question, please either allow me to introduce
3 you, or introduce yourself, because the court reporter is
4 having a terrible time figuring out who's talking. And
5 it's awkward when it's "He said." Not real definitive,
6 "He said."
7 Any other questions, Commissioner Beckles?
8 COMMISSIONER BECKLES: I don't. Thank you,
9 Madam Chair.
10 Thank you.
11 Commissioner Teltschick-Fall, how about you?
12 COMMISSIONER TELTSCHICK-FALL: Yes, thank you. I
13 have a couple of comments and a couple of questions.
14 I think I should probably ask one of the
15 questions first, because it has bearing on the comment.
16 Patrick, you were saying about, you know, that
17 you were looking into all these different economic
18 possibilities there; and I guess I'm still not quite clear
19 as to whether or not that's still a possibility, that
20 you're still pursuing that, that you could have some sort
21 of -- that you could make some kind of economic use,
22 perhaps a job-producing use out of the greenhouses. Is
23 that still a possibility?
24 CHAIRPERSON FINLAY: Mr. Lynch.
25 MR. LYNCH: Yes. Thank you. Yes. Let me expand

that just for a moment. It's a little bit off topic, but I think it's important just so that everyone is aware.

Not only have we looked at the reuse of the greenhouses in terms of their -- the historical use for flowering plants, but in addition to that, vegetables. In addition to that, we have discussed with different horticulture societies, how then do you maintain that? And they -- even our level of conversations are not just in how do we do that, but, you know, you can't mix vegetables with flowers. And then do we do that as a co-op? Do we do it as part of the gardening space for the residents that live there? We're exploring all these options. We haven't reached any conclusions, it's simply in the exploration stage, but we are discussing, if you will.

So it is our desire to maintain the greenhouses, but I cannot tell you at this time if they're going to be housed for flowering plants or for vegetables. That, I don't know just yet.

COMMISSIONER TELTSCHICK-FALL: Well, my comment then about that would be that I really like that idea, and I think that it could bring vitality to that development and to the whole neighborhood to have something besides just housing, and that it's also very wise right now with the housing market being what it is, and it could just, I

S6-1

1 think, create a more vibrant community. And so I would
2 just like to urge you to stay very open minded about it.
3 You could end up with a lot of interesting mix.
4 It could be part co-op; it could be part business venture. **S6-1**
5 You know, you might get that people -- some of the people
6 living there involved in it, and you could get other
7 people involved in it too, local businesses. So I like
8 that very much.
9 I did also just want to say that the document is
10 readable, so I appreciate that.
11 And then I was just wondering about the
12 landscaping and all of those beautiful roses that I saw
13 growing there that had so bravely continued without any
14 help whatsoever all these years. They obviously want to **S6-2**
15 grow. So I was wondering if you plan to include any of
16 those original stock roses in the landscaping.
17 MR. LYNCH: Yes.
18 CHAIRPERSON FINLAY: Mr. Lynch.
19 MR. LYNCH: Yes. Yes. Absolutely, yes.
20 COMMISSIONER TELTSCHICK-FALL: Thank you.
21 CHAIRPERSON FINLAY: Yes, Commissioner Lane.
22 COMMISSIONER LANE: Thank you. My questions were
23 more concerning the housing and the affordable housing
24 piece.
25 Questions -- well, first of all, I'd like to say

that it's great that the site will have affordable housing on it for seniors. My question was concerning whether there were options explored for affordable housing for the for sale units.

S7-1

CHAIRPERSON FINLAY: Mr. Lynch.

MR. LYNCH: Yes. Yes. We have not determined the exact mix. That's the process that we're in now as we are developing a more detailed site plan with elevations and the exact number of homes. The answer is yes.

COMMISSIONER LANE: And then the second question kind of is connected to that. Is the inclusionary housing ordinance satisfied with the rentals, or will it have to be satisfied through the homes for sale? I'm trying to understand that more.

S7-2

CHAIRPERSON FINLAY: Mr. Lynch.

MR. LYNCH: No. It is our intent to greatly exceed those numbers. Yes.

COMMISSIONER LANE: Then I have another question concerning the community gardens. So it's noted that a community garden will be on site. I assume this will be outside, so not in the proposed greenhouse that is retained on site. So the question is concerning, since it has been indicated that the soil is contaminated, it will be remediated, still I had a concern about the safety of that soil to grow food. So I understand the safety of

S7-3

1 folks who live in homes there, but actually to eat food
2 that was grown through that soil. So I want to understand
3 how that's determined and then further review and checks
4 and testing of that soil in the future.

S7-3

5 CHAIRPERSON FINLAY: Mr. Lynch.
6 MR. LYNCH: Well, I have a few comments, but
7 let's begin with the -- why don't you start.
8 MR. NOACK: Okay. Steve Noack.
9 CHAIRPERSON FINLAY: Thank you, Mr. Noack.
10 MR. NOACK: Actually, the community garden, it's
11 proposed that it would be planted in raised beds, and part
12 of that -- for that reason is to, although the soil will
13 be cleaned up to levels that are considered safe, I think
14 as a precautionary measure, the soil for the vegetables
15 will still be in raised beds.
16 CHAIRPERSON FINLAY: And we're really talking
17 about two different types of community gardens. The one
18 that is referred to most often, the vegetable garden, is
19 in the, as I understand it, the courtyard of the senior
20 complex, and those are the raised beds we're talking
21 about.
22 And then the second community -- potential for
23 community gardening would be in the actual greenhouses.
24 And I'm sure those would have to be in raised beds as
25 well. So we've got two different types; one primarily for

the seniors' complex, and then one for whatever it evolves into being.

Mr. Lynch.

MR. LYNCH: Right, and that is correct. In addition, we are, once again, you will see it as we come back with a Remedial Action Plan and others we have discussed, there is a hold-and-haul type of a process that the soil is taken away, and the other way is in which the soil is removed and is capsulated under streets. So we are -- that you will see as we come back to you. So that will address the other contaminated soil on site.

CHAIRPERSON FINLAY: And, Mr. Noack, I understand from the EIR that you will be doing a test of the soils a year later, and DTSC will ascertain whether it is important to continue to test those soils on an ongoing basis or whether the problems appear to be resolved at that time; is that correct?

MR. NOACK: That is correct.

CHAIRPERSON FINLAY: All right. Any other questions?

COMMISSIONER LANE: Not right now.

CHAIRPERSON FINLAY: Okay. Thank you.

Commissioner Teltschick-Fall.

COMMISSIONER TELTSCHICK-FALL: One more question I just thought of. I am not completely understanding

S8-1

about the alternatives that you have here at the back of the document. Are those viable alternatives as well? Do you consider those viable alternatives? **S8-1**

CHAIRPERSON FINLAY: I'm sorry, Mr. Noack.

MR. NOACK: Those -- when you say "viable alternatives," the California Environmental Quality Act requires that an Environmental Impact Report look at alternatives that could perhaps mitigate any potentially significant impacts of the project itself. So those alternatives were developed, you could say, as viable alternatives to the project to compare potential impacts to see if any of the alternatives would result in the possibility of fewer impacts than the project itself.

COMMISSIONER TELTSCHICK-FALL: And if you selected, say, for example, a lower-density option or a little more historical preservation, would the project still be economically viable for the development? **S8-2**

MR. NOACK: That really isn't in my purview as the environmental planner on the project. My job is to really report on the impacts itself.

CHAIRPERSON FINLAY: Thank you, Mr. Noack.

Any other questions?

COMMISSIONER TELTSCHICK-FALL: No, thank you.

CHAIRPERSON FINLAY: All right. In that case I'd like to make a few -- some -- there might be a question

1 involved, there might be just a comment.
2 I am also -- it's difficult when you're looking
3 at a project like this to always keep on the straight and
4 narrow in your questions or in your comments of only
5 what's in the Environmental Impact Report. I realize why
6 we're here, but I'm going to take a little license if
7 you'll bear with me.
8 First of all, I wanted to also agree with
9 Commissioner Duncan's statement. I thought that the
10 Environmental Impact Report and the reports in the
11 appendices were very, very well done, but I did share his
12 frustration in looking for things that I could not locate;
13 specifically, "house" doesn't cut it. And yes, I spent a
14 lot of time at the site and finally figured it all out.
15 But a little more explanation would have made the document
16 a little easier to read.

S9-1

17 A question that is not answered in the report,
18 unless I missed it, was who's going to operate the senior
19 housing component. I know the answer to that, but for
20 anybody who comes to this fresh -- it will be Eden -- but
21 for somebody who comes to this fresh, that should be
22 answered somewhere and about how that's going to be
23 handled. And then the rest of the site will be developed
24 by a developer still to be determined.

S9-2

25 I'm editing this as I go, because I've already

made a couple of comments.

I realize that we're still in the development phase, but -- and I also realize that when we discuss the bike easement, which we clearly state is outside of the project, it's, again, a little frustrating when you can't see something provided that says, but it's going to be there. Just like the Greenway project, well, we know it's there somewhere, but it took me a while to get my bearings to say, oh, yeah, it's over there with the bike easement.

S9-3

The question that was still -- that had gone begging was we know that the EIR says that it is not going to be the responsibility of the developers of this site to pay for the bike easement or to maintain the bike easement, but the question then, of course, comes to the fore, well, then who is it. And so I was looking for that. The areas of the walkways versus the creek path were not clearly delineated.

Now, again, I realize these are development issues, but we're all very curious about how they're going to work together; and, again, that was not clearly delineated.

An additional frustration is when I read an Environmental Impact Report and it gives me percentages for units. Now, granted, we can all have a unit here go one way or the other, but 25 percent of 26 -- or 226

S9-4

units, why do I have to do the math? Why doesn't somebody just come out in the Environmental Impact Report to say we're going to have 5 percent of bedrooms, which equal 11 one-bedroom units in the affordable -- in the market rate housing; 25 percent two bedrooms, which is 57; 60 percent three bedrooms, which is 136; and 10 percent four bedrooms? I mean, I'm running around going, okay, let's get out the calculator. But those are such easy jumpable things, and that's what the public is looking for.

S9-4 cont.

This is a development issue, and I realize the purpose of a PAD, planned area development, I also realize what infill housing is and transit-oriented housing is; but I'm going to have to look at some point when we get a development plan in front of us, very carefully, at the lack of setbacks or the minuscule setbacks and the lack of side yard setbacks. I'm going to be looking at that with a jaundiced eye. I just need to warn somebody out there.

S9-5

Parking standards. I understand that the Environmental Impact Report is to give us some parking standards and to say, yeah, this is what they are. I'm not going to say that you're wrong, and I'm not even going to say that it may not be within the most current thinking about what this kind of housing is supposed to accomplish; but I am going to tell you that this complex would have approximately 507 parking spaces if we didn't start giving

S9-6

1 away the density bonuses, or take those into
2 consideration, density bonus, senior housing, and the PAD
3 determination.
4 What is being proposed in the Environmental
5 Impact Report is -- if it had been the regular parking
6 standards for the City of Richmond, the market rate
7 housing would have 452 parking spaces. What is being
8 recommended is 260, for a net loss of 192 parking spaces.
9 The senior housing, under the current housing -- zoning
10 for senior housing would be 55 parking spaces. What's
11 being recommended is 36 parking spaces, for a net loss of
12 19. This is a total net loss of 211 spaces on very narrow
13 streets, only 36 feet wide. And I see this, even taking
14 into consideration what we're trying to accomplish with
15 this type of housing, as a parking disaster for this
16 community.

S9-6

17 So I'm not going to say that the EIR isn't
18 correct in its calculations, but I am going to say that,
19 again, I'm going to look at this very carefully and I see
20 this again just as a parking nightmare. What, again,
21 frustrated me, and I've seen a lot of these reports in the
22 years I've been doing this, we talk about the trips that
23 are going to be generated, but it took me hours and hours
24 and hours for somebody to finally tell me that the
25 calculations were based on 1.2 spaces per unit.

S9-7

1 Now, when I'm looking at a unit that can be one,
2 two, three, or four bedrooms, and I'm being told that for
3 a four-bedroom house we're probably only looking at 1.2
4 parking spaces per unit, I've got to tell you, it doesn't
5 make sense to me. And my problem is that I'm a Realtor,
6 and I deal with this stuff all the time. So I'm not
7 concerned about what's going to happen to the traffic on
8 Cutting and San Pablo, although that will deteriorate, as
9 much as I'm concerned about what's going to happen in
10 house in this community when there are no places to park
11 the cars that every single family has at least two of, and
12 possibly how many children do you have, multiply that by
13 16 years of age, and you've got a whole nother figure,
14 plus an occasional clunker.

S9-8

15 So I just, again, want to warn somebody that the
16 best thing that could probably happen to you is that I'm
17 no longer on this Commission if that's what's presented.
18 All right. There was a notice, and I'm now
19 looking at 3-19, that there was some discussion of an
20 interpretive exhibit. And the EIR goes on to say -- and,
21 again, I'm not faulting you for saying this -- that, well,
22 if they can't find a place to put it on the site, well,
23 then we'll find someplace else. That makes me very
24 nervous. That means it gets lost in the shuffle
25 somewhere, it doesn't get done.

S9-9

Again, I'm looking for someone to say it will be here, and if not here, as a condition, then someone specifically is going to pay "X" amount of dollars to put it someplace else, because that's way too sloppy, so I'm looking for a condition to tie that one down. **S9-9**

I've got -- I think that the daylighting of Baxter Creek, and I'm on 30-20 at this point, is a very exciting concept. I do have some concerns about safety for children. And I know that as I read through some of the information, or I spoke to someone, they were saying that they're concerned about that too, but it always helps to hear it from someone else. **S9-10**

Really enjoyed seeing the results of the risk assessment that was done, that's 4.3-27. **S9-11**

I'm terribly concerned about the noise. Every environmental impact I've seen, and that's been 15 years' worth, I'm always assured that the noise is not going to be a problem, that it can be attenuated. I live in Marina Bay, and we have a complex that is built somewhat close to the railroad tracks and it isn't attenuated. And we've got -- we've got some properties here that with their proximity to the BART tracks and to Highway 80, I don't know how you're going to do that effectively. And I know that your consultants tell you you can, but I'm here to say I just don't see it. **S9-12**

By the way, I gave the folks I met with today some misinformation. On 14.11-15, I had stated that the daily traffic values on Interstate 80, I believed, were going to increase according to forecasts up to, I said, 25 percent between the years 2000 and 2025. I was wrong. The EIR states that the forecasts are an increase up to 60 percent, which tells you something about car use as well. **S9-12**

14.13-10, we're talking now about education, educational facilities. I'm sure that the information that you had in there was correct when this document was prepared. We're looking at some potential closures. It says here that King Elementary School is going to be the closest school to the facility. Someone needs to check to see if King is on the closure list. I don't remember offhand, and I didn't have time to check that out. **S9-13**

The same thing with Kennedy High School. It's also listed here as the closest school. And I know that they were discussing closure for Kennedy. I don't know where we are with that at this point, but certainly that possibility probably needs to be addressed somewhere in the response on the EIRs.

When we're talking about the project trip generation, 14.14-21, the piece of information that I would really like to know is it's always trips generated. I read the traffic report. What I couldn't find there is **S9-14**

1 how many cars are used for the base calculation for the
2 trips. Because that would correlate them back to me to
3 the whole parking issue. And for the life of me, I can't
4 find it. It might be there and I just didn't know what I
5 was looking at.

S9-14

6 I was, however, very distressed to read, and,
7 again, this is not a critique of the EIR, that the CEQA
8 amendments that are due out at the end of 2009 would
9 possibly remove consideration for parking capacity from
10 the CEQA standards of significance.
11 Okay. Those are my comments.
12 Any other comments?
13 All right. In that case, we want to thank you
14 gentlemen very much. Certainly thank Eden, and certainly
15 thank Community Housing Development Corporation. Thank
16 you, Mr. Lynch. Thank you, Mr. Noack.
17 Staff, do you have anything further that you'd
18 like to say regarding this application?
19 MS. VELASCO: Just a reminder to the
20 commissioners and to the public that the public comment
21 period closes on the 29th. So people could still submit
22 written comments up to that date. The EIR is available
23 online and so is the Notice of Availability where they can
24 send the comments to.
25 Thank you.

1 CHAIRPERSON FINLAY: And where do they send the
2 comments?
3 MS. VELASCO: To the planning department, to my
4 attention, Lina Velasco.
5 CHAIRPERSON FINLAY: And the address?
6 MS. VELASCO: 450 Civic Center Plaza, P.O. Box
7 4046, Richmond, California 94804.
8 CHAIRPERSON FINLAY: And your phone number in
9 case they need to reach you?
10 MS. VELASCO: (510) 620-6841.
11 CHAIRPERSON FINLAY: Thank you.
12 COMMISSIONER RAO: I have a question of the
13 staff. Can I ask a question?
14 CHAIRPERSON FINLAY: Of course, Commission Rao.
15 COMMISSIONER RAO: I know that you have scheduled
16 August 20th as the PC hearing to consider recommending to
17 the city council certification of the final EIR. I was
18 wondering if the Applicant would like to say about this,
19 or the staff, as to what is expected of the Applicant
20 between now and August 20th in front of the Commission to
21 come and, you know, try to get the approval of it, on the
22 final EIR, according to the rules.
23 MS. VELASCO: In terms of entitlements or in
24 terms of making modifications to this document?
25 COMMISSIONER RAO: Modifications and

1 entitlements, yeah, the basics, just the basics of it.
2 MS. VELASCO: Okay. Well, what's anticipated now
3 is at the close of the public comment period, the
4 consultant will work with the planning department to
5 prepare responses to those comments, which, as I mentioned
6 earlier, will be incorporated into the final document
7 that's submitted for consideration for certification.
8 Right now we are working closely with the
9 Applicant on finalizing their development plan, which
10 would be considered for the general plan amendment as well
11 as the rezoning by the city council. In the past we've
12 heard from the Commission and other boards that they like
13 that these two things be separated out, which is what we
14 anticipate we'll move forward. So consideration of
15 certification of the EIR will be first, which will be
16 followed up by the entitlements. And specifically right
17 now what they'll be requesting is the general plan
18 amendment as well as the rezoning and separately the
19 design review permit for the actual housing will be done
20 separately.
21 COMMISSIONER RAO: Great. Thank you very much.
22 CHAIRPERSON FINLAY: Very good.
23 Yes, Mr. Lynch.
24 MR. LYNCH: Thank you, Madam Chairman, members of
25 the Commission. I'd like to extend certainly our

1 department, if anyone has any further comments, not only
2 in your official capacity as planning commissioners but
3 just as interested individuals, please share your thoughts
4 with us.
5 And, yes, we will explain the design element.
6 Certainly the four and three bedrooms have the garages.
7 We were thinking of trying to create a more biking
8 community, if you will, and maybe we bit off a little too
9 much. So as we go through and prepare our documents, come
10 back for you in terms of the design element, we certainly
11 wish to hear your comments, but we're trying to figure out
12 a way to provide housing, because of our proximity to Del
13 Norte as well as Richmond BART, to encourage people to
14 bike. And we thought, well, one way to do that is to take
15 away garages on some units and increase them on others so
16 you get an average. And we need to do a better job
17 explaining that and provide some design elements back to
18 you. So that's our intention.
19 We want you to know it wasn't an oversight on our
20 part, we were thinking of how do we take some smart growth
21 design elements and create a neighborhood of walking and
22 biking and this and that. So I just wanted to share that
23 with you.
24 We are open to your comments. And please stop
25 by, share your thoughts on design with us and the

residents.

CHAIRPERSON FINLAY: The difficulty -- I certainly understand the concept. The difficulty on this particular site is, yeah, we want everybody to walk, I don't, I should; but you're still a half a mile away from Target, you're still a quarter of a mile away from BART, you have no access to AC Transit. It's a very isolated spot, quite frankly. And so when you say a half a mile, a quarter mile, it is isolated, and it is not particularly a real conducive area to walk. So, I mean, you've got to take that into consideration.

MR. LYNCH: Thank you.

CHAIRPERSON FINLAY: Thank you.

Any other comments?

Very good. Thank you.

May we have the next agenda item, please.

(Thereupon, the Public Comment portion of the July 16, 2009, Public Forum of the City of Richmond Planning Commission was completed at 8:15 p.m.)

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CERTIFICATE OF REPORTER

I, RICHARD FRIANT, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing City of Richmond Planning Commission Public Forum; that thereafter the recording was transcribed.

I further certify that I am not counsel or attorney for any of the parties to said Public Forum, nor in any way interested in the outcome of said Public Forum.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of July, 2009.

RICHARD FRIANT

Speaker S1: Tom Panas, Member, El Cerrito Historical Society

S1-1: The comment reiterates the unique historic value of the project site.

The comment is noted. No further response is required.

S1-2: The comment refers to a written comment from the El Cerrito Historical Society.

No further response is required.

Speaker S2: Paula Shiu, Resident, 4901 Wall Street, Richmond

S2-1: This comment is a statement of appreciation for the greenhouse histories and preservation efforts.

The comment is noted. No further response is required.

S2-2 and S2-3: These are comments of general concern that the project move forward expeditiously.

The comment is noted. No further response is required.

Speaker S3: Katie Lamont, Associate Direct of Real Estate Development, Eden Housing

S3-1: The comment summarizes Eden Housing's history of involvement in development of the project.

The comment is noted. No further response is required.

S3-2: The comment expresses appreciation for resident involvement in the development of the project.

The comment is noted. No further response is required.

S3-3: The comment expresses appreciation for Larry Oishi and the Oishi family for their support of the project.

The comment is noted. No further response is required.

Speaker S4: Commissioner Charles Duncan

S4-1: The comment requests clear labeling of historic features in the document figures.

The Draft EIR has been amended to identify key historic resources in the figures. These changes are included in Chapter 3 of this Final EIR.

S4-2: The comment asks why the Sakai House, Greenhouse 20, and the water tower are proposed to be moved 30 feet from their present location.

The project proposes to move the Sakai ensemble 30 feet to allow for the development of the senior housing complex on the west side of the site and to allow Endo Way to align with South 46th Street.

S4-3: The comment asks where the Oishi House would be relocated.

The project proposes to move the Oishi House to the open space area along Interstate 80. The Draft EIR has been amended to include rehabilitation and relocation of an additional greenhouse from the Oishi Nursery and to identify the location of the Oishi House and associated greenhouse on the existing and proposed site plan figures. These changes are included in Chapter 3 of this Final EIR.

S4-4: The comment expresses the commenter's opinion that moving the Sakai ensemble 30 feet is essentially the same site.

The comment is noted. No further response is required.

S4-5: The comment expresses the commenter's opinion that there is good justification for moving the Sakai house.

The comment is noted. No further response is required.

S4-6: The comment expresses the commenter's opinion that the Oishi House should remain in situ.

The comment is noted. No further response is required.

S4-7: The comment expresses preference for preserving historic buildings in situ where possible.

The comment is noted. No further response is required.

S4-8: The comment asks about the implications of the historic preservation tax credit feasibility assessment for preservation of the Sakai ensemble and Oishi House.

Patrick Lynch, Director of Housing for the City of Richmond, stated that while the historic preservation tax credits do not cover the rehabilitation costs of the project, the Agency has other sources to fund preservation of the structures.

S4-9: The comment states commenter's desire to preserve a greenhouse from the Oishi Nursery.

See Response to Comment 7-4.

S4-10: This comment suggests completing full photographic documentation of the site.

Full documentation is required by the MOA with SHPO and is included as a mitigation measure in the Draft EIR. No change is made to the Draft EIR.

Speaker S5: Commissioner Jovanka Beckles

S5-1: The comment asks whether there is a plan to control rodents on-site.

The Draft Remedial Action Plan includes rodent control measures. Please refer to Response to Comment 17-1.

Speaker S6: Commissioner Carol Teltschick-Fall

S6-1: The comment expresses preference for developing job-producing uses in the greenhouses that would be located in the open space area.

The comment is noted. No further response is required.

S6-2: The comment asks whether any of the rose varieties that were previously grown in the nurseries would be used in the landscaping on-site.

As mentioned in the Project Description of the Draft EIR, flower varieties that were historically grown on-site would be used in landscaping common areas.

Speaker S7: Commissioner Sheryl E. Lane

S7-1: The comment asks whether any of the for-sale units would be offered at affordable levels.

As acknowledged in the hearing by Patrick Lynch, Director of Housing for the City of Richmond, the process for determining affordability was underway and would be determined through the entitlement process.

S7-2: The speaker asked whether the project's inclusionary housing requirements would be satisfied completely by the affordable senior rental component.

Patrick Lynch, Director of Housing for the City of Richmond, stated that the City intends to provide affordable housing in addition to the units in the senior rental complex.

S7-3: The comment expresses a concern over the safety of growing food in the open space area.

The Remedial Action Plan for the project identifies a lead cleanup goal of 150 mg/kg in the open space area to allow for in-ground gardening, which is below the cleanup goal for the rest of the site. The 150 mg/kg cleanup goal was derived by the Department of Toxic Substances Control and specifically designated for the open space area to ensure that the soil would be safe enough for gardening following remediation.

Speaker S8: Commissioner Carol Teltschick-Fall

S8-1: The comment asks whether the alternatives presented in the Alternatives section of the Draft EIR are viable.

CEQA requires that an EIR look at alternatives that could mitigate any potentially significant impacts of the proposed project. In developing the alternatives to be analyzed in the Draft EIR, the City applied the rule of reason to identify a range that would allow for informed decision making and public participation. The alternatives were developed to balance environmental site constraints and potentially significant impacts with project objectives. See also Response to Comment 4-6.

S8-2: The comment asks whether some of the alternatives evaluated for the project would be considered economically viable.

The *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008 determined that the In-Place/Low Density Alternative was financially infeasible. This report has been added to the Draft EIR as Appendix J. While the report did not specifically analyze the Increased Preservation Alternative shown in the Draft EIR, it is reasonable to conclude that it would also be financially infeasible, since it would entail preservation of a larger number of structures. The Increased Housing/High Density Alternative is presumed to be economically feasible.

Speaker S9: Chairperson Virginia Finlay

S9-1: This comment states that the labeling of historic structures throughout the Draft EIR was difficult to follow.

The Draft EIR has been amended to identify the location of key historic structures in the figures. These changes are included in Chapter 3 of this Final EIR.

S9-2: This comment inquires as to who will operate proposed senior housing.

Eden Housing would operate the senior housing component. No further response is needed.

S9-3: This comment expresses frustration that the proposed pedestrian and bicycle path is not shown on Draft EIR figures.

The Draft EIR has been amended to identify the location of the proposed pedestrian and bicycle path in the figures. These changes are included in Chapter 3 of this Final EIR.

S9-4: This comment expresses frustration with the fact that housing quantities are expressed in percentages.

The Draft EIR has been amended to include the proposed quantity of each type of housing unit. These changes are included in Chapter 3 of this Final EIR.

S9-5: The comment notes that during the development entitlement phase, setbacks will be examined.

This comment refers to the merits of the project, and does not pertain to environmental issues that are germane to the CEQA analysis. For this reason, no response to these kinds of comments is required. Nevertheless, this comment is noted and will be forwarded to the City of Richmond Planning Commission and City Council for consideration.

S9-6: This comment notes that the plan did not provide enough parking in the commenter's opinion.

The Draft EIR has been amended to note increased parking ratios for the senior and market-rate components of the project. These changes are included in Chapter 3 of this Final EIR.

S9-7: This comment notes the parking standards were difficult to understand.

The Draft EIR has been amended to state the parking ratio. This change is included in Chapter 3 of this Final EIR.

S9-8: This comment restates the commenter's opinion that the parking ratio is insufficient.

See Response to Comment S9-6, above.

S9-9: This comment expresses concern about the potential off-site location of the interpretive exhibit.

The comment is noted. No further response is required.

S9-10: The comment refers to concerns regarding the safety of the daylighted creek for children.

Several features of the proposed restoration design for Baxter Creek would foster safety. As noted in the Draft EIR, housing would be located so that the daylighted portions of Baxter Creek would be visible from multiple homes as a safety precaution. The restored creek channel would have a bankfull width of 13 feet and would be located within a wide floodplain (ranging in width from approximately 55 feet at the pedestrian bridge to 120 to 140 feet throughout most of the corridor). The width of the creek channel and floodplain would decrease the creek velocity during high flow periods, thus reducing the chance that a child could be carried away by fast-moving flows. The bankfull depth of the creek (which would occur only during rainy periods) would only be up to approximately 1.5 feet, and the creek would be even shallower during most of the year, with an average depth of about 6 inches. Furthermore, the design of the bank is very gradual and does not include any steep drop-offs, which would decrease the likelihood that a child could fall in and not be able to get out.

S9-11: The comment expresses satisfaction with the risk assessment in the Air Quality section.

The comment is noted. No further response is required.

S9-12: The comment states the opinion that the analysis is incorrect with regard to the noise impacts.

The commenter's opinion provides no specific examples from the Draft EIR that would otherwise allow for a more informed response. The noise analysis for the project responds to the Standards of Significance from Appendix G of CEQA. The noise analysis identified potentially significant impacts related to excessive noise in housing units closest to the BART tracks and Interstate 80, and temporary noise increases due to remediation and construction activities.

Both impacts would be reduced to a less-than-significant level through implementation of mitigation measures including noise barriers, building sound insulation, restricted hours for remediation and construction operations, and other measures. These mitigation measures are commonly used and their effectiveness at reducing excessive noise levels has been demonstrated. No change to the Draft EIR is warranted.

S9-13: This comment questions whether King Elementary School, which is closest to the project, is on the closure list.

As of mid-2009, there were no approved plans to close any of the three schools closest to the project in the 2009-2010 school year. The possibility of closures in subsequent years is unknown. No further response is required. A West Contra Costa Unified School District Board resolution (Resolution No. 67-0809) from February 11, 2009 stated that Kennedy High School would remain open at least through the 2010-11 school year with funding from the City of Richmond, and for a longer period of time if another external funding source were to be identified. The resolution also designated Kennedy High School to accommodate students from other high schools that were on the list of potential closures. DeJean Middle School was also designated to receive students from other schools that would potentially close.

S9-14: This comment states that trip generation rates are missing from the Draft EIR.

The Draft EIR has been amended to provide information on trip generation rates for each type of housing on the site. This change is included in Chapter 3 of this Final EIR.

RESOLUTION NO. 60-11

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND ADOPTING AN ADDENDUM TO THE MIRAFLORES HOUSING DEVELOPMENT ENVIRONMENTAL IMPACT REPORT

WHEREAS, on December 15, 2009, the City Council certified the Final Environmental Impact Report (the "EIR") for the Miraflores Housing Development (the "Project");

WHEREAS, the Richmond Community Redevelopment Agency, the property owner, is proposing a change to the Remedial Action Plan (the "RAP") to off-haul the lead-affected soil to a permitted waste facility rather than encapsulating the soil under the future roadways on the Project site (the "Revised RAP");

WHEREAS, on July 19, 2011, the City Council held a duly noticed public meeting to consider adopting an Addendum to the EIR and considered written and oral information provided at the meeting.

NOW THEREFORE, the City Council does hereby resolve as follows:

SECTION 1. Pursuant to Section 15164 of the California Environmental Quality Act ("CEQA") Guidelines, the Revised RAP is within the scope of the previously certified EIR (SCH# 2007082154) for the Miraflores Housing Development. An Addendum to the EIR has been prepared pursuant to Section 15162 of the CEQA Guidelines, and the Addendum concludes that while the Revised RAP is anticipated to have a significant effect on historic resources the City Council adopted statements of overriding consideration (the Overrides") when the Project was approved and the Overrides are incorporated herein by reference with respect to the Revised RAP. Based on information and analysis contained in the Addendum, and pursuant to Section 15162 of the State CEQA Guidelines, the City Council finds as follows:

1. There are no substantial changes to the Project that will require major revisions to the EIR due to new, significant environmental effects or a substantial increase in the severity of impacts identified in the EIR.
2. Substantial changes have not occurred in the circumstances under which the Project is being undertaken that require major revisions of the EIR to disclose new, significant environmental effects or a substantial increase in the severity of impacts identified in the EIR.
3. There is no new information of substantial importance not known at the time the EIR was certified that shows any of the following:
   A) The Revised RAP will have any new significant effects not discussed in the EIR.
   B) There are new impacts that were determined to be significant in the EIR that will be substantially increased.
   C) There are additional mitigation measures or alternatives to the project that would substantially reduce one or more of the significant effects identified in the EIR.
   D) There are additional mitigation measured or alternatives to the Project that were rejected by the project proponent that are considerably different that those analyzed in the EIR that would substantially reduce any significant impact identified in the EIR.

SECTION 2. Based on the above findings, the City Council does hereby adopt the attached Addendum to the Miraflores Housing Development EIR.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond, California at a joint meeting thereof held July 19, 2011, by the following vote:

AYES: Councilmembers Bates, Beckles, Booze, Ritterman, Rogers, Vice Mayor Butt, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

DIANE HOLMES
Clerk of the City of Richmond

(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 60-11**, finally passed and adopted by the City Council of the City of Richmond at a joint meeting held on July 19, 2011.

DESIGN, COMMUNITY & ENVIRONMENT

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MEMORANDUM

DATE July 14, 2011

TO Lina Velasco, City of Richmond

FROM Steve Noack, Nicola Swinburne, The Planning Center | DC&E

RE **Addendum to Miraflores Housing Development Plan EIR – SCH # 2007082154**

An Environmental Impact Report was completed for the Miraflores Housing Development Plan and certified by the Richmond City Council on December 15, 2009 (2009 EIR). The work included a Remedial Action Plan (RAP) to clean up lead- and other-affected soil. Since publication of the EIR, changes to the RAP soil remediation methods have been proposed.

This addendum to that EIR has been prepared pursuant to CEQA Section 15164 as the changes to the project are insubstantial, there are no new significant effects, and effects described in the EIR are not significantly changed. The addendum updates the information presented in the EIR about the RAP and its environmental impacts. If adopted by the Richmond City Council, this addendum would become an attachment to the Final EIR.

Chapter 3 Project Description

i. Description of Remediation Activities - changes

A. EIR Description of Original Action

Pages 3-13 to 3-15 of the Draft EIR Project Description summarized the RAP as it pertained to site development. Page 3-15 stated that one of the remediation activities would be:

> *On-site relocation and storage of 2,300 cubic yards of lead-bearing soil in deeply-set soil relocation cells, which would be located under on-site public streets.*

B. Addendum Description of Modified Action

In the modified proposal, 2,300 cubic yards of lead-affected soil would be excavated from affected areas of the project. Instead of relocating the soil within the project site, all lead-

affected soil would be transported to an appropriately-permitted off-site disposal facility.[1] Approximately 2,547 cubic yards of backfill material would be transported to the project site, as part of the change to the RAP. Specifically, the actions involved would comprise:

- Excavating and stockpiling the lead-affected soil within the project site
- Testing the stockpiled soil to determine concentrations of contaminants and the appropriate waste disposal site
- Loading the lead-affected soil into permitted over-highway haul trucks
- Potentially loading the affected soil to rail.
- Transporting the affected soil to a permitted off-site disposal facility

Chapter 4 Environmental Evaluation
Section 4.3 Air Quality

ii. Degree and timing of grading activities and soil transport and implications for air quality

A. EIR Description of Original Action

Page 4.3-22 of the Draft EIR described the assumptions used in calculating emissions of air pollutants during the remediation phase. Quantities of excavated soil, timing of excavation and grading, and equipment used were described, and emissions calculated using the URBEMIS2007 model, in the Air Quality analysis included in Appendix A *Construction Emissions,* of the Draft EIR. The following assumptions were made in developing the model inputs:

- Excavating and transporting 2,400 cubic yards of pesticide- and petroleum hydrocarbon-affected soil off-site for disposal
- Excavating and burying 2,300 cubic yards of lead-bearing soil on-site
- Importing and placing 4,200 cubic yards of clean fill on-site
- Relocating 8,400 cubic yards of fill on-site.

B. Addendum Description of Modified Action

Following the changes to remediation methods described in the RAP, PES Environmental has estimated that 2,300 cubic yards of lead-affected soil would now be transported off-site as a result of the modified remedial actions, and 2,547 cubic yards of backfill material would be imported.

[1] This is likely to be either the Clean Harbor Disposal Facility in Buttonwillow, CA (via road transport), or the ECDC Facility in East Carbon, Utah (via road to rail). As rail transport is considerably more energy efficient and produces fewer emissions of Criteria Air Pollutants and GHGs per cubic yard of material transported, the worst case scenario of road transport to Buttonwillow, CA, has been analyzed here.

At 15 cubic yards per truck this would require approximately 153 truck trips for export and 170 truck trips for import. For the air quality modeling it is assumed that export truck trips would be 250 miles in length[2] and require a return trip (for a total of 500 miles per roundtrip). Emissions of ROG, NOx, $PM_{10}/PM_{2.5}$ exhaust and CO2 were computed in terms of pounds per day using emission factors from the EMFAC2007 model for heavy-heavy-duty diesel trucks. These truck hauling emissions are anticipated to occur over a 33-day period. Remediation period emissions are reported in Table 1 of this Addendum.[3]

As on-site remediation cells would no longer be used for the lead-contaminated soil, the quantity of soil relocated on site would be reduced by approximately 8,400 cubic yards. At a daily soil handling rate of approximately 500 cubic yards, this would result in approximately 17 days of earthwork that would not be required. Earthwork equipment that would have been used for on-site grading and excavation (with less air pollution control equipment), would likely have included a track-mounted excavator, a front-end loader, and 2 small (8 to 10 cubic yard) dump trucks. However, as part of the proposed off-haul scenario, it is assumed that a front end loader (also with higher emissions) would be used to load the trucks. This reduction in remediation work would not substantially affect the daily emissions of air pollutants, but would lower the remediation phase emissions of greenhouse gases or carbon dioxide.[4]

Assuming the 33-day time period not used in the relocation of soil on-site would be used for the additional truck trips, then the change to average daily emissions would be as shown in Table 1. Emissions of ROG, NO_x, $PM_{10}/PM_{2.5}$ exhaust would either be increased by up to 21 percent compared to the original EIR. However none of the corrected values exceed the Bay Area Air Quality Management District threshold values,.the Draft EIR was written. A ***less-than-significant*** change would occur.

Section 4.7 Greenhouse Gas Emissions

iii. Degree and timing of grading activities and soil transport and implications for greenhouse gas emissions

A. EIR Description of Original Action

Page 4.7-27 of the Draft EIR described how carbon dioxide emissions (the main greenhouse gas) were calculated for project construction, including the remediation phase. Details of the calculation were included in Appendix A *Construction Emissions* of the Draft EIR.

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[2]This is a conservative estimate, using the road distance to Buttonwillow CA. Emissions would be less with rail transport to Utah. For the analysis, a distance of 40 miles to the edge of the air basin was used, as advised by the Bay Area Air Quality Management District.

[3]The results of the estimated air quality emissions in the 2010 EIR are an overestimate as it should not have originally been assumed that 4,200 cubic yards of clean fill would be imported. The time period for those emissions was taken as 30 days rather than a minimum of 50 days. Both errors are corrected here.

[4]The reduction in carbon dioxide emissions is not included in Table 1.

B. Addendum Description of Modified Action

As shown in Table 1, GHG emissions within the air basin from the remediation phase (only) would be increased by around 0.9 percent from the corrected EIR figure as a consequence of these changes to the remediation plan. If emissions from truck travel outside of the air basin were also included emissions would increase by 3.9 percent from Table 1 from the EIR (corrected figure). Since the EIR incorrectly assumed the grading phase was much shorter (30 days as opposed to 60 days), the GHG emissions are reported in this addendum as 83-percent higher that originally reported in the Draft EIR. However, as reported in the Draft EIR, page 4.7-31, construction emissions are three orders of magnitude less than operation emissions, and the change to the overall GHG emissions would be less than 1 percent. This would be ***less than significant***.

Section 4.8 Hazards and Hazardous Materials

iv. Remediation onsite of lead-contaminated soils – eliminated from RAP

A. EIR Description of Original Action

Section 4.8 Hazards and Hazardous Materials of the Draft EIR provided more detail on the remediation methods. Section D.1, pages 4.8-42 to 4.8-52 described the detail of the RAP, and the following text described the treatment of the lead-affected soil:

> *"Lead-contaminated soil with concentrations greater than the risk-based target cleanup goals[5] would be excavated and relocated on-site to cells located under future public streets within the Miraflores site. The proposed location for the placement of such lead-contaminated soil is depicted on Plate 12 of Appendix D… Approximately 7 feet of clean fill material above the relocated lead-contaminated soil would act as an effective barrier minimizing the potential for human contact and infiltration of surface water… The relocated contaminated soil would be capped with clean backfill soil, and road base material and asphaltic concrete constructed during subsequent redevelopment of the site….*
>
> *Land use restrictions would be specified in a document entitled "Covenant to Restrict Use of Property, Environmental Restriction" and would be recorded with the Contra Costa County Assessor's Office for the lead-contaminated soil placed under public streets."*

B. Addendum Description of Modified Action

As described above under changes to the project description, the lead-contaminated soil with concentrations greater than the risk-based target cleanup goals would be excavated, stockpiled, characterized, loaded onto trucks, and transported to a permitted facility for disposal. Clean fill would be added to replace the soil removed. Land Use restrictions that were suggested to prevent disturbance to underground cells of contaminated soil would no

[5] The risk-based target cleanup goals are acceptable levels of contaminants that can be left in the soil given the proposed land use, and were established in the Remedial Action Plan (RAP) [footnote added].

TABLE 1 **Air Quality and GHG Emissions**

Description[*a]	**ROG** (pounds/ day)	**NO_x** (pounds/ day)	**PM_{10} or $PM_{2.5}$ Exhaust** (pounds/ day)	**CO_2 (metric tonnes) in SF Air Basin**	**CO_2 (metric tonnes) total**
Draft EIR Appendix A: Emissions from Grading (remediation)	4.1	41.5	1.9	51.6[*g]	51.6[*g]
Draft EIR (corrected)[*b,c]	4.2	37.6	1.8	91.0	91.0
Changes to Draft EIR (corrected) figures based on changes to remediation methods[*d,e,f]	+0.7	+11.6	+0.5	+0.8	+3.9
Addendum: Emissions from Demolition and Grading (remediation)	**4.9**	**49.2**	**2.3**	**91.8**	**94.9**
Percentage Difference from Original EIR	***+20%***	***+18%***	***+21%***	***+78%***	***+ 84%***
Percentage Difference from Corrected EIR	***+17%***	***+31%***	***+28%***	***+0.9%***	***+ 4%***

[*a]Criteria Air Pollutant (ROG, NO_x, PM_{10}/$PM_{2.5}$) emissions are for emissions in California. GHGs (CO_2) results are quoted for the San Francisco Air Basin and in total (as GHGs are not restricted in their distribution to a particular air basin).

[*b]The Draft EIR used a figure of 30 days for these emissions. It is now corrected to 60 days, or 10 weeks, as per the narrative account in the Draft EIR. This mostly affects the reported annual CO_2 emissions.

[*c]The Draft EIR mistakenly included import of 4,200 cubic yards of fill soil. This is now corrected.

[*d]Remediation is now assumed to take place over a 33-day period. 17 days of remediation time have been subtracted as the on-site remediation cells will no longer be constructed.

[*e]Emissions from trucks travelling to Buttonwillow, CA. were computed using VMT estimates and EMFAC2007 Emission Factors, assuming freeway speeds (55 mph), 40-mile one-way trip lengths in the air basin and 250-mile one-way trip total.

[*f]Emissions from trucks imported fill from a local site were computed using URBEMIS2007, assuming freeway/arterial/local road (35 mph), 20-mile roundtrip length.

[*g]The EIR reported carbon dioxide emissions were for demolition and remediation. Table 1 includes only remediation emissions.

longer be necessary. (However, as the proposed land uses were consistent with the proposed restrictions, no impacts resulted from these.)

Remediation method changes would not alter the project-specific, cumulative impacts, or mitigation measures in the EIR. The Draft EIR described transportation off-site of soil (contaminated with petroleum hydrocarbons or pesticides) and noted that with implementation of the Health and Safety Plan and the protective measures identified in the 2009 EIR, impacts to the public or environment through transport, use, or disposal of hazardous materials during remediation would be *less than significant.*

v. Use of Fill from Remediation Cells – eliminated from RAP

A. EIR Description of Original Action

Page 4.8-49 described the use of the soil excavated from the remediation cells under the site to fill other areas excavated to remove contaminated soil (outside the footprint of the greenhouses).

B. Addendum Description of Modified Action

Additional fill would be brought in from off-site. This accounts for the additional 2,547 cubic yards of imported fill. This would not change the impact conclusions or mitigation measures in the Hazards and Hazardous Materials Section.

Section 4.11 Noise

vi. Noise from truck trips from soil transportation – change to number

A. EIR Description of Original Action

Page 4.11-16 to 17 of the Draft EIR addressed construction noise in general (including remediation activity) and concluded that activities would exceed the noise levels of 60 dBA L_{eq}, specified in the City of Richmond General Plan Noise Element as acceptable for single-family residential land use, by at least 5 dBA. Mitigation Measures NOI-2a through NOI-2h were adopted and implemented. These would ensure: effective monitoring; adherence to City noise standards and construction limited to daytime hours; muffling of equipment; locating equipment as far as possible from sensitive receptors use of state-of-the-art noise suppression techniques and shielding for equipment; coordination of noisy activities through a construction plan; appointment of a "disturbance coordinator" to correct problems; and ensuring trucks and equipment run only when necessary. With these measures incorporated, it was considered that the impact would be *less than significant.*

B. Addendum Description of Modified Action

The increase in number of truck trips to 646 from the anticipated 320 reported in the Draft EIR (see below under Section 4.14 Traffic and Circulation) represents a 102 percent increase in the number of truck trips. The increase in truck trips would be spread out over the duration of the remediation process and mitigation measures and trucking routes described in the EIR would be unchanged. With the mitigation measures included in the Draft EIR, the additional noise from this increase in traffic would not change the impact, which would remain *less than significant.*

Section 4.14 Traffic and Circulation

vii. Truck trips from soil transportation – change to number and purpose

A. EIR Description of Original Action

Page 4.14-16 of the Draft EIR reported the following:

> *The Draft Remedial Action Plan, Miraflores Housing Development (RAP) for the Miraflores site stipulates that 2,400 cubic yards of pesticide- and petroleum hydrocarbon-contaminated soil would have to be excavated and transported to landfills throughout California via Interstate 80 and the freeway network as part of site remediation. Import[ed] soil would*

not be required. Based on an estimated truck load capacity of 15 cubic yards of soil, it would require 160 truck loads to remove the contaminated soil. This averages to fewer than one inbound or outbound truck per hour each eight-hour workday Monday through Friday for the ten- to twelve-week remediation process.

he Draft EIR concluded that there would be a *less-than-significant* impact to levels of service on local streets due to the 160 trucks, or 320 truck trips, of remediation truck traffic.

B. Addendum Description of Modified Action

PES Environmental has estimated that approximately 2,300 cubic yards of lead-affected soil would be transported off-site as a result of the modified remedial actions, and 2,547 cubic yards of backfill material would be imported. Assuming each truck could transport approximately 15 cubic yards, approximately 323 trucks would be needed to transport lead-affected soil and backfill material, resulting in 646 truck trips. This new estimate represents an increase in 326 truck trips compared to the scenario that was analyzed previously, or a 102 percent increase in the figure. Following the methodology used in the EIR, the increase in truck trips would be spread out over the 33-day minimum duration of the remediation process[6], resulting in an additional 10 trucks per day, or an average 1.2 per hour. Mitigation measures and trucking routes described in the EIR would be unchanged. Furthermore, hauling of the contaminated soil and backfill material would be temporary. Impacts from truck traffic due to site remediation would therefore remain *less than significant.*

[6] The original duration of the remediation process was stated to be 10 to 12 weeks. A conservative value of 10 weeks or 50 working days has been used here. If 17 days are subtracted from that 50-day time period, remediation would take place over a 33-day period.

RESOLUTION NO. 140-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND CERTIFYING THE MIRAFLORES HOUSING DEVELOPMENT PLAN ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE #2007082154), ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING A GENERAL PLAN AMENDMENT (PLN 09-026), SUBJECT TO FINDINGS AND CONDITIONS HEREIN.

I. GENERAL FINDINGS

A. Introduction. The Richmond Community Redevelopment Agency (RCRA) is proposing to construct a mix of affordable and senior housing, (80 units of affordable senior housing, 150 market-rate units; 20 of which are second dwelling units), a tot lot/small park and a space for community gardening or agricultural cultivation, as well as to daylight Baxter Creek on an approximately 14-acre infill site in the City of Richmond, Contra Costa County, California ("Project"). As requested by the Planning Commission, the project may also include up to 3,600 square feet of commercial use consistent with the proposed General Plan designation. Required Project approvals include: (i) a General Plan amendment PLN 09-026 to change the land use designations from Low Density Residential/Preservation/Resource Areas (917/941) to Medium Density Residential (918) ("General Plan Amendment") and (ii) a Municipal Code amendment PLN 09-026 to rezone the site from Single Family Low Density Residential/Exclusive Agriculture (SFR-3/EA) to Planned Area (PA) ("Zoning Amendment") (collectively referred to as the "Project Approvals"). While additional approvals including a tentative subdivision map approval and design review approval are necessary in order to construct housing on-site, these approvals are not proposed at this time.

B. Environmental Review Process. In accordance with the requirements of California Environmental Quality Act ("CEQA") Sections 21000 through 21177 of the California Public Resources Code, and Sections 15000 through 15387 of the California Code of Regulations Title 14 ("CEQA Guidelines"), a Notice of Preparation ("NOP") of a Draft Environmental Impact Report ("Draft EIR") was filed for the Project with the State Clearinghouse ("SCH") Office of Planning and Research ("OPR") on August 28, 2007 (State Clearinghouse No. 2007082154). The NOP was distributed to public agencies and interested parties for a 30-day public review period which ended on September 26, 2007. In addition, the City held a public scoping meeting on September 25, 2007 to obtain public input on the proposed scope and content of the Draft EIR. In accordance with CEQA requirements, a Notice of Completion ("NOC") of the Draft EIR was filed with the SCH OPR on June 15, 2009. The Draft EIR was circulated for a 59 day public review period, which ended on August 12, 2009. During this public review period, the City received written comments on the Draft EIR. Section 15088 of the State 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 and circulated to commenting agencies on October 6, 2009. The Final EIR 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 State 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 to respond to written comments on the Draft EIR.

C. Administrative Record. The administrative record, upon which all Findings 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 information (including written evidence and testimony) provided by City Staff to the Planning Commission and the City Council relating to the EIR, the approvals, and the project.

• All information (including written evidence and testimony) presented at or in preparation of 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 project site.

• The Mitigation Monitoring and Reporting Program ("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 the Director of Planning and Building Services or his or her designee. Such documents and other materials are located at City Hall, Planning Division, 450 Civic Center Plaza, Richmond, California, 94804.

D. Findings. On December 3, 2009, the Planning Commission conducted a duly noticed public hearing on the Project. After considering public testimony and materials in the staff report, including the Final EIR (State Clearinghouse #2007082154), the Statement of Overriding Considerations, the Mitigation Monitoring and Reporting Program, the Planning Commission recommended certification of the Final EIR, adoption of the Statement of Overriding Consideration and Mitigation, Monitoring, and Reporting Program, and approval of the General Plan amendment and rezoning. On December 15, 2009, the City Council held a duly noticed public hearing on the project. Based upon the public testimony and materials presented at or before the hearing, the City Council finds, in its independent and objective judgment, that the Final EIR is adequate and sufficient in all respects and the findings set forth below are appropriate and adequate to support the Certification of the EIR, adoption of the Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program and adoption of the Project Approvals. These Findings and Statement of Overriding Considerations are made pursuant to CEQA and City of Richmond Municipal Code. These findings explain the potential environmental impacts of the Project, identify mitigation measures that have been adopted to mitigate those impacts, explain the alternatives that were evaluated and rejected, include the overriding considerations to support approval of the Project, include the findings to support the adoption of the Mitigation Monitoring and Reporting Program and include the findings to support the adoption of the General Plan Amendment and Zoning Amendment ("Findings").

II. CEQA FINDINGS.

The City of Richmond is the Lead Agency with respect to the Project pursuant to Section 15367 of the CEQA Guidelines. The following findings of fact support the certification of the EIR:

(a) The City has complied with CEQA and CEQA Guidelines. The EIR is an accurate and objective statement that fully complies with CEQA and CEQA Guidelines.

(b) No evidence of new significant impacts, as defined by CEQA Guidelines Section 15088.5, has been received by the City after circulation of the Draft EIR which would require recirculation.

(c) The Project is consistent with the development analyzed in the EIR.

(d) The EIR was presented to the Planning Commission, which reviewed and considered the Final EIR and recommended to the Council certification of the EIR and approval of the General Plan Amendment and Zoning Amendment. The final EIR was presented to the City Council on December 15, 2009 for consideration of certification.

(e) Pursuant to Section 21082.1(c)(3) of the Public Resources Code, the City Council also finds that the EIR reflects the City's independent judgment as the Lead Agency for the Project.

(f) As noted above, Public Resources Code 21081 and Section 15091 of the State CEQA Guidelines require that the lead agency prepare written findings for identified significant impacts, accompanied by a brief explanation for the rationale for each finding. The EIR identified potentially significant effects that could result from Project implementation. The City finds that the mitigation measures in the EIR 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 identified and overridden due to specific Project benefits identified in the Statement of Overriding Considerations. In accordance with CEQA and the State CEQA Guidelines, the City adopts the following Findings.

III. FINDINGS RELATING TO ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND ALTERNATIVES

A. Environmental Impacts.

The EIR evaluated the potential for the Project to result in significant impacts to the following environmental topics: aesthetics; agricultural resources; air quality; biological resources; cultural resources; geology, seismicity and soils; greenhouse gas emissions; hazards and hazardous materials; hydrology and water quality; land use; noise; population and housing; public services and recreation; traffic and circulation; and utilities and infrastructure. The EIR was prepared at the project level. All impacts were found to be less than significant or less than significant after incorporation of mitigation measures, as needed, with the exception of certain impacts relating to cultural resources which were found to be significant and unavoidable. The EIR presents a conservative analysis of environmental impacts, although the proposed Project has the same layout, it proposes fewer units than analyzed in the EIR. Specifically, the EIR analyzed impacts from development of up to 110 senior units and up to 220 market rate units. The proposed project includes only 80 senior units and 150 market-rate units (20 of which are second dwelling units). Based on the recommendation from the Planning Commission to consider inclusion of a commercial component, 3,600 square feet of commercial use is proposed to be included if determined to be feasible. This is consistent with the analysis underlying the EIR. Specifically, the air, noise, traffic and GHG reports all included 3,600 square feet of commercial use. No new or more severe significant impacts would result from the inclusion of this commercial component.

As provided by Public Resources Code Section 21081, the City must make certain findings for each significant impact identified in the EIR before adopting the environmental documents and Project Approvals. These findings include any or all of the following:

(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 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 alternatives identified in the EIR.

These Findings summarize the determinations in the EIR relating to the potential environmental impacts before and after mitigation. Except with respect to cultural resources, which are addressed in the Statement of Overriding Considerations, the City finds that changes or alterations have been required, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the EIR. **Exhibit A** attached to this Resolution sets forth a summary description of each impact from the EIR, describes the recommended mitigation measures, and states whether or not the impact has been mitigated and if so, to what level. A full explanation of the conclusions relating to the impacts and mitigation measures can be found in the EIR. In making these Findings, the City is relying on all the information in the administrative record , including comments made before and during the public hearings on the Project, and in the EIR. With respect to the EIR, the City adopts and incorporates in these Findings all determinations and conclusions made in the EIR relating to the environmental impacts and mitigation measures, except to the extent that such determinations and conclusions are modified by these Findings.

B. <u>Mitigation Measures</u>.

The City hereby adopts all mitigation measures set forth in **Exhibit B** of this Resolution which includes the Final EIR and MMRP for the Project, identifies each mitigation measure as adopted, an implementation schedule and method for verification of compliance. The MMRP will hereby be required to be incorporated in the conditions of approval to the Project in **Exhibit C**.

Based on the entire record, and having considered the unavoidable and significant impacts of the Project, the City hereby determines that all feasible mitigation measures within the responsibility and jurisdiction of the City have 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.

C. <u>Alternatives</u>.

The EIR evaluated four alternatives, in addition to the proposed Project: (1) No Project; (2) In Place/Low Density Alternative; (3) Increased Preservation Alternative; and (4) Increased Housing/High Density Alternative. These alternatives are discussed in further detail in Section 5 of the Draft EIR. The City's findings relating to these alternatives are set forth below:

1. <u>No Project</u>. CEQA requires that a "No Project" alternative be considered. A "No Project" alternative is generally considered to be equivalent to a "no development" alternative. Under this scenario, the Project would not be implemented. While the No Project Alternative would reduce some impacts, including cultural resources impacts, the No Project Alternative would not meet the objective of developing a mix of affordable and market rate housing, addressing soil and groundwater contamination and restoring Baxter Creek nor would it reuse the existing historic features on-site. For these reasons, the City finds that this alternative is "infeasible" as the term is used under CEQA and rejects this alternative.

2. <u>In-Place/Low-Density Alternative</u>. As explained in the EIR, this alternative would preserve the most historically significant buildings in place for adaptive reuse. It would preserve Greenhouses 7, 8, 9, 17 and 18 of the Oishi Nursery, and Greenhouse 20, the Sakai House and water tower of the Sakai nursery, in their historic locations for adaptive reuse. The site would be designated Low Density Residential/917, which would result in maximum of 99 units. While the In-Place/Low-Density Alternative would

reduce some impacts, impacts to cultural resources would remain significant and unavoidable.

However, this alternative would significantly reduce the amount of housing possible on the site, and would frustrate the purpose of restoring Baxter Creek since the Oishi Greenhouse lies in the path of the proposed daylighted creek. In addition, the street network would not be as integrated with the surrounding neighborhood as under the proposed Project. Finally, the preservation component of the In-Place/Low-Density Alternative would result in a substantial economic feasibility gap, while still resulting in a significant and unavoidable impact relating to cultural resources. The In-Place/Low-Density Alternative proposes to preserve eight structures in their historic locations for adaptive reuse. Based on the conclusions of the *Miraflores Historic Preservation Feasibility Assessment*, feasibility gaps for potential reuse scenarios would range from $4.9 million to $5.6 million. Thus, the In-Place/Low-Density Alternative would not be financially feasible. The City finds that this alternative is "infeasible" as the term is used under CEQA and rejects this alternative.

3. <u>Increased Preservation Alternative</u>. This alternative is designed to mitigate the proposed Project's potentially significant impacts. It would preserve all buildings recommended as historic by the historic architecture evaluation prepared for the site, by the Richmond Historic Preservation Advisory Committee, including the Sakai House, the Oishi House, 28 greenhouses, and several other structures. This alternative would substantially reduce the amount of housing development feasible on the Project site, including the affordable senior housing. Like the In-Place/Low Density Alternative, it would frustrate the purpose of restoring Baxter Creek, since the Oishi Greenhouse lies in the path of the proposed daylighted creek and would result in a disconnected site layout and circulation pattern. The *Miraflores Historic Preservation Feasibility Assessment* did not analyze this alternative; however, the report concluded that the In-Place/Low-Density Alternative, which would preserve fewer structures, would be financially infeasible. Based on that conclusion, it is reasonable to expect that the Increased Preservation Alternative would also be financially infeasible. As a result of these factors, the Increased Preservation Alternative was not deemed to be a viable alternative to the proposed Project. The City finds this alternative "infeasible" as the term is used under CEQA and rejects this alternative.

4. <u>Increased Housing/High Density Alternative</u>. This alternative would allow for significantly more housing on the site at a substantially higher density. The site would have the same layout as the proposed Project, but would be designated High Density Residential/944. As a result, a maximum of 471 units would be developable on the site, and buildings would be taller (up to four stories) to accommodate the increased number of units. This alternative has similar impacts to the proposed Project, but would result in more significant impacts to land use, in that the taller structures would be less compatible with surrounding neighborhoods, and, although less than significant, the intensity of impacts to public services and traffic would be proportionately more than the proposed Project. Accordingly, since this high density development would not be compatible with the surrounding neighborhoods, particularly due to the aesthetic character, higher-intensity land use and larger population living on the site and greater traffic and public services impacts, the City finds this alternative "infeasible" as the term is used under CEQA and rejects this alternative.

5. <u>Rejected Alternatives</u>. The EIR also considered additional alternatives but did not evaluate them in detail since the alternatives would not meet the Project objectives and were found to be infeasible for technical, environmental or social reasons as explained in the EIR. These rejected alternatives include (1) a previous site design that proposed that the Sakai House, Greenhouse 20, and water tower be restored and relocated to the open space along Interstate 80 to be used for community activities, (2) another previous site design that proposed that the Sakai House, Greenhouse 20, and the water tower be relocated to the north side of Sakai Avenue, right outside of the open space, and that the restored Oishi House would be relocated to the open space near Baxter Creek, and (3) same site layout as the proposed Project, but would have featured a small commercial use in the area near the relocated Sakai structures, park, and tot lot.

As discussed in Section 5(F) of the EIR, these alternatives would reduce the amount of housing possible on-site; would have reduced the area within the open space, diminishing the recreational and stormwater management benefits of having a continuous open space area; and would not be financially feasible, respectively. Based on the information in the record, the City finds that these alternatives are infeasible and rejects the alternatives.

6. Environmentally Superior Alternative. CEQA requires that an environmentally superior alternative be identified. While implementation of the proposed Project would result in biology, hydrology and traffic and circulation benefits and is considered to be the most environmentally sensitive alternative, the Project's impacts to cultural resources would be considered significant and unavoidable. Only the Increased Preservation Alternative would avoid the significant impact on cultural resources and in that respect is considered the environmentally superior alternative. This alternative would avoid a significant and unavoidable impact regarding cultural resources, but would have potentially significant impacts related to land use and traffic and circulation. As discussed above, this alternative would reduce the amount of housing, including affordable senior housing and would frustrate the purpose of restoring Baxter Creek, since the Oishi Greenhouse lies in the path of the proposed daylighted creek and would result in a disconnected site layout and circulation pattern. Further, while the *Miraflores Historic Preservation Feasibility Assessment* did not analyze this alternative, the report concluded that the In-Place/Low-Density Alternative, which would preserve fewer structures, would be financially infeasible. Based on that conclusion, it is reasonable to expect that the Increased Preservation Alternative would also be financially infeasible. As a result of these factors, the Increased Preservation Alternative was not deemed to be a viable alternative to the proposed Project.

IV. STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological or other benefits of a project against its unavoidable environmental risks when determining whether to approve a project. If the specific economic, legal, social, technological or other benefits of a project outweigh the unavoidable adverse environmental effects, those effects may be considered "acceptable." (CEQA Guidelines Section 15093(a)) CEQA requires the agency to state, in writing, the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened.

In accordance with the requirements of CEQA and the CEQA Guidelines, the City finds that the mitigation measures identified in the Final EIR, Conditions of Approval, and MMRP, when implemented, will avoid or substantially lessen most of the significant effects of the Project. However, certain impacts of the Project are unavoidable even after incorporation of all feasible mitigation measures. The Project would result in significant and unavoidable impacts on cultural resources. Although the most significant structures from the Sakai Nursery and two structures from the Oishi Nursery would be retained on-site, implementation of the proposed Project would result in demolition of other contributing structures on-site, and therefore, would cause a significant adverse impact to cultural resources. The EIR provides detailed information regarding these impacts.

The City has adopted all the mitigation measures and finds that all mitigation measures identified in **Exhibit B** will be implemented with the Project. The City further finds that the remaining significant and unavoidable effects 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, the Draft and Final EIR, and the record, as follows:

(a) The Project would provide a mix of affordable and market-rate housing, on a vacant and deteriorated infill site near transit opportunities;

(b) The Project would provide approximately four acres of maintained open space along Interstate 80, and would provide a small park and tot lot in the center of the site for use by residents as an amenity;

(c) The Project would restore a portion of Baxter Creek and provide active and passive recreational space and trail along the creek corridor;

(d) The Project would rehabilitate and reuse five historical resources on site and provide for an interpretive exhibit regarding the site's history and cultural value to the community;

(e) The Project would remediate soil contamination, including the removal of source material affecting groundwater, on-site to a level safe for human occupancy;

(f) The Project would create living wage jobs in hazard remediation, abatement and construction.

Considering all factors, the City Council finds that these specific economic, legal, social, technological and other considerations associated with the Project outweigh the Project's significant and unavoidable effects, and the adverse effects are, therefore, considered acceptable.

V. FINDINGS WITH RESPECT TO ADOPTION OF MITIGATION MONITORING AND REPORTING PLAN ("MMRP")

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 Mitigation and Monitoring and Reporting Plan (MMRP) for the proposed Project is hereby included in **Exhibit B.** The MMRP 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; and

• Measures to mitigate or avoid significant effects on the environment as set forth in the MMRP are fully enforceable through conditions of approval, permit conditions, agreements or other measures.

VI. GENERAL PLAN AMENDMENT FINDINGS

The City Council has considered the General Plan Amendment, attached as **Exhibit D**, and makes the following findings:

(a) The proposed amendment is consistent with the rest of the general plan and appropriate changes have been made to maintain consistency. As discussed in Page 4.10-13 of the Draft EIR, the proposed Project includes a General Plan Amendment to change the land use designation of the site to Medium Density Residential/918 from Low Density Residential/917 and Low Density Residential/Preservation/Resource Area/917/941. Therefore, the proposed Project would be consistent with the General Plan upon adoption of the General Plan Amendment. Further, as urban infill development, the Project would be consistent with General Plan Goal LU-K of meeting future housing needs within city limits through infill development in areas already served by community facilities, utilities and transportation systems. The project would also further General Plan Policy LU-A.5 by preserving and rehabilitating specific cultural resources on the site for adaptive reuse. In addition, the project would create recreation and open space areas on the project site that would be useable to all segments of the community, including people with disabilities thereby further General Plan Policy CF-B.1. The project also furthers General Plan Policy HG-A.1 by promoting of affordable infill housing development where it is compatible with the neighborhood. The proposed mix of housing types and sizes within the project also reflects General Plan Policy HG-B.7 that discourages the formation of new neighborhoods with uniform housing types and sizes. Finally, Policy OSC-R.1 of the Open Space and Conservation Element encourages the continuation of commercial nurseries as an agricultural use in the Planning Area as an interim use. Nursery operations on the proposed Project site have ceased, all nursery-related structures have deteriorated beyond a useful state for agricultural purposes, and

the site is surrounded by urbanization. Additionally, the site is not in a location specifically identified in Policy OSC-R.1. Therefore, there is no present nursery or agricultural use on the site; however, the proposed project would provide for community gardening uses in a portion of the open space. Accordingly, the proposed Project is consistent with the General Plan.

(b) The proposed General Plan Amendment is in the public interest of the people of Richmond. The benefits of the Project that would be facilitated by the General Plan Amendment are discussed in Section IV, above.

VII. SEVERABILITY

Should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Resolution shall remain in full force and effect.

VIII. APPROVALS

The City Council hereby certifies the Final EIR (State Clearinghouse #2007082154), adopts the Statement of Overriding Considerations, the Mitigation Monitoring and Reporting Program, and approves the General Plan Amendment, subject to conditions of approval.

Exhibit A: Environmental Impacts Summary
Exhibit B: Final EIR and Mitigation Monitoring and Reporting Program
Exhibit C: Conditions of Approval
Exhibit D: General Plan Amendment Map

I certify that the foregoing resolution was passed and adopted by the members of the Richmond City Council at a regular meeting held on Tuesday, December 15, 2009, by the following vote:

AYES: Councilmembers Bates, Butt, Ritterman, Rogers, Viramontes, and Vice Mayor Lopez.

NOES: Mayor McLaughlin.

ABSTENTIONS: None.

ABSENT: None

DIANE HOLMES
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 140-09**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on December 15, 2009.

TABLE 1 **MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
AIR QUALITY					
AQ-1: Implement control measures for remediation- and construction-related air emissions. Each project sponsor is responsible for ensuring that the contractor reduces particulate, ROC, NOx, and CO emissions by complying with BAAQMD guidelines. The project sponsor and contractor should implement the following control measures based on BAAQMD guidelines. • Cover all trucks hauling construction and demolition debris, including soil, sand and other loose materials from the site. • Water on a continuous as-needed basis all earth surfaces during clearing, grading, earthmoving, and other site preparation activities. • Use watering to control dust generation during demolition of structures or break-up of pavement. • Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved parking areas and staging areas. • Sweep daily (with water sweepers or vacuum/street sweepers) all roads, paved areas and staging areas at the site. • Provide daily clean up (with a vacuum/street sweeper) if visible mud and dirt is carried onto adjacent public streets. • Conduct renovation and demolition activities and removal or disturbances of any material that contain asbestos, lead paint or other hazardous pollutants in accordance with BAAQMD and DTSC rules and regulations. • Install wheel washers for all exiting trucks, or wash off the tires or tracks of trucks and equipment leaving the site. • Suspend dust-producing activities during periods when instantaneous gusts exceed 25 mph when dust control measures are unable to avoid visible plumes. • Limit the area subject to excavation, grading and other con-	Project Developer and Contractor	Remediation, site preparation, and construction phases	Richmond Planning & Building Services	Review at beginning of each phase, then monthly	

TABLE 1 **MITIGATION MONITORING AND REPORTING PROGRAM** (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
struction or demolition activity at any one time: ◆ Suspend use of all construction equipment operations during second stage smog alerts. ◆ Apply soil stabilizers to previously graded portions of the site inactive for more than ten days, or cover or seed these areas. ◆ Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind. ◆ Limit traffic speeds on unpaved roads to 15 mph. ◆ Replant vegetation in disturbed areas as quickly as possible. ◆ Opacity is an indicator of exhaust particulate emissions from off-road diesel powered equipment. The project shall ensure that emissions from all construction diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately. ◆ The contractor shall install temporary electrical service whenever possible to avoid the need for independently powered equipment (e.g. compressors). ◆ Clear signage shall be posted indicating that diesel equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were onsite and away from residences. ◆ Properly tune and maintain equipment for low emissions. ◆ Configure construction parking to minimize traffic interference. ◆ Consolidate truck deliveries when possible. ◆ Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abut-					

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
ters and the general public. • Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows. • Implement a carpool program for construction workers. • Prohibit the use of conventional cut-back asphalt for paving and restrict the maximum VOC content of asphalt emulsion. • Use low-ROG paints and other low-ROG construction materials.					
BIOLOGICAL RESOURCES					
BIO-1: Prior to issuance of a grading permit that will impact the creek, a Section 401 Certification shall be obtained from the San Francisco Bay Regional Water Quality Control Board (RWQCB), a Nationwide Wetlands Permit obtained from the Corps, and a Streambed Alteration Agreement from the California Department of Fish and Game (CDFG).	Project Developer	Prior to issuance of a grading permit that will impact the creek	Planning & Building Services	Review and certification/ permit issuance	
CULTURAL RESOURCES					
CR-1: CR-1: The proposed project would preserve the Sakai House, tank house and Greenhouse 20 of the Sakai nursery on-site. (The proposed project would also include ~~on-site~~ relocation and rehabilitation ~~preservation~~ of the Oishi House and other Greenhouse 9 or 17 of the Oishi Nursery on-site.) Prior to implementation of the project, all existing buildings and landscape features shall be documented in accordance with Historic American Buildings Survey (HABS) Documentation Level III standards using archival quality photography of the exterior and interior and archival negatives of the original construction drawings. The project ~~City~~ shall also include ~~develop~~ a permanent, interpretive historical exhibit on the site, or if not feasible, at an appropriate public venue, that incorporates information from the historic report, historic photographs, and Historic American Landscape Survey and HABS~~Historic American Buildings Survey~~ documentation.	Richmond Community Redevelopment Agency (Agency)	Prior to demolition and prior to issuance of an occupancy permit	Planning & Building Services	Review of rehabilitation and relocation methods, preservation methods, documentation, and historical exhibit design, once, prior to demolition, then prior to issuance of an occupancy permit	

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
These measures would reduce project impacts, but not to a less-than-significant level.					
CR-2: For any archaeological resources discovered during the remediation and construction phase, all project activities in the immediate vicinity of the discovery would halt. Procedures of 36 CFR Part 800.13(b) and (c); PRC Sections 5097.94, 5097.98 and 5097.99; and the California Health and Safety Code Section 7050.5 would be followed, including calling an archaeologist or paleontologist to evaluate the materials.	Project Contractor and Property Owner	Remediation and construction phases	Planning & Building Services	Review and verification, continuous during remediation and construction	
CR-3: If paleontological resources were found during site remediation and construction, work would be halted until a paleontologist could evaluate the nature and significance of the resources. If significant resources were confirmed, the OHP and the California Department of State Parks would be contacted for further guidance on documentation and preservation. Protocol for the discovery of paleontological resources during construction would be the same as that for archaeological resources, per the MOA: project activities in the immediate vicinity of the discovery would halt, and procedures of 36 CFR Part 800.13(b) and (c); PRC Sections 5097.94, 5097.98 and 5097.99; and the California Health and Safety Code Section 7050.5 would be followed, including calling an archaeologist or paleontologist to evaluate the materials.	Project Contractor and Property Owner	Remediation and construction phases	Planning & Building Services	Review and verification, continuous during remediation and construction	
GEOLOGY, SEISMICITY AND SOILS					
GEO-1: The following site preparation and grading measures shall be performed to address soil condition issues of existing undocumented fill and shallow groundwater. ♦ Prior to site grading, tall grasses and weeds that cover the majority of the site shall be mowed and removed. Existing structures, foundations, trees and abandoned underground utilities, septic tanks, leach fields and other existing abandoned improvements shall be demolished and removed from the site either following or as part of site remediation. Existing fill along the north and east sides of the site shall be removed down to stiff native soil.	Project Contractor and Project Engineer, and Project Geotechnical Consultant	Prior to issuance of permits	Planning & Building Services	Review of site conditions periodically throughout remediation and grading activity	

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
◆ Areas to receive fill, following remediation, shall be scarified to a depth of about 12 inches below the existing ground surface, moisture conditioned and compacted according to the requirements stipulated in the Berlogar Geotechnical Report from November 2006. ◆ The shallow patches of fill that cover most of the site shall be addressed by 12-inch deep scarification. If zones of soft or saturated soils are encountered during grading and over-excavation operations, deeper excavations may be required to expose firm soils. This shall be determined in the field by the soil engineer. ◆ Imported fill, except as provided in the RAP, shall be free of deleterious matter and rock fragments greater than 4 inches, and have a Plasticity Index of 15 or less and contain sufficient clayey binder to allow for stable utility trench excavations. ◆ All fill and backfill shall be placed in thin lifts (between 8 and 12 inches depending on compaction equipment), properly moisture conditioned and compacted to degrees indicated by the Berlogar Geotechnical Report from November 2006. ◆ Observations and soil density test shall be conducted during grading and backfill operations to obtain the proper degree of compaction and moisture content. Where compaction is outside the range required, additional reworking and moisture conditioning shall be made until the specified compaction and moisture conditioning are achieved. ◆ The soil engineer, except as provided for in the RAP, shall be notified at least 48 hours prior to any grading operations to discuss the procedure and methods of grading.					
GEO-2. If excavation bottoms require stabilization due to proximity to groundwater, imported drainage rock, geotextile fabric, or lime treatment may be used to accomplish this stabilization. If groundwater is encountered during soil excavation before the limits of the soil contamination are reached, a determination shall be made to dewater and excavate further, or to discontinue the exca-	Project Contractor and Project Engineer, Project Geotechnical Consultant	During excavation	Richmond Public Works Department (Public Works)	Scheduled site inspections for duration of excavation and grading phases	

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
vation. If the determination made is to dewater and continue the excavation, groundwater removed from the excavation shall be pumped into aboveground containers for subsequent analysis prior to treatment and/or disposal.					
GEO-3a: Post-tension concrete slab-on-grade foundations shall be used in residential units to help reduce the potential impacts of expansive soils. Construction activities shall provide proper moisture conditioning of the sub-grade soils under building foundations and concrete pavements to mitigate the potential impacts of expansive soils. Slab foundations shall be designed by a structural engineer ~~to~~ according to the following parameters: ◆ Slab foundations shall accommodate 3 inches total soil movement and 1 inch in 25 horizontal feet differential soil movement. ◆ The subgrade of the building pad shall be presoaked to at least 7 percent over the optimum moisture content for a depth of 12 inches. Building pads shall not be allowed to dry out to less than the recommended moisture content prior to the construction of the slab. The soil engineer shall check the moisture content prior to the placement of moisture vapor retarder.	Project Developer and Project Engineer, Contractor	During construction	Planning & Building Services	Scheduled site inspections for duration of excavation and grading phases	
GEO-3b: To reduce the effects of expansive soils on exterior concrete flatwork such as sidewalks, walkways and driveways, the following measures shall be incorporated during subgrade preparation: ◆ The subgrade in these areas shall be scarified to a depth of at least 12 inches, properly moisture conditioned to at least 5 percent optimum moisture content and compacted between 85 and 90 percent relative compaction. ◆ The moisture content of subgrade soils shall be checked immediately prior to the placement of baserock or concrete (if supported directly on the subgrade). ◆ Any previously compacted subgrade soils that are disturbed during utility trench excavation and backfilling shall be uniformly moisture conditioned to at least 5 percent above opti-	Project Developer and Project Engineer, Contractor	During subgrade preparation and plan review	Planning & Building Services, Public Works Department	Scheduled site inspections during subgrade preparation	

TABLE 1 **MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)**

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
mum moisture content and recompacted to between 85 and 90 percent relative compaction to provide a smooth and nonyielding surface.					
HYDROLOGY AND WATER QUALITY					
HYDRO-1: The following measures shall be incorporated into the restoration design of Baxter Creek to reduce the potential for erosion: • Conduct hydrologic flood modeling to determine the appropriate width and design of the creek channel to disperse creek flow velocity and convey water without increasing erosion. • Cut creek banks at gradients no steeper than two-feet horizontal to one-foot vertical (2H:1V) to reduce the risk of erosion in the creek channel. • Plant native vegetation within the creek channel and floodplain to provide groundcover to prevent erosion from bare soils. • Where flood modeling indicates unavoidable increases to water velocity, use soil bioengineering in areas of the restored channel. (Soil bioengineering is the use of structural support and vegetative cover of natural materials to provide structure and support to prevent creek bank erosion and restore natural stream habitat.) Include the use of woody cuttings and poles or posts collected from native plants to provide structural support, control creek bank erosion and restore natural stream habitat. Exact methods used and locations would be determined through further planning and design. • Channel hardening would be used as needed at the transition between the restored channel and culvert outfalls and infalls to prevent erosion. Channel hardening would be limited to areas where soil bioengineering is incapable of addressing the potential for erosion due to high velocities caused by supercritical flow.	Project Engineer	Final Site Plan Design	Planning & Building Services, Public Works	Review and approval of Final Site Plan Design, scheduled site inspections	
HYDRO-2: To address risks associated with erosion and flooding, the following features shall be incorporated into the final creek	Project Engineer	Final Site Plan Design, creek restoration and drainage plan	Planning & Building Services, Public Works	Approval of Final Site Plan Design, scheduled site	

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
restoration design:		review		inspections	
• Locate the creek channel within a wide floodplain, with widths throughout most of the floodplain at approximately 120 feet to 140 feet wide to provide increased capacity for out-of-channel flooding.					
• Conduct hydrologic flood modeling to assess the effects of detention storage on the system. The model run will be used to design flood detention storage or peak attenuation as needed to meet the NPDES C.3 regulations.					
• Incorporate creek bank stabilization measures, including grading, bioengineering and hardening, in the final design to demonstrate that erosion and flooding impacts are mitigated.					
• Incorporate landscaping throughout the creek channel and floodplain to prevent erosion.					
• Design floodwalls and landscape berms to increase storage of flows within the creek channel and accommodate break-out flows at the downstream end of the restored creek at Wall Avenue. Based on the modeling results, the dimensions and placement of floodwalls and landscaped berms would be determined.					
NOISE					
NOI-1a: During final design of the project, a detailed acoustical analysis of exterior and interior noise reduction requirements and specifications shall be conducted by a qualified Acoustical Specialist in accordance with City of Richmond and HUD standards.	Project Developer and Acoustical Specialist	Final Site Plan Design	Planning & Building Services	Plan review, scheduled site inspections	
NOI-1b: During the final site plan design, noise-sensitive outdoor use areas shall be located away from Interstate 80 and BART wherever possible. Noise-sensitive spaces shall be shielded with buildings or noise barriers whenever possible to maintain exterior noise levels of 65 L_{dn} or less at multi-family housing. Potential noise barrier locations are shown in Figure 4.11-4.	Project Developer and Project Architect	Final Site Plan Design	Planning & Building Services	Plan review, scheduled site inspections	
NOI-1c: Design and construction of noise barriers shall be incor-	Project Developer and Acoustical Specialist	Final Site Plan Design	Planning & Building Services	Plan review, scheduled site inspections	

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
porated to reduce BART noise at private exterior use areas at multi-family homes proposed in the north part of the site to 65 L_{dn} or less. Design and construction of noise barriers shall be incorporated to reduce Interstate 80 traffic noise at ground-level outdoor use areas of multi-family homes along the eastern portion of the site bordering the open space area (i.e. near Interstate 80). Preliminary calculations indicate that 6- to 8-foot high walls or solid fences would be necessary to protect these areas from BART and traffic noise. The final detailed design of the heights and limits of these barriers shall be completed at the time that the final grading and site plans are submitted.					
NOI-1d: A project-specific acoustical analysis where exterior levels exceed 60 dBA L_{dn} shall be conducted. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as those listed below would adequately reduce interior noise levels to 45 dBA L_{dn} or lower. ♦ Building sound insulation shall be provided for a minimum of 5 decibels additional sound attenuation (minimum 25 dBA exterior-to-interior noise reduction) at first and second stories, and 10 decibels (minimum 30 dBA exterior-to-interior noise reduction) at third stories or higher. ♦ Special building construction techniques including sound-rated windows, doors, building façade treatments, sound-rated wall constructions and acoustical caulking) may be required for new residential uses adjacent to Interstate 80 and BART.	Project Developer and Acoustical Specialist	Final site plan design	Planning and Building Services	Plan review, scheduled site inspections	
NOI-2a: Prior to initiation of the project, the contractor shall prepare and submit a noise monitoring plan for the construction and remediation phases to the City. The noise monitoring plan shall identify monitoring locations and frequency, instrumentation to be used, and appropriate noise control measures that can be incorporated. The plan shall include the following provisions: ♦ Noise levels shall be measured for comparison to the noise limits set forth in the Richmond Noise Ordinance.	Project Developer and Contractor	Prior to issuance of demolition or grading permit	Planning & Building Services	Noise monitoring at the beginning of each new phase of construction and remediation and when noise levels are expected to change	

TABLE 1 **MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)**

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
• Noise levels shall be monitored at locations representing the highest noise exposure levels to the west and south of the project site. • Noise monitoring shall occur at the beginning of each major phase of construction and remediation, and/or when noise levels are expected to change.					
NOI-2b: Noise-generating construction and remediation activity shall comply with City construction noise standards and shall be limited to daytime hours.	Project Developer and Contractor	Remediation and construction phases	Planning & Building Services	Scheduled site inspections	
NOI-2c: All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.	Project Developer and Contractor	Remediation and construction phases	Planning & Building Services	Scheduled site inspections	
NOI-2d: Stationary noise-generating equipment shall be located as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.	Project Developer and Contractor	Remediation and construction phases	Planning & Building Services	Scheduled site inspections	
NOI-2e: Construction and remediation equipment shall utilize state of the art noise suppression techniques and be shielded with temporary noise barriers to reduce temporary, construction-related noise impacts.	Project Developer and Contractor	Remediation and construction phases	Planning & Building Services	Scheduled site inspections	
NOI-2f: The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction and remediation activities. This plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction and remediation activities and the event schedule can be scheduled to minimize noise disturbance.	Project Developer and Contractor	Prior to issuance of grading permit	Planning & Building Services	Scheduled site inspections	
NOI-2g: A "disturbance coordinator" shall be designated who would be responsible for responding to any local complaints about construction and remediation noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the construction schedule. The City shall be	Project Developer and Project Disturbance Coordinator	Remediation and construction phases	Planning and Building Services	Scheduled site inspections	

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)

Mitigation Measures	Implemented By	When Implemented	Monitored By	Monitoring Action and Frequency	Verification By/Date
responsible for designating a noise disturbance coordinator and the individual project sponsor shall be responsible for posting the phone number and providing construction schedule notices.					
NOI-2b: During construction and remediation, trucks and equipment shall be running only when necessary.	Project Developer and Contractor	Remediation and construction phases	Planning & Building Services	Continuous during remediation and construction	
NOI-3: For residential buildings to be constructed within 100 feet of the BART tracks, an on-site vibration monitoring study and building design study shall be completed pursuant to Federal Transit Agency Guidelines during project design. Based on the results of the vibration study, control measures to reduce floor vibrations to acceptable levels, such as foundation stiffening, shall be designed and implemented.	Project Developer and Project Structural Engineer	During Final Site Plan Design	Planning & Building Services	Monitoring study per Federal Transit Agency guidelines	

Miraflores Housing Development Plan Final EIR

SCH # 2007082154

City of Richmond | October 6, 2009

DESIGN, COMMUNITY & ENVIRONMENT

Exhibit 4A: Final Environmental Impact Report (EIR)

Exhibit 4A: Final Environmental Impact Report (EIR)

Final Draft

Miraflores Housing Development Plan Final EIR

SCH # 2007082154

City of Richmond | October 6, 2009

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Exhibit 4A: Final Environmental Impact Report (EIR)

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1 INTRODUCTION

A. *Purpose of the Environmental Impact Report*

This document is a Final Environmental Impact Report (EIR) to the Draft EIR for the proposed Miraflores Housing Development Plan.

The Draft EIR identified the likely environmental consequences associated with the project, and identified features of the proposed Housing Development Plan help to reduce potentially significant impacts.

This Final EIR responds to comments on the Draft EIR and makes revisions to the Draft EIR as necessary in response to these comments. No change to the Draft EIR identified in this Final EIR resulted in the need to re-circulate the document.

This document, together with the Draft EIR, will constitute the Final EIR when the Richmond City Council certifies it as complete and adequate under the California Environmental Quality Act (CEQA).

B. *Environmental Review Process*

According to CEQA, lead agencies are required to consult with public agencies having jurisdiction over a proposed project, and to provide the general public and project applicant with an opportunity to comment on a Draft EIR that is prepared for a project. This Final EIR has been prepared to respond to those comments received on the Draft EIR and to clarify any errors, omissions or misinterpretations of discussions of findings in the Draft EIR.

The Draft EIR was made available for public review on June 15, 2009. The Draft EIR was distributed to local and State responsible and trustee agencies and the general public was advised of the availability of the Draft EIR through public notice published in the local newspaper and posted by the City Clerk as required by law. The CEQA-mandated 45-day public comment was extended to August 12, 2009.

Copies of all written comments received on the Draft EIR during the comment period are contained in this document. Each substantive comment on the Draft EIR receives a written response.

A public hearing on the Draft EIR was held during the comment period, on July 16, 2009. A public hearing was also held on the Draft Remedial Action Plan (Draft RAP) on July 15, 2009. The public had an opportunity to comment at the hearing, as well as during the public comment period from June 26, 2009 to August 12, 2009. This document includes a summary of each comment received at the hearing and a written response to it.

The Draft EIR and this Final EIR will be presented to the Planning Commission, who will advise the City Council on certification of the EIR as a full disclosure of potential impacts, mitigation measures and alternatives.

The Planning Commission will not take final action on the EIR or the proposed project. Instead, the City Council will consider the Planning Commission's recommendations on the EIR during a noticed public hearing, and make the final action in regards to certification of the EIR.

The Department of Toxic Substances Control (DTSC) will consider the comments on the Draft RAP and prepare a response. The DTSC will also review the comments on the Draft EIR and will finalize the RAP after the City Council has certified the EIR.

C. Document Organization

This document is organized into the following chapters:

- **Chapter 1: Introduction.** This chapter discusses the use and organization of this Final EIR.
- **Chapter 2: Report Summary.** This chapter is a summary of the findings of the Draft EIR. Table 2-1 includes corrections to the text of the

Draft EIR. Underline text represents language that has been added to the EIR; text with ~~strikethrough~~ has been deleted from the EIR.

- **Chapter 3: Revisions to the Draft EIR.** Corrections to the text and graphics of the Draft EIR are contained in this chapter. Underline text represents language that has been added to the EIR; text with ~~strikethrough~~ has been deleted from the EIR.
- **Chapter 4: List of Commentors.** Names of agencies and individuals who commented on the Draft EIR are included in this chapter.
- **Chapter 5: Comments and Responses.** This chapter contains reproductions of the letters received from agencies, organizations and the public on the Draft EIR. The responses are keyed to the comments which precede them.

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2 REPORT SUMMARY

This chapter presents a summary of the analysis contained in this Draft EIR. The chapter summarizes the following: (1) the proposed project; (2) areas of concern; (3) significant impacts and mitigation measures; (4) unavoidable significant impacts; and (5) alternatives to the project.

A. Project Under Review

The proposed project analyzed in this Draft EIR includes the following major components, which are described below and in detail in Chapter 3, Project Description, of this EIR.

- Miraflores Housing Development Plan
- General Plan Amendment
- Zoning Code Amendment
- Remedial Action Plan (RAP)

1. Miraflores Housing Development Plan

The overall project objectives of the Miraflores Housing Development Plan are to provide up to 336 units of a range of housing types on this urban infill site. Key components of the Plan are:

- Provide a mix of affordable and market-rate housing, both rental and owner-occupied units, on the Miraflores site. The affordable component would consist of up to 110 affordable rental units for seniors. There would be up to 226 market-rate units, in a combination of attached and detached single-family residences.
- Provide open space. The area along Interstate 80 would provide approximately 4 acres of open space. In addition, a small park and tot lot would be located in the center of the site.
- Daylight Baxter Creek for as long a reach as possible. The Miraflores Housing Development Plan proposes to daylight a stretch of up to approximately 575 linear feet within the open space area. A multi-use path and emergency vehicle access lane would run along the west side of the

creek, and active and passive recreation areas would be integrated into the creek restoration design.

- Incorporate historic features of the site into the project design. The following components are proposed in the Miraflores Housing Development Plan to acknowledge the former nursery use of the site while also allowing housing development:
  - Restore and retain the ensemble of the primary Sakai House, adjacent water tower, and Greenhouse 20, and the primary Oishi House, on-site.
  - Create a permanent, accessible interpretive exhibit on-site to depict the history of the Japanese American flower-growing community.
  - Incorporate elements that celebrate the history of the site, such as in the naming of the streets, the design of the proposed pedestrian bridge, and the types of flowers used in landscaping.
- Provide circulation for vehicles, pedestrians and bicycles by extending existing streets from the neighborhood and constructing several new streets.
- Incorporate smart growth and green building principles at the neighborhood scale. The Miraflores project is registered as a pilot project for the Leadership in Energy and Environmental Design Neighborhood Development (LEED-ND) Rating System.
- Implement the RAP to remediate and reduce on-site soil and groundwater contamination to levels suitable for residential use, abate hazardous materials conditions associated with structures on the site, demolish or relocate structures to be preserved, and manage site conditions and effects during the cleanup process. The RAP also includes health and safety plans for site workers, an emergency response plan, and restrictions on the use of groundwater and areas where lead bearing soil would be encapsulated below paved streets.

2. General Plan Amendment

Amend the General Plan to change the land use designation for the Miraflores site from Low Density Residential/Preservation/Resource Areas (917/941) to Medium Density Residential (918).

3. Zoning Code Amendment

Rezone the Miraflores site from Single-Family Low Density Residential/ Exclusive Agriculture (SFR-3/EA) to Planned Area (PA).

4. Remedial Action Plan

Select a cleanup alternative which prevents or reduces potential risk to public health and the environment, and approve and implement the RAP.

B. Areas of Controversy

The City of Richmond issued a Notice of Preparation (NOP) of the Draft EIR on August 24, 2007, and the comment period extended until September 27, 2007. Two scoping meetings for the EIR were held on September 26, 2007, one in the morning and one in the evening. Issues similar to those discussed at previous meetings and workshops on the Miraflores Housing Development Plan were raised. Comments on the NOP focused primarily on the following issues:

- Historic structures, including their retention, maintenance and safety
- Relocation of historic resources
- Building height
- Additional lighting sources
- Streets, and their currently poor condition
- Connection with the Richmond Greenway project
- Ingress and egress to the site
- Traffic traveling through the existing neighborhood to the site
- Parking impact on local streets
- Potential need for new sewer and stormwater infrastructure
- Air quality and noise conditions from Interstate 80 and BART
- Site remediation, particularly the effects of dust and truck trips on air quality, noise and traffic conditions
- Concern about rodents currently on the site and where they will go during remediation

C. *Significant Impacts and Mitigation Measures*

Environmental sustainability is a key objective of the proposed project. The Miraflores site is an urban infill site, and the layout, development standards and guiding principles were carefully prepared to avoid and minimize environmental impacts. Still, potential significant impacts were identified in Chapter 4 related to:

- Air Quality
- Biological Resources
- Cultural Resources
- Geology, Seismicity and Soils
- Hydrology and Water Quality
- Noise

The Draft EIR identifies feasible mitigation measures that would reduce these significant impacts to a less-than-significant level, except for the impact to cultural resources, discussed below. All impacts and mitigation measures are listed in Table 2-1.

D. *Unavoidable Significant Impacts*

While the proposed project includes restoring certain buildings on-site, it was found to be infeasible to retain all structures; therefore, the impact to cultural resources would be unavoidable because no mitigation could be feasibly implemented while still meeting the objectives of the Miraflores Housing Development Plan. Implementation of the proposed project would result in the following unavoidable significant impact, which is also listed in Table 2-1:

Impact CR-1: Although the most significant structures from the Sakai nursery and two structures from the Oishi Nursery would be retained on-site, implementation of the proposed project would result in demolition of other contributing structures on-site and therefore would cause a significant adverse impact to historical resources.

E. Alternatives to the Project

An EIR must evaluate a reasonable range of feasible alternatives to the project or the location of the project that would achieve most of the basic project objectives and would avoid or substantially lessen any of the potentially significant impacts of the project. Chapter 5 compares the impacts of three alternatives to those of the proposed Specific Plan. They are:

1. **No Project Alternative.** This alternative would leave the site the way it is, with no redevelopment or change on the site.

2. **In-Place/Low-Density Alternative.** This alternative would preserve the most historically significant buildings (as identified in the report *Historic Architecture Evaluation, the Oishi, Sakai and Maida-Endo Nurseries* by Donna Graves, et al) in place for adaptive reuse. It would preserve Greenhouses 7, 8, 9, 17 and 18 of the Oishi nursery, and Greenhouse 20, the Sakai House and water tower of the Sakai nursery, in their historic locations for adaptive reuse. The site would be designated Low Density Residential/917, which would result in a maximum of 99 units. This alternative would significantly reduce the amount of housing possible on the site, and would frustrate the purpose of restoring Baxter Creek, since the Oishi Greenhouses lie in the path of the proposed daylighted creek.

3. **Increased Preservation Alternative.** This alternative is designed to mitigate the potentially significant impacts to cultural resources identified in Chapter 4. It would preserve all buildings recommended as historic by the historic architecture evaluation prepared for the site,[1] including the Sakai House, the Oishi House, 28 greenhouses, and several other structures. This alternative would substantially reduce the amount of housing development feasible on the Miraflores site, resulting in a maximum of 77 units. Like the In-Place/Low Density Alternative, it would frustrate the purpose of restoring Baxter Creek, since the Oishi Greenhouses lie in the path of the proposed daylighted creek.

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[1] Graves, Donna, Ward Hill, and Woodruff Minor, 2004, *Historic Architecture Evaluation: The Oishi, Sakai and Maida-Endo Nurseries*, San Francisco.

4. **Increased Housing/High Density Alternative.** This alternative would allow for significantly more housing on the site at a substantially higher density. The site would have the same layout as the proposed project, but would be designated High Density Residential/944. As a result, a maximum of 471 units would be developable on the site, and buildings would be taller (up to four stories) to accommodate the increased number of units. This alternative would have similar impacts to the proposed project, but would result in more significant impacts to land use, in that the taller structures would be less compatible with surrounding neighborhoods, and, although less than significant, the intensity of impacts to public services and traffic would be proportionately more than that of the proposed project.

Under implementation of the proposed project, impacts to cultural resources would be considered significant and unavoidable. The In-Place/Low-Density Alternative would preserve more historically significant structures, for on-site adaptive reuse, than the proposed project, but would still result in a significant and unavoidable impact because it would demolish other buildings that contribute to the historical significance of the nurseries. Although the No Project Alternative would leave all existing structures in place, the historic buildings would continue to deteriorate from neglect, which would constitute a potentially significant impact related to cultural resources. Among the alternatives, only the Increased Preservation Alternative would avoid a potentially significant impact on cultural resources.

The proposed project would be the most environmentally-sensitive since it would cause the fewest environmental impacts, provide the most environmental benefits, and avoid the maximum number of potentially significant impacts. The next most preferable alternative would be the Increased Housing/High Density Alternative, then the In-Place/Low Density Alternative, then the Increased Preservation Alternative, and finally the No Project Alternative.

F. Summary Table

The impacts and mitigation measures identified in this EIR are summarized in Table 2-1. The table is organized to correspond with the environmental factors discussed in Chapter 4. Table 2-1 is arranged in four columns: (1) environmental impacts; (2) significance before mitigation; (3) mitigation measures; and (4) significance after mitigation. A series of mitigation measures is noted where more than one mitigation may be required to reduce an impact to a less-than-significant level. The full description of each impact and mitigation measure is presented in Chapter 4.

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
AESTHETICS			
Since no potentially significant impacts on aesthetic resources were identified, no mitigation measures are required.			
AGRICULTURAL RESOURCES			
Since no potentially significant impacts related to agricultural resources were identified, no mitigation measures are required.			
AIR QUALITY			
AQ-1: Project remediation and construction activities could generate substantial emissions of particulate matter, specifically PM_{10}, which could expose sensitive receptors to temporary elevated pollutant concentrations. In addition, diesel-powered equipment could cause local air quality effects. This could result in a *potentially significant* impact.	PS	AQ-1: Implement control measures for remediation- and construction-related air emissions. Each project sponsor is responsible for ensuring that the contractor reduces particulate, ROC, NOx, and CO emissions by complying with BAAQMD guidelines. The project sponsor and contractor should implement the following control measures based on BAAQMD guidelines. ♦ Cover all trucks hauling construction and demolition debris, including soil, sand and other loose materials from the site. ♦ Water on a continuous as-needed basis all earth surfaces during clearing, grading, earthmoving, and other site preparation activities. ♦ Use watering to control dust generation during demolition of structures or break-up of pavement. ♦ Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved parking areas and staging areas. ♦ Sweep daily (with water sweepers or vacuum/street sweepers) all roads, paved areas and staging areas at the site. ♦ Provide daily clean up (with a vacuum/street sweeper) if visible mud and dirt is carried onto adjacent public streets.	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		♦ Conduct renovation and demolition activities and removal or disturbances of any material that contain asbestos, lead paint or other hazardous pollutants in accordance with BAAQMD and DTSC rules and regulations. ♦ Install wheel washers for all exiting trucks, or wash off the tires or tracks of trucks and equipment leaving the site. ♦ Suspend dust-producing activities during periods when instantaneous gusts exceed 25 mph when dust control measures are unable to avoid visible plumes. ♦ Limit the area subject to excavation, grading and other construction or demolition activity at any one time. ♦ Suspend use of all construction equipment operations during second stage smog alerts. ♦ Apply soil stabilizers to previously graded portions of the site inactive for more than ten days, or cover or seed these areas. ♦ Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind. ♦ Limit traffic speeds on unpaved roads to 15 mph. ♦ Replant vegetation in disturbed areas as quickly as possible. ♦ Opacity is an indicator of exhaust particulate emissions from off-road diesel powered equipment. The project shall ensure that emissions from all construction diesel powered equipment used on the project site do not exceed 40 percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately. ♦ The contractor shall install temporary electrical service whenever possi-	

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		ble to avoid the need for independently powered equipment (e.g. compressors). ♦ Clear signage shall be posted indicating that diesel equipment standing idle for more than five minutes shall be turned off. This would include trucks waiting to deliver or receive soil, aggregate, or other bulk materials. Rotating drum concrete trucks could keep their engines running continuously as long as they were onsite and away from residences. ♦ Properly tune and maintain equipment for low emissions. ♦ Configure construction parking to minimize traffic interference. ♦ Consolidate truck deliveries when possible. ♦ Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abutters and the general public. ♦ Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows. ♦ Implement a carpool program for construction workers. ♦ Prohibit the use of conventional cut-back asphalt for paving and restrict the maximum VOC content of asphalt emulsion. ♦ Use low-ROG paints and other low-ROG construction materials.	
BIOLOGICAL RESOURCES			
BIO-1: Proposed development on the site would include the restoration of Baxter Creek and could temporarily affect the 0.007 acres of wetlands and temporarily impact waters on-site. Although the creek restoration would be a beneficial impact, the	PS	BIO-1: Prior to issuance of a grading permit that will impact the creek, a Section 401 Certification shall be obtained from the San Francisco Bay Regional Water Quality Control Board (RWQCB), a Nationwide Wetlands Permit obtained from the Corps, and a Streambed Alteration Agreement from the California Department of Fish and Game (CDFG).	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
restoration work itself could adversely impact the jurisdictional wetlands/waters. This would be considered a *potentially significant* impact.			
CULTURAL RESOURCES			
CR-1: Although the most significant structures from the Sakai nursery and two structures from the Oishi Nursery would be retained on-site, implementation of the proposed project would result in demolition of other contributing structures on-site and therefore would cause a significant adverse impact to historical resources.	PS	CR-1: The proposed project would preserve the Sakai House, tank house and Greenhouse 20 of the Sakai nursery on-site. (The proposed project would also include ~~on-site~~ relocation and rehabilitation ~~preservation~~ of the Oishi House and either Greenhouse 9 or 17 of the Oishi Nursery on-site.) Prior to implementation of the project, all existing buildings and landscape features shall be documented, using archival quality photography of the exterior and interior and archival negatives of the original construction drawings. The project ~~City~~ shall also include ~~develop~~ a permanent, interpretive historical exhibit on the site, or if not feasible, at an appropriate public venue, that incorporates information from the historic report, historic photographs, and Historic American Landscape Survey and Historic American Buildings Survey documentation. These measures would reduce project impacts, but not to a less-than-significant level.	SU
CR-2: Development under the proposed project (including the remediation process) could potentially disrupt, alter or eliminate as-yet undiscovered archaeological sites, including Native American remains, which would be a *potentially significant* impact.	PS	CR-2: For any archaeological resources discovered during the remediation and construction phase, all project activities in the immediate vicinity of the discovery would halt. Procedures of 36 CFR Part 800.13(b) and (c); PRC Sections 5097.94, 5097.98 and 5097.99; and the California Health and Safety Code Section 7050.5 would be followed, including calling an archaeologist or paleontologist to evaluate the materials.	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
CR-3: Development under the proposed project, including remediation activities, could potentially disrupt, alter or eliminate as-yet undiscovered paleontological resources. This would be a *potentially significant* impact.	PS	CR-3: If paleontological resources were found during site remediation and construction, work would be halted until a paleontologist could evaluate the nature and significance of the resources. If significant resources were confirmed, the OHP and the California Department of State Parks would be contacted for further guidance on documentation and preservation. Protocol for the discovery of paleontological resources during construction would be the same as that for archaeological resources, per the MOA: project activities in the immediate vicinity of the discovery would halt, and procedures of 36 CFR Part 800.13(b) and (c); PRC Sections 5097.94, 5097.98 and 5097.99; and the California Health and Safety Code Section 7050.5 would be followed, including calling an archaeologist or paleontologist to evaluate the materials.	LTS
GEOLOGY, SEISMICITY AND SOILS			
GEO-1: Undocumented fill was observed at the north and east sides of the site. Scattered patches of fill generally less than a foot deep cover the remainder of the site. Undocumented fill, if left in place, could impact utility trench operations and damage building foundations and pavements. This could result in a *potentially significant* impact.	PS	GEO-1: The following site preparation and grading measures shall be performed to address soil condition issues of existing undocumented fill and shallow groundwater. ♦ Prior to site grading, tall grasses and weeds that cover the majority of the site shall be mowed and removed. Existing structures, foundations, trees and abandoned underground utilities, septic tanks, leach fields and other existing abandoned improvements shall be demolished and removed from the site either following or as part of site remediation. Existing fill along the north and east sides of the site shall be removed down to stiff native soil. ♦ Areas to receive fill, following remediation, shall be scarified to a depth of about 12 inches below the existing ground surface, moisture conditioned and compacted according to the requirements stipulated in the Berlogar Geotechnical Report from November 2006. ♦ The shallow patches of fill that cover most of the site shall be addressed	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		by 12-inch deep scarification. If zones of soft or saturated soils are encountered during grading and over-excavation operations, deeper excavations may be required to expose firm soils. This shall be determined in the field by the soil engineer. ♦ Imported fill, except as provided in the RAP, shall be free of deleterious matter and rock fragments greater than 4 inches, and have a Plasticity Index of 15 or less and contain sufficient clayey binder to allow for stable utility trench excavations. ♦ All fill and backfill shall be placed in thin lifts (between 8 and 12 inches depending on compaction equipment), properly moisture conditioned and compacted to degrees indicated by the Berlogar Geotechnical Report from November 2006. ♦ Observations and soil density test shall be conducted during grading and backfill operations to obtain the proper degree of compaction and moisture content. Where compaction is outside the range required, additional reworking and moisture conditioning shall be made until the specified compaction and moisture conditioning are achieved. ♦ The soil engineer, except as provided for in the RAP, shall be notified at least 48 hours prior to any grading operations to discuss the procedure and methods of grading.	
GEO-2: Shallow groundwater could impact grading and underground construction, resulting in potentially wet and unstable subgrade soils. The presence of relatively shallow groundwater could impact grading and underground construction and equipment. This could result in a *potentially significant* impact.	PS	GEO-2: If excavation bottoms require stabilization due to proximity to groundwater, imported drainage rock, geotextile fabric, or lime treatment may be used to accomplish this stabilization. If groundwater is encountered during soil excavation before the limits of the soil contamination are reached, a determination shall be made to dewater and excavate further, or to discontinue the excavation. If the determination made is to dewater and continue the excavation, groundwater removed from the excavation shall be pumped into	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		aboveground containers for subsequent analysis prior to treatment and/or disposal.	
GEO-3: Expansive soils underlying the Miraflores site could damage building foundations and concrete pavements. This could result in a *potentially significant* impact.	PS	GEO-3a: Post-tension concrete slab-on-grade foundations shall be used in residential units to help reduce the potential impacts of expansive soils. Construction activities shall provide proper moisture conditioning of the sub-grade soils under building foundations and concrete pavements to mitigate the potential impacts of expansive soils. Slab foundations shall be designed by a structural engineer to according to the following parameters: ♦ Slab foundations shall accommodate 3 inches total soil movement and 1 inch in 25 horizontal feet differential soil movement. ♦ The subgrade of the building pad shall be presoaked to at least 7 percent over the optimum moisture content for a depth of 12 inches. Building pads shall not be allowed to dry out to less than the recommended moisture content prior to the construction of the slab. The soil engineer shall check the moisture content prior to the placement of moisture vapor retarder.	LTS
		GEO-3b: To reduce the effects of expansive soils on exterior concrete flatwork such as sidewalks, walkways and driveways, the following measures shall be incorporated during subgrade preparation: ♦ The subgrade in these areas shall be scarified to a depth of at least 12 inches, properly moisture conditioned to at least 5 percent optimum moisture content and compacted between 85 and 90 percent relative compaction. ♦ The moisture content of subgrade soils shall be checked immediately prior to the placement of baserock or concrete (if supported directly on the subgrade). ♦ Any previously compacted subgrade soils that are disturbed during utility	

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		trench excavation and backfilling shall be uniformly moisture conditioned to at least 5 percent above optimum moisture content and recompacted to between 85 and 90 percent relative compaction to provide a smooth and unyielding surface.	
GREENHOUSE GAS EMISSIONS			
The project includes design features that reduce greenhouse gas emissions (GHGs) under 28 percent below business as usual; thus, there are no potentially significant impacts regarding GHGs and no mitigation measures are required.			
HAZARDS AND HAZARDOUS MATERIALS			
The project includes approval and implementation of a Remedial Action Plan; thus, there are no potentially significant impacts related to hazards and hazardous materials and, no mitigation measures are required.			
HYDROLOGY AND WATER QUALITY			
HYDRO-1: The restoration of Baxter Creek could increase the potential for erosion, which if not addressed could result in violation of water quality standards or waste discharge requirements. This is considered a *potentially significant* impact.	PS	HYDRO-1: The following measures shall be incorporated into the restoration design of Baxter Creek to reduce the potential for erosion: ♦ Conduct hydrologic flood modeling to determine the appropriate width and design of the creek channel to disperse creek flow velocity and convey water without increasing erosion. ♦ Cut creek banks at gradients no steeper than two-feet horizontal to one-foot vertical (2H:1V) to reduce the risk of erosion in the creek channel. ♦ Plant native vegetation within the creek channel and floodplain to provide groundcover to prevent erosion from bare soils. ♦ Where flood modeling indicates unavoidable increases in water velocity, use soil bioengineering in areas of the restored channel. (Soil bioengineering is the use of structural support and vegetative cover of natural materials to provide structure and support to prevent creek bank erosion and restore natural stream habitat.) Include the use of woody cuttings and poles	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		or posts collected from native plants to provide structural support, control creek bank erosion and restore natural stream habitat. Exact methods used and locations would be determined through further planning and design. ♦ Channel hardening would be used as needed at the transition between the restored channel and culvert outfalls and infalls to prevent erosion. Channel hardening would be limited to areas where soil bioengineering is incapable of addressing the potential for erosion due to high velocities caused by supercritical flow.	
HYDRO-2: The restoration of Baxter Creek would alter site drainage and runoff patterns, which could potentially result in erosion and on- and off-site flooding. This is considered a *potentially significant* impact.	PS	HYDRO-2: To address risks associated with erosion and flooding, the following features shall be incorporated into the final creek restoration design: ♦ Locate the creek channel within a wide floodplain, with widths throughout most of the floodplain at approximately 120 feet to 140 feet wide to provide increased capacity for out-of-channel flooding. ♦ Conduct hydrologic flood modeling to assess the effects of detention storage on the system. The model run will be used to design flood detention storage or peak attenuation as needed to meet the NPDES C.3 regulations. ♦ Incorporate creek bank stabilization measures, including grading, bioengineering and hardening, in the final design to demonstrate that erosion and flooding impacts are mitigated. ♦ Incorporate landscaping throughout the creek channel and floodplain to prevent erosion. ♦ Design floodwalls and landscape berms to increase storage of flows within the creek channel and accommodate break-out flows at the downstream end of the restored creek at Wall Avenue. Based on the modeling results,	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		the dimensions and placement of floodwalls and landscaped berms would be determined.	
LAND USE			
There are no potentially significant impacts regarding land use; therefore, no mitigation measures are required.			
NOISE			
NOI-1: The first row of residences along the north and east may be exposed to noise levels that exceed the Richmond General Plan and HUD guidelines. This could result in a *potentially significant* impact.	PS	NOI-1a: During final design of the project, a detailed acoustical analysis of exterior and interior noise reduction requirements and specifications shall be conducted by a qualified Acoustical Specialist in accordance with City of Richmond and HUD standards.	LTS
		NOI-1b: During the final site plan design, noise-sensitive outdoor use areas shall be located away from Interstate 80 and BART wherever possible. Noise-sensitive spaces shall be shielded with buildings or noise barriers whenever possible to maintain exterior noise levels of 65 L_{dn} or less at multi-family housing. Potential noise barrier locations are shown in Figure 4.11-4.	
		NOI-1c: Design and construction of noise barriers shall be incorporated to reduce BART noise at private exterior use areas at multi-family homes proposed in the north part of the site to 65 L_{dn} or less. Design and construction of noise barriers shall be incorporated to reduce Interstate 80 traffic noise at ground-level outdoor use areas of multi-family homes along the eastern portion of the site bordering the open space area (i.e. near Interstate 80). Preliminary calculations indicate that 6- to 8-foot high walls or solid fences would be necessary to protect these areas from BART and traffic noise. The final detailed design of the heights and limits of these barriers shall be completed at the time that the final grading and site plans are submitted.	

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		NOI-1d: A project-specific acoustical analysis where exterior levels exceed 60 dBA L_{dn} shall be conducted. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as those listed below would adequately reduce interior noise levels to 45 dBA L_{dn} or lower. ♦ Building sound insulation shall be provided for a minimum of 5 decibels additional sound attenuation (minimum 25 dBA exterior-to-interior noise reduction) at first and second stories, and 10 decibels (minimum 30 dBA exterior-to-interior noise reduction) at third stories or higher. ♦ Special building construction techniques including sound-rated windows, doors, building façade treatments, sound-rated wall constructions and acoustical caulking) may be required for new residential uses adjacent to Interstate 80 and BART.	
NOI-2: Construction and remediation of the project would generate noise and result in a substantial noise level increase at adjacent residential land uses for a temporary period of time. Construction noise could intermittently exceed the limits set in the Richmond Noise Ordinance. This could result in a *potentially significant* impact.	PS	NOI-2a: Prior to initiation of the project, the contractor shall prepare and submit a noise monitoring plan for the construction and remediation phases to the City. The noise monitoring plan shall identify monitoring locations and frequency, instrumentation to be used, and appropriate noise control measures that can be incorporated. The plan shall include the following provisions: ♦ Noise levels shall be measured for comparison to the noise limits set forth in the Richmond Noise Ordinance. ♦ Noise levels shall be monitored at locations representing the highest noise exposure levels to the west and south of the project site. ♦ Noise monitoring shall occur at the beginning of each major phase of construction and remediation, and/or when noise levels are expected to change.	LTS

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		NOI-2b: Noise-generating construction and remediation activity shall comply with City construction noise standards and shall be limited to daytime hours.	
		NOI-2c: All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment. NOI-2d: Stationary noise-generating equipment shall be located as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.	
		NOI-2e: Construction and remediation equipment shall utilize state of the art noise suppression techniques and be shielded with temporary noise barriers to reduce temporary, construction-related noise impacts.	
		NOI-2f: The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction and remediation activities. This plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction and remediation activities and the event schedule can be scheduled to minimize noise disturbance.	
		NOI-2g: A "disturbance coordinator" shall be designated who would be responsible for responding to any local complaints about construction and remediation noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the construction schedule. The City shall be responsible for designating a noise disturbance coordinator and the individual project sponsor shall be responsible for posting the phone number and providing construction schedule notices.	

TABLE 2-1 **SUMMARY OF IMPACTS AND MITIGATION MEASURES** (CONTINUED)

Potentially Significant Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
		NOI-2h: During construction and remediation, trucks and equipment shall be running only when necessary.	
NOI-3: Buildings within 100 feet of the BART tracks could result in exposure of persons to excessive ground-borne vibration levels. This could result in a *potentially significant* impact.	PS	NOI-3: For residential buildings to be constructed within 100 feet of the BART tracks, an on-site vibration monitoring study and building design study shall be completed pursuant to Federal Transit Agency Guidelines during project design. Based on the results of the vibration study, control measures to reduce floor vibrations to acceptable levels, such as foundation stiffening, shall be designed and implemented.	LTS
POPULATION AND HOUSING			
Since no potentially significant impacts related to population and housing were identified, no mitigation measures are required.			
PUBLIC SERVICES AND RECREATION			
Since no potentially significant impacts related to public services and recreation were identified as a result of the proposed project, no mitigation measures are required.			
TRAFFIC AND CIRCULATION			
Since no potentially significant impacts to traffic and circulation were identified, no mitigation measures are required.			
UTILITIES AND INFRASTRUCTURE			
Since no potentially significant impacts to utilities and infrastructure were identified, no mitigation measures are required.			

3 REVISIONS TO THE DRAFT EIR

Corrections to the text and graphics of the Draft EIR are contained in this chapter. Underline text represents language that has been added to the EIR; text with ~~strikethrough~~ has been deleted from the EIR.

Page 2-2, first bullet point, is changed as follows:

- Incorporate historic features of the site into the project design. The following components are proposed in the Miraflores Housing Development Plan to acknowledge the former nursery use of the site while also allowing housing development:
  - Restore and retain on-site the ensemble of the primary Sakai House, adjacent water tower, and Greenhouse 20, as well as ~~and~~ the primary Oishi House and either Greenhouse 9 or 17~~, on site~~. ....

Page 2-4, last paragraph, Impact CR-1, is changed as follows:

Impact CR-1: Although the most significant structures from the Sakai nursery and two structures from the Oishi Nursery would be retained on-site, implementation of the proposed project would result in demolition of other contributing structures on-site and therefore would cause a significant adverse impact to historical resources.

Page 3-3, new text has been added before the heading C. Project Site Location:

C. Project Benefits

Implementation of the project would provide a range of benefits to the future residents of the site, the surrounding neighborhoods, and the wider communities of Richmond and the Bay Area. These benefits include:

- The development of up to 336 units of affordable and market-rate housing on a vacant and deteriorated infill site near transit;
- The restoration of Baxter Creek and the provision of active and passive recreational space;

- The on-site rehabilitation and reuse of historical resources and the development of a publicly-accessible, interpretive exhibit to communicate the history of the Japanese American flower-growing industry in the Bay Area;
- The remediation of extensive soil contamination on-site to a level safe enough for human occupancy; and
- The creation of living-wage jobs in hazard remediation, abatement and construction.

~~C.~~D. *Project Site Location*

Pages 3-12 through 3-13, last paragraph, is updated as follows:

The Miraflores site soils have been impacted by the use of pesticides, lead-based paints and petroleum-related products related to the historical nursery operations. Three known, inactive Underground Storage Tanks (USTs), a hydraulic lift, and other nursery related equipment and structures remain on site and would be removed during proposed cleanup activities, except for those structures that would be relocated and preserved. Lead-based paint and asbestos have also been detected on structures. Groundwater under the site has been found to contain petroleum, ~~and~~ benzene and volatile organic compounds. The latter ~~, which~~ were not used in historical nursery operations at the site. Investigations have shown that some of the groundwater contamination resulted from the USTs~~ and off-site source(s)~~, but the volatile organic compound contamination is of an indeterminate source and no on-site source has been identified.

Page 3-13, under 1. Development Program, is revised as follows:

- Up to 226 for-sale market rate residences, in a combination of attached and detached single-family homes.
- Up to 110 affordable rental units for seniors.

Page 3-14, Figure 3-5, has been changed to identify the locations of the Sakai House, water tower, Greenhouse 20, and the pedestrian and bicycle path, as shown on the following page, and to show where the Oishi House and Greenhouse 9 or 17 would be relocated in the open space area along Interstate 80.

Page 3-15 through 3-16, last paragraph under a. Affordable Housing and b. Market-Rate Housing, is updated as follows:

> The affordable housing component of the project would be comprised of up to 110 affordable rental units for seniors...
>
> The market-rate housing component of the project would be comprised of up to 226 for-sale units in a combination of attached and detached single-family units in two- and three-story buildings. Three-story buildings would consist of a townhouse unit with a single-story unit either on the first floor or third floor. These would be arranged around shared courtyards with landscaping. Of the 226 market-rate units, approximately 5 percent (or 11 units) would be one-bedroom, 25 percent (or 57 units) would be two-bedroom, 60 percent (or 135 units) would be three-bedroom, and 10 percent (or 23 units) would be four-bedroom.

Page 3-16 through 3-17, second paragraph after 3. Green Building and bulleted items, are updated as follows:

> To ~~The project would incorporate the following sustainability features to~~ achieve LEED-ND ~~credits~~Gold certification, the Agency has committed to, among other things, incorporating the following sustainability features into the design of the project:
>
> - The project would be developed on a brownfield site.
> - Construction and demolition debris would be recycled or salvaged.

FIGURE 3-5

PROPOSED MIRAFLORES HOUSING DEVELOPMENT PLAN

- The project would include a mix of housing types and sizes. The affordable housing component of the project would be maintained at specified affordability levels for a minimum of 15 years.
- The site would achieve a net density of at least 30 units per acre.
- Transit access would be available within a ½-mile of the project site.
- The site would be designed for universal accessibility.
- The project would seek to provide a vehicle-sharing program on-site.
- The project would implement a comprehensive stormwater management plan, including the use of p~~P~~ermeable paving ~~would be used~~ on non-street surfaces ~~throughout the site,~~ such as courtyards, alleyways and drive courts, to reduce stormwater runoff throughout the site.
- The project would employ indoor and outdoor water use reduction strategies.
- The project would retain and rehabilitate five existing historic structures on-site.
- The project would include approximately 4 ~~four~~ acres of open space along Interstate 80, and a 4,250-square-foot park. The open space areas would be protected in perpetuity.
- The project's lighting systems would be designed to reduce light pollution from shared portions of the project.

Page 3-18 through 3-19, text and bullet points under 5. Parking are updated as follows:

Parking would be provided for residents and visitors throughout the Miraflores Site. The Richmond Zoning Ordinance requires two off-street parking spaces per single-family attached or detached unit, and one space for every two units in a senior multifamily complex, plus one space for each employee on a main shift. The parking lots adjacent to the affordable senior complex would provide the required 0.5 spaces per unit. Un-

der the Planned Area Zoning District, however, the project would deviate from the off-street parking requirements for the market-rate housing. Parking would consist of the following components:

- ~~The senior housing component would provide approximately 36 spaces in parking lots adjacent to the complex.~~
- The market-rate housing would provide 1.5~~233 covered,~~ off-street spaces per unit. ~~and 27 uncovered spaces in parking lots.~~
- On-street parking would be provided throughout the Miraflores site.

Page 3-19, first paragraph under 6. Historic Resources, is updated as follows:

The project proposes to rehabilitate on-site, in accordance with the Secretary of the Interior's standards, the main Sakai House, water tower and Greenhouse 20. These would be located in the center of the site next to the tot lot and park. The structures would be moved in their current configuration approximately 30 feet to the southeast from their present location to allow for the development of Endo Way. The main Oishi House and either Greenhouse 9 or 17 would be rehabilitated and relocated to the open space area along Interstate 80. ~~on site to the west side of Oishi Drive.~~ The structures would be rehabilitated for adaptive reuse as community meeting spaces and business offices for the agricultural activities that could occur in the open space area.

Prior to demolition of the remaining buildings on-site, the City will meet with any nonprofit groups interested in preserving additional greenhouses, and any additional greenhouses slated for rehabilitation by such groups could be relocated to a portion of the open space area along Interstate 80 dedicated to agricultural uses at their expense.

Page 3-20, first paragraph under 8. Agricultural Production, is updated as follows:

> Part of the open space area along Interstate 80 would be available for the cultivation of agricultural crops and flowers ~~in raised beds~~ by community residents or small-scale commercial enterprises. Prior to the demolition of existing buildings, nonprofit organizations interested in preserving additional historic greenhouses would have the opportunity to enter into an agreement with the City to rehabilitate and relocate greenhouses to the open space area at their expense in exchange for use of the greenhouses for agricultural activities. If no additional existing greenhouses are rehabilitated and relocated to this area, new greenhouses similar in form to the historic greenhouses could be constructed in this location to house the agricultural activities. A small parking lot located at the end of Ohio Avenue in the open space area would provide a staging area for these growing activities.

Page 4.3-17, second paragraph, is updated as follows:

> Existing structures likely contain asbestos that would have to be removed. Soil contamination at the site relates to historical nursery operations and includes pesticides, lead and petroleum-related products. Groundwater contamination includes petroleum hydrocarbons as well as volatile organic compounds ~~from an off-site source~~.[2] The....

Page 4.3-27 (last paragraph which continues on page 4.3-28), is updated as follows:

> . . . . ~~Figure 4.3-1 shows the modeled roadway links and receptors used for the DPM risk assessment.~~ For cancer risk, which is the main concern with diesel particulate matter, the BAAQMD considers a risk of contracting cancer that is 10 in one million chances or greater to be significant. Particulate matter can also contribute to asthma and other respiratory illnesses. Non-cancer health risks such as asthma are more difficult to quan-

tify from a particular air pollution source such as a freeway compared to estimating cancer risk. Criteria to quantify the potential for asthma or other respiratory effects have not been established or adopted by the US EPA, CARB, or BAAQMD. Recently, however, BAAQMD has proposed $PM_{2.5}$ concentration-based criteria that would apply in Richmond if adopted as proposed. Specifically, BAAQMD has proposed 0.3 μ/m^3 annual average concentration for $PM_{2.5}$ as a risk threshold.[4] This concentration guideline would be the criteria most closely related to respiratory effects such as asthma, and BAAQMD has recommended that this be applied when siting new receptors near sources of $PM_{2.5}$. To be conservative, a $PM_{2.5}$ concentration assessment was conducted to evaluate asthma risk. As discussed below, the health risk assessments showed that the risks for cancer and asthma were not ~~potentially~~ significant. Figure 4.3-1 shows the modeled roadway links and receptors used for the DPM risk assessment and PM2.5 modeling.

[4] Bay Area Air Quality Management District CEQA Guidelines Update, *Public Workshop: Staff Recommended California Environmental Quality Act (CEQA) Thresholds of Significance*, September 8, 9, 10, 2009. Slide 15.

Page 4.3-28, the title for edited Figure 4.3-1, has been revised to: "Receptors Used for DPM Risk Assessment and $PM_{2.5}$ Concentration Modeling."

Page 4.3-35, under D.1.d, a new section is added, as follows:

vi. Asthma Risk

While criteria to quantify the potential for asthma or other respiratory effects have not yet been formally established or adopted by any federal, State, or regional agency, the U.S. EPA has recently developed proposed Prevention of Significance Deterioration (PSD) increments and significant impact levels (SILs) for $PM_{2.5}$ for toxic air contaminants (TAC) sources. Specifically, the EPA has proposed three possible SILs for the annual average $PM_{2.5}$ concentration: 1.0 $\mu g/m^3$, 0.8 $\mu g/m^3$, and 0.3

Source: Illingworth & Rodkin, Inc.

FIGURE 4.3-1

RECEPTORS USED FOR DPM RISK ASSESSMENT AND $PM_{2.5}$ CONCENTRATION MODELING

$\mu g/m^3$.[7] Thus, if modeled concentrations of $PM_{2.5}$ for a source are below the selected increment, then the EPA would consider the contribution to be *de minimus*, or not to have a measurable effect on air quality.

Similarly, BAAQMD has recently proposed $PM_{2.5}$ concentration-based criteria that would apply to new TAC sources and new receptors located near existing TAC sources, such as freeways. BAAQMD's proposed concentration-based $PM_{2.5}$ criteria of 0.3 $\mu g/m^3$ is based on the most stringent of the EPA's potential thresholds.[8] The California Ambient Air Quality Standard for $PM_{2.5}$ is 12 0.3 $\mu g/m^3$ annual average concentration, and the national Ambient Air Quality Standard is 15 0.3 $\mu g/m^3$ for annual average concentrations.

Even though these are only proposed thresholds, to be conservative, concentrations of $PM_{2.5}$ produced from Interstate 80 traffic were modeled to evaluate the asthma-related impact of exposure of future residents of the Miraflores site to Interstate 80 traffic air pollution. BAAQMD proposes that, for cumulative impacts, all sources within 1,000 feet of a source should be modeled. Interstate 80 is the only major $PM_{2.5}$ source that was identified within 1,000 feet of the project site, and therefore, the only source modeled.

Modeling results are included in Appendix V. Concentrations were modeled for the receptors (housing units) on the Miraflores site. The $PM_{2.5}$ modeling approach followed a similar methodology to that for DPM impacts, except that $PM_{2.5}$ emissions from all vehicles were modeled, rather than just the emissions from diesel vehicles, because all vehicle types are subject to producing $PM_{2.5}$. $PM_{2.5}$ emissions were modeled for the earliest year that the market-rate housing closest to Interstate 80 would be occupied, which was assumed to be 2013. The affordable senior housing would potentially be occupied in the year 2012, but these units would be located approximately 480 feet from the freeway and have modeled concentrations that are about 50 percent of those for homes closest to Interstate 80. While traffic is predicted to increase in the future, $PM_{2.5}$ emis-

sion factors are decreasing at a faster rate, due mainly to more stringent controls on diesel engines. As a result, the earliest year of occupancy for the units closest to the freeway would represent the year with the highest $PM_{2.5}$ concentrations in the foreseeable future.

The $PM_{2.5}$ modeling results indicate that the highest annual average concentrations for the first full year of occupancy for receptors closest to the freeway would be approximately 0.2 $\mu g/m^3$. This concentration level would be approximately a third lower than the BAAQMD staff-recommended draft BAAQMD guidelines of 0.3 $\mu g/m^3$, and is less than 2 percent of the health-based State and National Ambient Air Quality Standards for $PM_{2.5}$. While the affordable senior housing would potentially be occupied in 2012, these units have $PM_{2.5}$ concentrations that are substantially reduced as compared to those units closest to Interstate 80. As a result, there would be a *less-than-significant* impact related to asthma and respiratory illnesses from exposure of receptors to $PM_{2.5}$ emissions from Interstate 80.

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[7] U.S. EPA, Code of Federal Register, 40 CFR Parts 51 and 52, Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM2.5) – Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC); Proposed Rule. Friday, September 21, 2007, 54115.C.

[8] BAAQMD, *California Environmental Quality Act Draft Air Quality Guidelines*, September 2009. (http://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/CEQA/Workshop%20Draft%20-20BAAQMD%20CEQA%20Guidelines%209-2009.ashx).

Page 4.3-37, Mitigation Measure AQ-1, the fifth bullet point is updated and new bullet points are added, as follows:

....

- Conduct renovation and demolition activities and removal or disturbances of any material that contain asbestos, lead paint or other haz-

ardous pollutants in accordance with BAAQMD and DTSC rules and regulations.

- Install wheel washers for all exiting trucks, or wash off the tires or tracks of trucks and equipment leaving the site.
- Suspend dust-producing activities during windy periods when dust control measures are unable to avoid visible plumes.
- Limit the area subject to excavation, grading and other construction or demolition activity at any one time.
- Suspend use of all construction equipment operations during second stage smog alerts.
- ....
- Properly tune and maintain equipment for low emissions.
- Configure construction parking to minimize traffic interference.
- Consolidate truck deliveries when possible.
- Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abutters and the general public.
- Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows.
- Implement a carpool program for construction workers.
- Prohibit the use of conventional cut-back asphalt for paving and restrict the maximum VOC content of asphalt emulsion.
- Use low-ROG paints and other low-ROG construction materials.

Page 4.4-1, second paragraph, is updated as follows:

> This section is based on review of the *Wetland/U.S. Waters Delineation for the Miraflores Property* prepared in April 2005 and *Biological Resources Findings Report for the Miraflores Property* prepared in May 2004 by Olberding Environmental, Inc. These reports are included as Appendix M and Appendix N, respectively.

Page 4.4-16, Mitigation Measure BIO-1, is revised as follows:

> BIO-1: Prior to issuance of a grading permit that will impact the creek, a Section 401 Certification shall be obtained from the San Francisco Bay Regional Water Quality Control Board (RWQCB), a Nationwide Wetlands Permit obtained from the Corps, and a Streambed Alteration Agreement from the California Department of Fish and Game (CDFG).

Page 4.5-1, second paragraph, is updated as follows:

> A detailed description of historical and cultural resources is provided by the following reports, which are included in the Appendices E through J to this EIR:

Page 4.5-7, last sentence of the first paragraph, is updated as follows:

> . . . . Such an MOA evidences an agency's compliance with Section 106 and the Agency is obligated to follow its terms (36 CFR Part 800.6(c) – Protection of Historic Properties). The MOA is contained in Appendix I.

Page 4.5-11, first paragraph under B. Existing Conditions, is updated as follows:

> This section describes the existing cultural setting of the Richmond region, and the Miraflores site setting, as summarized in the *Archaeological*

Survey Report, Miraflores Housing Development Project by Suzanne Baker, Archaeological/Historical Consultants, June 2004, unless otherwise indicated. This report is contained in Appendix E.

Page 4.5-12, second-to-last paragraph, is updated as follows:

In 1899, the immediate Miraflores project area was part of a 142-acre property located to the west of San Pablo Avenue, owned by Thomas B. Bishop. Japanese immigrants were the first pioneers in the flower industry in the Bay Area, beginning in Oakland in 1885. Japanese American families began operating nurseries in Richmond as early as 1900. ~~1892.~~

Page 4.5-13, second-to-last paragraph, is updated as follows:

Eventually, the project area and surroundings held the most intense concentration of Japanese American families and their nurseries, which specialized in growing carnations, roses and other cut flowers, primarily for the wholesale market through the San Francisco Flower market. Nurseries in the project began around~~about~~ 1908. In addition, this neighborhood housed the Japanese Language School, "a cultural hub for nearly all members of the West Coast Nihonmachis (Japantowns)."[7] The Miraflores site was formerly occupied by three nurseries operated by Japanese-American families: the Sakai, Oishi, ~~and Maido~~ Maida, Endo, Mayeda, Fukushima and Hoshi families.

Page 4.5-14, beginning with footnote in last sentence under 2. Site Setting, is updated as follows:

.... This area prehistorically must have been an extremely rich ecotone, with freshwater from the nearby creeks and floral and faunal resources readily accessible from the bay, marsh, grasslands, and nearby woodlands in the foothills to the east.[8]

a. Paleontological Resource

Archives at the Bancroft Library and Earth Sciences and Map Library at the University of California, Berkeley, were consulted as part of the *Archeological Survey Report, ~~for the~~ Miraflores Housing Development Project* conducted in June 2004 by Archaeological/Historical Consultants. A record search took place at the Northwest Information Center of the California Historic Resources Information System (CHRIS) at Sonoma State University, Rohnert Park. Records indicate that the Miraflores project area had not been previously inspected by an archaeologist. One survey had been conducted adjacent to the project in 1982 and three surveys located within a quarter mile of the east of the project site have also been completed.

b. Archeological Resources

According to the *Archeological Survey Report, ~~for the~~ Miraflores Housing Development Project*, three prehistoric archaeological sites are located within a half mile of the project area to the east of Interstate 80. . . . .

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[8] ~~*Extended Phase I*~~ *Archeological Survey Report, ~~for the~~ Miraflores Housing Development Project*, Archaeological/Historical Consultants, June 2004. ***[this is okay]***

Page 4.5-16, first paragraph after bullets, is updated as follows:

One historic property, site P-07-002599, is recorded immediately adjacent to the north boundary of the project property. This is the railroad right-of-way of the Atchison, Topeka and Santa Fe Railroad. The berm for the old railroad bed is still extant, although without rails or ties. The current BART tracks are just north of and parallel to the berm, ~~apparently~~ making use of the old right-of-way.

Page 4.5-17 is updated as follows:

> . . . . Sakai and Oishi properties hold the most extensive group of pre-World War II historic resources in the entire State of California that are associated with the Japanese-American flower-growing industry. These nurseries are the last remnants ~~were the only remaining nurseries founded by Japanese Americans before WWII in the entire Bay Area, and were the last remaining~~ of Richmond's once vibrant community of Japanese-American flower growers.
>
> The original Sakai House, located at 99 South 47th Street, is a Craftsman bungalow built in 1921. A stucco Spanish Revival house on the western edge of the Sakai lot, built in 1936, was the last occupied house on the site, with nursery workers living there until 2006. According to the 2004 *Historical Architecture Evaluation* by Donna Graves, et. al., the Sakai House, water tower and Greenhouse 20 (the oldest and smallest greenhouse of the Sakai nursery), which are situated in close proximity on the Sakai property, are particularly significant.[13] This report is included as Appendix F.
>
> The Oishi House, a wood-frame house at 4801 Wall Avenue, ~~Street,~~ is believed to have been built in 1905 and moved to its present location in 1925.[14] . . . .

Page 4.5-18, last paragraph, is updated as follows:

> The proposed project would retain on-site the ensemble of the main Sakai House, Greenhouse 20 and the water tower, as well as ~~and~~ the main Oishi House and either Greenhouse 9 or 17. The Sakai structures would be rehabilitated in accordance with the Secretary of the Interior's Standard for Treatment of Historic Properties and moved approximately 30 feet southeast of their present location. The Oishi House and either Greenhouse 9 or 17 would be rehabilitated and relocated to the open space area along Interstate 80. ~~would be relocated to the west side of Oi-~~

~~shi Drive near the southern border of the site.~~ All other existing buildings on the site would be demolished. Prior to the removal of the rest of the buildings on site, historical buildings would be documented and interested parties would be notified in accordance with the provisions of the MOA.

Page 4.5-18, after the last paragraph, the following text has been added:

Prior to commencement of the project, a qualified preservation architect would be retained to determine which Oishi greenhouse (Greenhouse 9 or Greenhouse 17) could be rehabilitated and relocated in the most successful and economical manner. The preservation architect would also develop and oversee the implementation of a detailed plan to protect the Sakai House, the water tower, Greenhouse 20, the Oishi House, and Oishi Greenhouse 9 or 17 during the demolition, remediation, and construction phases of the project, and until the historic structures would be put into regular use. The protective measures would be based on a thorough evaluation of the condition and character-defining features of each historic structure to be retained.[15] The final list would include the following representative protective measures.

For structures that would remain on-site during demolition, remediation, and construction, the following representative measures, or other equally protective measures, would be used:

- When feasible, drilled piers would be used instead of pile driving for foundation construction.
- In cases where pile driving would be necessary, the following measures would be implemented:
  - A preservation architect and structural engineer would determine base conditions and acceptable vibration thresholds.
  - Vibration monitoring equipment would be attached to historic structures during foundation construction efforts.

- Vibrations would be continually monitored and historic structures would be inspected for damages.
- Construction would be halted if vibration levels were detected above the established thresholds, or if damage were found when compared with baseline conditions.
- Any sensitive interior features would be cushioned and buttressed by padded wood supports.

♦ When possible, hand demolition would be used when conventional demolition would cause excessive vibration.

♦ Delivery, entry, and exit points for trucks would be located away from the historic structures.[16]

The following representative measures, or other equally protective measures, would be used to protect structures that would remain on-site during demolition, remediation, and construction from physical impact:

♦ Protective barriers would be constructed around all structures.

♦ In cases where adjacent construction would rise above historic structures, plywood sheets would be placed over roofs to distribute the force of any dropped materials, and horizontal netting would be placed to protect vulnerable rooftop features.

♦ Windows would be covered with plywood, and layers of cushioning materials would be placed between the plywood covering and especially fragile windows.

♦ Scaffolding and debris netting would be erected against vulnerable wall surfaces, and plastic sheeting would be used to provide additional protection in areas where cleaning solutions could come into contact with historic façades, windows, and other surfaces.[17]

For structures that would be disassembled prior to being moved to their new location, the following representative measures, or other equally protective measures, would be used:

- The building's historical features would be accurately documented through measured drawings and photographs.
- The building's components would be accurately labeled.
- The building components would be carefully secured from physical impact.

The following representative measures, or other equally protective measures, would be used for the reassembly of historic structures:

- The historic features of the building would be accurately reassembled based on documented or physical evidence.
- Paints and finishes would be physically isolated from construction operations by means of protective barriers and coverings.
- Where applicable, flooring would be protected from damage caused by abrasion, falling objects, dust and dirt, and spilled liquids.[18]

For structures that would be temporarily stored off-site during the demolition, remediation, and construction phases, the following procedures, among other protective measures, would be followed:

- The historic building components would be stored in a safe, climate-controlled location where they would be protected from vibration, moisture, physical impact, accidental fire, and other potential sources of damage.
- The building components would be stored in protective covering, such as plywood casing.

Structures that would be temporarily stored-off site would be transported to and from their off-site storage location using the following procedures, or other equally protective measures:

- The historic structures would be transported in appropriate vehicles, such as covered trucks, along a designated route to minimize the distance traveled.

- The building components would be carefully protected with the use of appropriate padding.

To protect historic structures from water damage, the following measures, or equally protective measures, would be implemented:

- All buildings would be weatherized to prevent moisture penetration, including leaks and ground moisture.
- Final landscaping and grading of areas adjacent to historic structures would be examined to ensure that rainwater does not flow toward historic resources.[19]

If the historic structures would not be re-occupied immediately after rehabilitation and relocation, the following measures, or other equally protective measures, would be implemented to secure them until returning to regular use:

- A schedule for regular maintenance would be developed.
- Window openings would be fastened, and all doors would be locked.
- The buildings would be structurally stabilized.
- Adequate ventilation would be provided to the interior of each building.
- Utilities would be secured until needed.[20]

---

[15] National Park Service website, "Introduction to Choosing an Appropriate Treatment for the Historic Building," accessed on September 21, 2009. http://www.nps.gov/history/hps/tps/standguide/overview/choose_treat.htm.

[16] Chad Randl, Preservation Tech Notes, Temporary Protection Number 3: Protecting a Historic Structure During Adjacent Construction, Washington, DC: National Park Service, U.S. Department of the Interior, July 2001.

[17] Chad Randl, Preservation Tech Notes, Temporary Protection Number 3: Protecting a Historic Structure During Adjacent Construction, Washington, DC: National Park Service, U.S. Department of the Interior, July 2001.

[18] Dale Frens, Preservation Tech Notes, Temporary Protection Number 2: Specifying Temporary Protection of Historic Interiors during Construction and Repair, Washington, DC: National Park Service, U.S. Department of the Interior, October 1993.

[19] Chad Randl, Preservation Tech Notes, Temporary Protection Number 3: Protecting a Historic Structure During Adjacent Construction, Washington, DC: National Park Service, U.S. Department of the Interior, July 2001.

[20] Park, Sharon C., Preservation Brief 31: Mothballing Historic Buildings, Washington, DC: National Park Service, U.S. Department of the Interior, September 1993. (http://www.nps.gov/hps/TPS/briefs/brief31.htm).

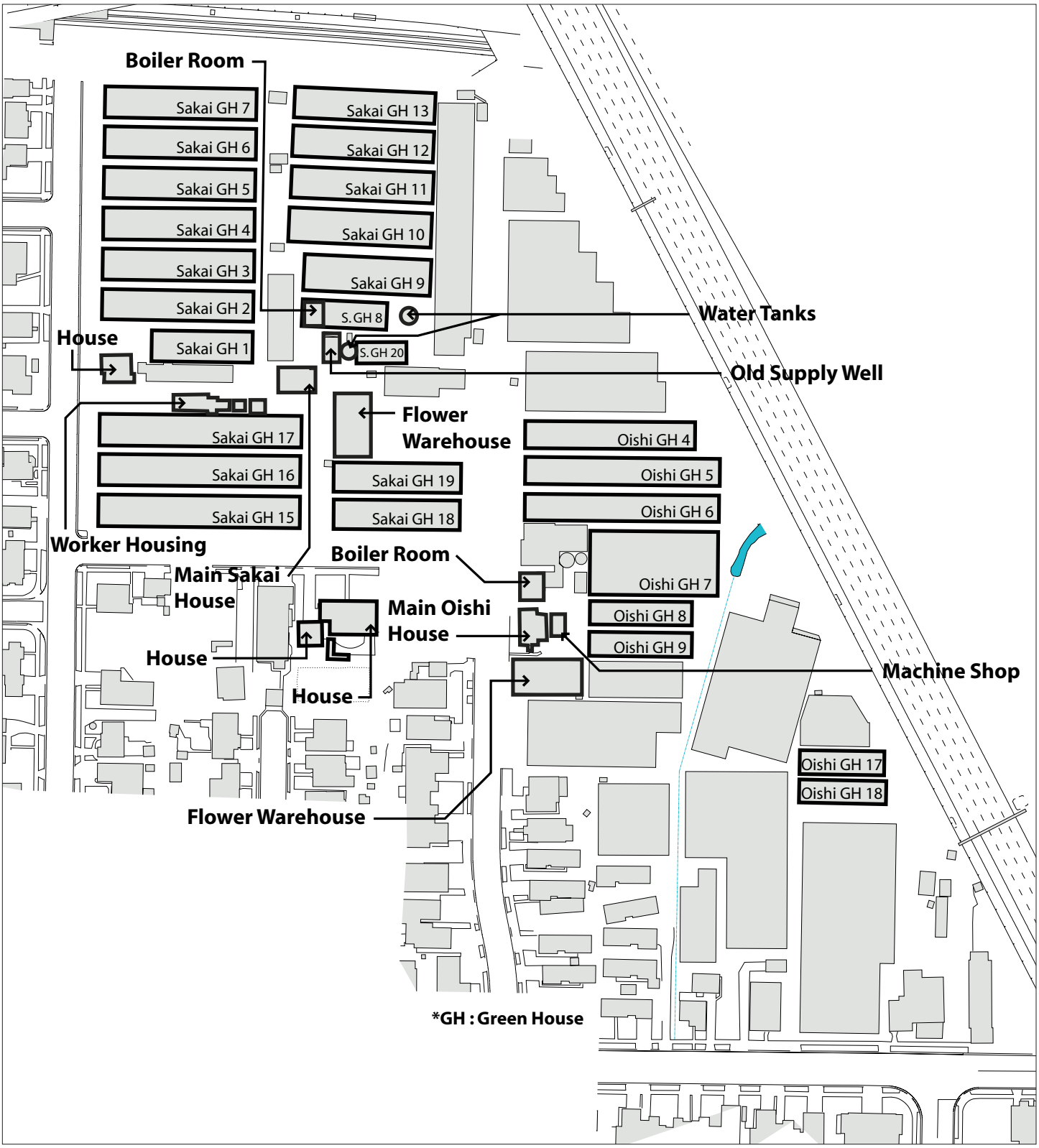
Page 4.5-19, second paragraph, is updated as follows:

The *Finding of Adverse Effect for the Miraflores Residential Project* by Ward Hill in October 2004 was conducted to analyze the potential adverse effects of the Miraflores residential project on the Sakai and Oishi nurseries under the Criteria of Adverse Effect (36 CFR Park 800.5(a)(1)) for compliance with Section 106 of the National Historic Preservation Act. This report is contained in Appendix G.

Page 4.5-23, Figure 4.5-1, has been changed to provide additional building labels as shown on the following page.

Page 4.5-24, second-to-last paragraph, is updated as follows:

. . . . The report concluded that all scenarios analyzed, including the preferred alternative and the In-Place/Low-Density Alternative, were economically infeasible because they would require subsidies beyond the Historic Preservation Tax Credit to cover rehabilitation costs.[15] The *Miraflores Historic Preservation Feasibility Assessment* is contained in Appendix J.



Source: Historic Architecture Evaluation, Donna Graves, Ward Hill and Woodruff Minor, October 2004.

FIGURE 4.5-1

BUILDINGS THAT APPEAR ELIGIBLE FOR THE NATIONAL AND CALIFORNIA REGISTERS

Page 4.5-26, Impact and Mitigation Measure CR-1, are updated as follows:

Impact CR-1: Although the most significant structures from the Sakai nursery and two structures from the Oishi Nursery would be retained on-site, implementation of the proposed project would result in demolition of other contributing structures on-site and therefore would cause a significant adverse impact to historical resources.

Mitigation Measure CR-1: The proposed project would preserve the Sakai House, tank house and Greenhouse 20 of the Sakai nursery on-site. (The proposed project would also include on-site relocation and rehabilitation ~~preservation~~ of the Oishi House and either Greenhouse 9 or 17 of the Oishi Nursery on-site.) Prior to implementation of the project, all existing buildings and landscape features shall be documented, using archival quality photography of the exterior and interior and archival negatives of the original construction drawings. The project ~~City~~ shall also include ~~develop~~ a permanent, interpretive historical exhibit on the site, or if not feasible, at an appropriate public venue, that incorporates information from the historic report, historic photographs, and Historic American Landscape Survey and Historic American Buildings Survey documentation. These measures would reduce project impacts, but not to a less-than-significant level.

Page 4.6-1, second paragraph, is updated as follows:

This evaluation is based on the 2006 *Geotechnical Investigation, Miraflores Housing Community*, prepared by Berlogar Geotechnical Consultants, contained in Appendix L.

Page 4.8-1, bullet points 1 and 6 are updated as follows:

- *Public Participation Plan* by Department of Toxic Substance Control (DTSC), 2006. ~~2009.~~

- . . . .
- Miraflores Housing Development Fact Sheet by Department of Toxic Substance Control (DTSC), 2009. ~~2006.~~

Page 4.8-26, last paragraph, is updated as follows:

> On the basis of the testing conducted at the Sakai nursery, shallow, middle and deeper groundwater is contaminated by petroleum hydrocarbons and VOCs. The source of the petroleum hydrocarbons in groundwater beneath the Sakai property appears to be from the former USTs that were located at the Oishi and Sakai nursery properties and from unknown ~~other~~ off-site source(s).[13] The VOCs in the groundwater beneath the Sakai property are of an indeterminate source and no on-site source has been identified.[14] Remediation of the groundwater underlying the former Sakai nursery property is not required~~,~~ based on the risk evaluation performed to assess the risk presented by upward diffusion of vapors originating from the underlying groundwater, and the fact that groundwater beneath the site is not used for drinking water.[15] Additional groundwater monitoring would be conducted as provided in the RAP. The objective of the groundwater monitoring is to further assess water quality beneath the site.

Page 4.8-32, first paragraph, is updated as follows:

> . . . derlying the former Oishi nursery property is not required based on the ~~basis of the~~ risk evaluation performed to assess the risk presented by upward diffusion of vapors originating from the underlying groundwater, and the fact that groundwater beneath the site is not used for drinking water. Additional groundwater monitoring would be conducted under the RAP.[21] The objective of the groundwater monitoring would be to further assess water quality beneath the site.

Page 4.8-44, second-to-last paragraph, is updated as follows:

> Abatement activities would be conducted for ACM and lLBP prior to demolition or relocation of existing buildings and structures. Abatement activities would include greenhouses, homes and other structures on the Sakai, Oishi, and Maida-Endo properties as identified by PES Environmental, Inc. in the 2006 report *Pre-Demolition Building Materials Survey for Asbestos and Lead-Based Paint, Miraflores Housing Development* (contained in Appendix U). The Carey parcel is presently clear and vacant.

Page 4.8-48, a new bullet point is added after the first bullet point as follows:

- Requiring DTSC notification prior to disturbance of soil beneath the streets that would potentially affect lead encapsulated soil, e.g., activities such as maintenance of utilities located deeper than 5 feet.
- Requiring preparation of a soil management plan prior to disturbance of contaminated soil beneath the streets.

Page 4.9-9, first paragraph under heading 3. Baxter Creek, is updated as follows:

> The description of Baxter Creek is based on the reports Baxter Creek-Adachi Technical Memo and Miraflores/Baxter Creek: Flood Study Technical Memorandum prepared by Restoration Design Group. These reports are included as Appendix Q and Appendix R, respectively.
>
> Baxter Creek originates in underground springs beneath the El Cerrito and Richmond hills and runs in three branches down narrow watersheds through Canyon Trail, Poinsett and Mira Vista Parks. The three branches converge at the intersection of San Pablo and Macdonald Avenues. . . . .

Page 4.9-11, second and third paragraph, are updated as follows:

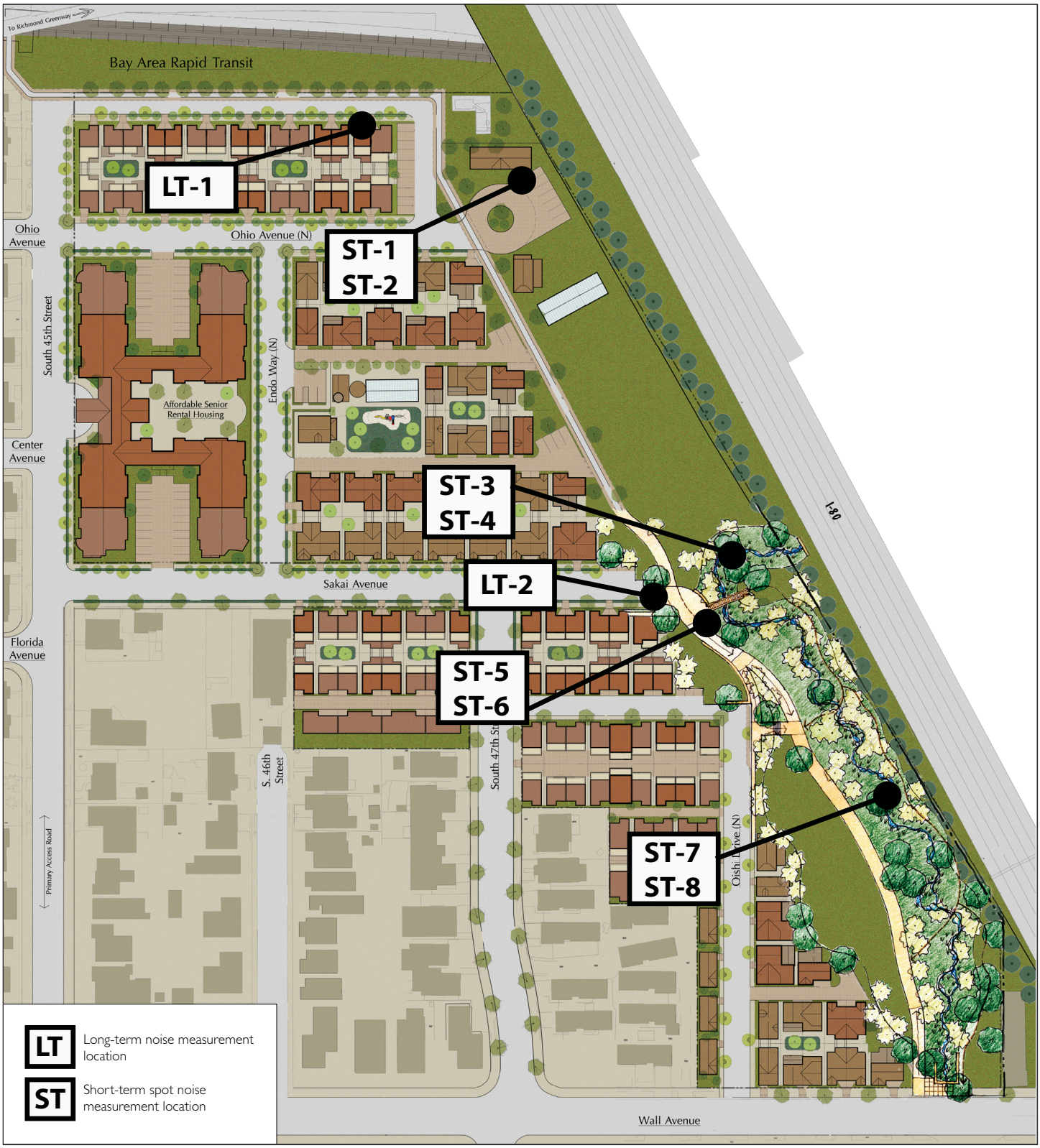
> As discussed in detail in Section 4.8 Hazards and Hazardous Materials of this EIR, investigations by PES Environmental, Inc. and others between 2000 and 2007 determined that groundwater beneath the Miraflores site was contaminated with total petroleum hydrocarbons (TPH), benzene and volatile organic compounds (VOCs), including the VOCs perchloroethylene (PCE) and trichloroethylene (TCE) from off-site or ~~and~~ undetermined sources.[15]
>
> Potential groundwater contamination source material including TPH would be removed from the site under the Remedial Action Plan (RAP). ~~;~~ H~~h~~owever, active groundwater remediation is not proposed in the RAP prepared for the site, and ~~as~~ the risk of vapors emanating from groundwater into future residences was found not to be significant.

Page 4.9-15, first paragraph, is updated as follows:

> The development proposed under the Miraflores Housing Development Plan would result in a slight decrease in impervious surfaces compared to existing site conditions, and a corresponding decrease in stormwater runoff compared to existing site conditions. Runoff calculations were estimated by Restoration Design Group and are contained in Appendix S. Preliminary analysis of stormwater runoff shows that the project would result in a decrease of .02 cubic feet of runoff per second during a 0.2 inches/hour storm event compared to existing conditions.[17] . . . .

Page 4.11-9, Figure 4.11-1 has been updated to show the location of the restored Baxter Creek and the relocated Oishi House and Oishi greenhouse on the site plan.

Page 4.11-20, Figure 4.11-4 has been updated to show the location of the restored Baxter Creek and the relocated Oishi House and Oishi greenhouse on the site plan.



Source: Illingworth & Rodkin, Inc.

FIGURE 4.11-1

NOISE MEASUREMENT LOCATIONS

Source: Illingworth & Rodkin, Inc.

FIGURE 4.11-4

POTENTIAL NOISE BARRIER LOCATIONS

Page 4.14-1, second paragraph, is updated as follows:

The analysis in this section is based on the *Traffic Analysis for Miraflores Master Plan EIR* prepared by Dowling Associates, Inc. in April 2009. This report is contained in Appendix K.

Page 4.14-28, new text is added before the first chapter as follows:

The HCM method was also used to analyze the effect of project-generated traffic on queuing under cumulative conditions. The results indicated that project-generated traffic would cause the queue to increase by no more than one vehicle on any of the movements at either intersection in the PM peak hour under Cumulative conditions. Specifically, the queue on the following movements would increase by up to one vehicle length:

- Cutting Boulevard/San Pablo Avenue:
  - Eastbound right-turn
  - Northbound left-turn
- Eastshore Boulevard/San Pablo Avenue:
  - Southbound right-turn
  - Southbound left-turn
  - Northbound through

As compared to existing conditions, the traffic volumes at the intersection of Cutting Boulevard and San Pablo Avenue would increase by 1,900 trips during the PM peak hour under the cumulative with project scenario. ....

Page 4.14-21, Table 4.14-4, is updated as follows:

TABLE 4.14-4 **PROJECT TRIP GENERATION**

Housing Type	Units	Generation Rate (Daily)	Daily Trips Total	AM Peak Hour In	AM Peak Hour Out	PM Peak Hour In	PM Peak Hour Out
Senior Housing	110	3.48	383	3	4	6	4
Townhouses	222	5.8	1,287	30	148	78	38
Single-Family Home	4	13.5	54	3	10	4	2
Total	**336**		**1,724**	**36**	**162**	**88**	**44**

Source: Dowling Associates, Inc. 2008.

Page 4.14-29, the text under heading d. Parking Capacity, is updated as follows:

> The Miraflores project proposes to provide 1.5 ~~260~~ off-street spaces per unit for the single-family units~~, for a ratio of 1.2 spaces per unit,~~ and 0.5 ~~36~~ off-street spaces per unit ~~, a ratio of .3 spaces per unit,~~ for the senior housing complex, which would be located in parking lots adjacent to the complex. The project would also provide additional parking lot spaces and on-street parking throughout the site.
>
> The project would be zoned Planned Area, which permits the City to set site-specific, off-street parking requirements for the single-family units. The provision of parking for the senior complex is consistent with the parking requirements for senior multi-family complexes in the Richmond Zoning Ordinance~~would be adequate given that senior residents of the complex would have much lower driving rates than those of the residents of the single-family component of the project~~. The Miraflores site is within a ½-mile of transit, including BART and bus lines, and the project's reduced parking ratios are designed to reduce vehicle miles traveled by~~of~~ residents. ....

Page 5-3, Figure 5-2 has been changed to provide additional building labels as shown on the following page.

Page 6-2, first paragraph under 2. Irreversible Damage from Environmental Accidents, is updated as follows:

> Prior to development, the project site would undergo remediation consistent with the Remedial Action Plan (RAP). This process would result in the site being safe for residential uses. ~~Additionally,~~ The RAP and Health and Safety Plan prepared for the remediation process~~,~~ would reduce potential accidents during site remediation.

Page 6-4, Impact CR-1, has been changed as follows:

> **Impact CR-1:** Although the most significant structures from the Sakai nursery <u>and two structures from the Oishi Nursery</u> would be retained <u>on-site</u>, implementation of the proposed project would result in demolition of other contributing structures on-site and therefore would cause a significant adverse impact to historical resources.

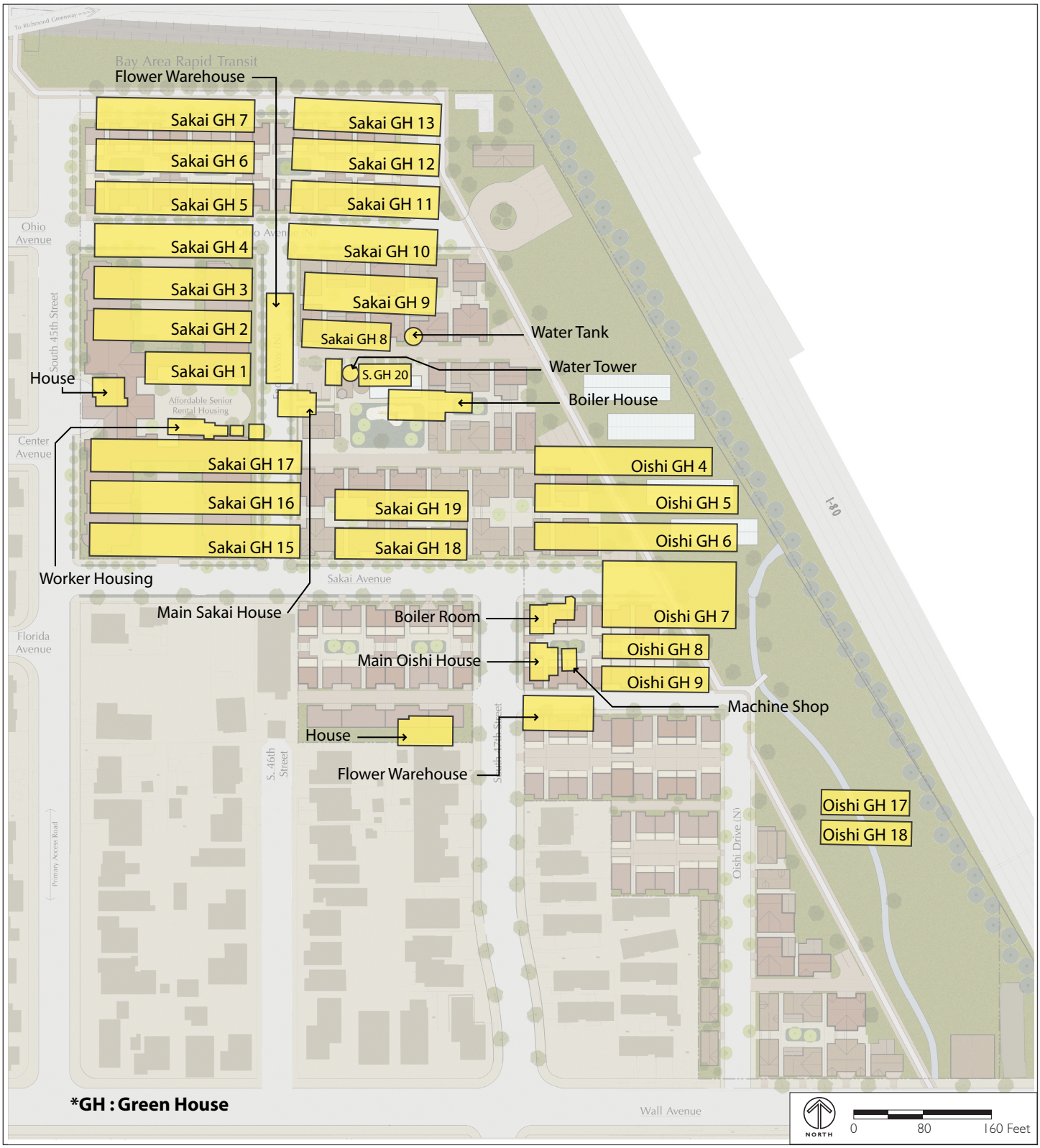


FIGURE 5-2

ALTERNATIVE 3: INCREASED PRESERVATION

4 LIST OF COMMENTORS

Written and public hearing comments were received from the following agencies, organizations and members of the public. The comments are divided according to the nature of their authors, in the following order: Government Agencies (State, Regional and Local), Corporations, Non-Profit Groups and Associations, and Private Individuals. Comments within each category are arranged in chronological order as they were received.

A. Written Comments

Government Agencies (State, Regional and Local)

1. Martha J. Lee, General Superintendent, Rosie the Riveter/WWII Home Front National Historical Park. U.S. Department of the Interior, National Park Service. August 10, 2009.
2. Homayune Atiqee, Project Manager, Brownfields and Environmental Restoration Program, East Bay Urban Infill Team. Department of Toxic Substances Control. August 4, 2009.
3. Lisa Carboni, District Branch Chief, California Department of Transportation. August 12, 2009.
4. Milford Wayne Donaldson, State Historic Preservation Officer, Office of Historic Preservation. August 12, 2009.
5. William R. Kirkpatrick, Manager of Water Distribution Planning, East Bay Municipal Utility District. July 16, 2009.
6. Joanna Pallock, Project Manager, West Contra Costa Transportation Advisory Committee. July 16, 2009.
7. Tom Butt, City Councilman, Richmond City Council. July 25, 2009.

Non-Profit Groups

8. Lisa Owens Viani, Co-Founder, Friends of Baxter Creek. July 6, 2009.
9. Richard Drury, Of Counsel, Weinberg, Roger & Rosenfeld. July 15, 2009.
10. Chizu Iiyama and Don Delcollo, Executive Board Members, Contra Costa Japanese American Citizens League. August 4, 2009.

11. Donna Graves, Project Director, Preserving California's Japantowns. August 3, 2009.
12. Tom Panas, Member, El Cerrito Historical Society. August 10, 2009.
13. Anthony Veerkamp, Senior Program Officer, National Trust for Historic Preservation, Western Office. August 11, 2009.
14. Richard Drury, Of Counsel, Weinberg, Roger & Rosenfeld. August 12, 2009.

Private Individuals

15. Sherry Padgett. July 2, 2009.
16. Robert Sakai, 26429 Chatham Court, Hayward, CA. July 16, 2009.
17. Carol Washington, 4830 Wall Avenue, Richmond, CA. August 11, 2009.
18. Rosemary M. Corbin, 114 Crest Avenue, Richmond, CA. August 12, 2009.
19. Jayma Brown, 525 32nd Street, Richmond, CA. August 12, 2009.
20. Arlen Barnett, 270 South 46th Street, Richmond, CA. August 12, 2009.

B. Public Hearing Commentors

A public hearing on the DEIR was held on July 16, 2009. The following is the number of comments received:

1. S-1. Tom Panas, El Cerrito Historical Society
2. S-2. Paula Shiu, Neighborhood Resident
3. S-3. Katie Lamont, Eden Housing
4. S-4. Commissioner Charles Duncan, Richmond Planning Commission
5. S-5. Commissioner Jovanka Beckles, Richmond Planning Commission
6. S-6. Commissioner Carol Teltschick-Fall, Richmond Planning Commission
7. S-7. Commissioner Sheryl E. Lane, Richmond Planning Commission
8. S-8. Commissioner Carol Teltschick-Fall, Richmond Planning Commission
9. S-9. Commissioner Virginia Finlay, Richmond Planning Commission

5 COMMENTS AND RESPONSES

This chapter includes a reproduction of, and response to, each letter received during the public review period. Each letter is reproduced in its entirety and is immediately followed by responses to the comments in it. Letters and hearing comments follow the same order as listed in Chapter 4 of this Final EIR and are categorized by:

- Written Comments
  - Government Agencies (Federal, State, Regional and Local)
  - Non-Profit Groups/Associations
  - Private Individuals
- Public Hearing Comments

Each comment and response is labeled with a reference number in the margin. Where the same comment has been made more than once, a response may direct the reader to another numbered comment and response. Where a response required revisions to the Draft EIR, those revisions are shown in Chapter 3 of this Final EIR document.

A. Government Agencies (State, Regional and Local)

LETTER #1

United States Department of the Interior

NATIONAL PARK SERVICE
Rosie the Riveter / WWII Home Front National Historical Park
1401 Marina Way South
Richmond, CA 94804

IN REPLY REFER TO:
H4217 RORI

August 10, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
Richmond, CA 84804

Reference: Comments on the Miraflores Housing Development Draft EIR, City of Richmond, California

Dear Ms. Velasco:

Thank you for the opportunity to comment on the Miraflores Housing Development Draft Environmental Impact Report. We were a consulting party and signed the Memorandum of Agreement which concluded the Section 106 consultation under the National Historic Preservation Act for this project. We support the dual goals of providing affordable housing and preserving the many historic properties that make the City of Richmond a truly forward thinking urban area. We also appreciate the considerable amount of work that has gone into the development of this project by the Redevelopment Agency, the Planning Department, and Eden Housing.

In our review, our primary concern was how the proposed project may impact the ability to interpret the history of the Japanese Americans as well as how the project may impact the eligibility of the Oishi and Sakai historic properties for the National Register of Historic Places. The legislation that created Rosie the Riveter/World War II Home Front National Historical Park tasks the National Park Service with continuing to research, evaluate, and interpret all stories in the Richmond area with relevance to its World War II home front significance. The role of the Japanese Americans, their flower industry, and the events that happened to these people during the war are definitely an important story related to Richmond's national park. **1-1**

We note that Stipulation II B of the *Memorandum of Agreement Between the City of Richmond and the California State Historic Preservation Officer Regarding the Miraflores Housing Development* (MOA) states that the plan shall include at least one alternative with practical adaptive reuse of representative historic structures "in situ." We understand the constraints of designing a large housing project on this limited site but find that "in situ," as expressed in the MOA, means that the structure(s) will be left on their original locations. Moving the structures even 30 feet from their original locations will, in terms of the criteria of adverse effect (36 CFR 800.5(1)), alter the location and setting of the property such that it would no longer be eligible for the National Register of Historic Places. **1-2**

Although the "Historic Architecture Evaluation" prepared in 2004 for the Oishi, Sakai, and Maida-Endo Nurseries identifies eligibility of individual buildings, the National Register of Historic Places would **1-3**

establish the eligible property as the district within the property boundaries with individual structures and landscape elements listed as either contributing or not contributing to its significance. The 2004 report does, indeed, identify that both the Oishi and Sakai nurseries are historically significant as the last such properties extant in the San Francisco Bay area. Therefore, the National Park Service suggests that the Miraflores project should strive to retain as much of the historic association, setting, and feeling of the Oishi and Sakai nurseries as possible. **1-3 cont.**

We suggest that in addition to retaining historic structures "in situ," establishment of the historic boundaries of these nurseries through landscape elements and incorporation of compatible uses would help meet the requirements of Stipulation II D of the MOA by incorporating historically or architecturally important features into the design of the project. While we believe that it would be helpful to retain and reinforce all property boundaries, it would be particularly helpful to consider compatible uses in the "buffer zone" along Interstate 80. This could be accomplished, for example, through the construction of compatibly designed greenhouses in this area with appropriate uses that would help to convey the association, setting, and feeling of the historic properties. **1-4**

Lastly, the National Park Service is very supportive of establishing an interpretive exhibit as required in Stipulation II C of the MOA. In fact, we would hope that the property itself, with retained or enhanced historic character elements incorporated into the design, would be the primary element of the interpretive exhibit. Through these efforts we would hope that a visitor to the Miraflores site would be able to experience, in a tangible way, the setting, feeling, and historic functioning/association of the last remaining Japanese American nursery in the San Francisco Bay area. **1-5**

Thank you again for the opportunity to comment on this important project. We appreciate the difficult decisions and projects facing the City of Richmond as it strives to rehabilitate this large and complex urban area. The track record of the City's efforts to date has been nothing less than spectacular with such projects as the Macdonald Avenue revitalization and the Nystrom Village redevelopment. It is our goal to continue to be helpful and vital partners in the City's efforts.

If you have any questions, please contact Chief of Cultural Resources Ric Borjes at (510) 232-1542 or by electronic mail at ric_borjes@nps.gov .

Sincerely,

Martha J. Lee
General Superintendent

Cc:
Michelle Messinger, CA OHP

Letter 1: Martha J. Lee, General Superintendent, Rosie the Riveter/WWII Home Front National Historical Park. U.S. Department of the Interior, National Park Service. August 10, 2009.

1-1: This comment summarizes subsequent comments in the letter.

Comment noted. No change to the Draft EIR is required.

1-2: This comment states that Stipulation II.B of the *Memorandum of Understanding* (MOA) with the State Historic Preservation Office (SHPO) requires that the City analyze at least one alternative with adaptive reuse of representative structures "in situ." The comment further states that the relocation of historic structures, even 30 feet from their original sites, does not constitute "in situ" adaptive reuse, and moving an historic structure will render it ineligible for the National Register of Historic Places.

The proposed project satisfies the requirements of Stipulation II.D of the MOA. Stipulation II.D states that:

> "the City, as a condition of approval of the Project, shall require the incorporation of historically or architecturally significant features of the Sakai and Oishi Nurseries into the design of the project. The feasibility of retaining one or more buildings, including greenhouses 7, 8, 9, 17 and 18 of the Oishi Nursery shall be studied by the Project Sponsor for preservation in situ on the Oishi site. The Sakai House, the tank house, and one or more greenhouses (such as Greenhouse 20) shall be studied by the project Sponsor for preservation in situ on the Sakai site."

The proposed project incorporates historically and architecturally significant features through the preservation of the Sakai House, water tower, and Greenhouse 20. These structures are identified as among the most historically significant structures on-site in the report *Historic Architecture Evaluation, the Oishi, Sakai and Maida-Endo Nurseries* by Donna Graves, Ward Hill, and Woodruff Minor, which was prepared pursuant to Section 106 of the Na-

tional Historic Preservation Act. The Sakai buildings would be moved 30 feet from their present location to allow for the development of the affordable senior housing complex at the west side of the site and to allow for a new street, Endo Way, to align with South 46th Street. The relocated Sakai buildings would retain their present orientation and proximity to each other. The Oishi House and, in response to comments, either Oishi Greenhouse 9 or 17 would also be relocated and rehabilitated on-site. Finally, the project would also create an on-site interpretive exhibit.

Stipulation II.D does not require that particular buildings or a particular number of buildings be retained in situ; rather, it requires the City to *study the feasibility of* retaining and adaptively reusing the listed buildings in situ. The feasibility of preserving the Sakai buildings and the Oishi greenhouses in situ was considered during development of the site plan and set forth in the In-Place/Low Density Alternative and Increased Preservation Alternative. The in situ preservation and adaptive reuse of all eight structures listed in Stipulation II.D. was further analyzed in the *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008 (although cited in the Draft EIR, this report has now been added to the Draft EIR as Appendix J) and was determined to be financially infeasible. Thus, the project complies with Stipulation II.D of the MOA.

1-3: This comment states that because the National Register of Historic Places would establish the entire property as an historic district with either contributing or non-contributing individual structures, the Proposed Project should retain as much of the historic association and setting of the Oishi and Sakai Nurseries as possible.

The comment is noted. As revised in response to comments, the preservation of three Sakai structures as well as the main Oishi House and one Oishi greenhouse structure (either Greenhouse 9 or 17) represents the most viable preservation strategy, balancing historic preservation and fulfillment of project objectives with physical and financial constraints.

1-4: This is a suggestion that the historic boundaries of the nurseries be established with landscape elements and compatible uses to help meet the requirements of Stipulation II.D of the MOA.

Please refer to Response to Comment 1-2, above, related to the project's compliance with Stipulation II.D of the MOA. In addition, a portion of the open space area along Interstate 80 would be reserved for agricultural-oriented uses, and could incorporate architecturally consistent greenhouses to house growing activities. Note also that, as required in the MOA, the City would offer the greenhouses for reuse prior to demolition.

1-5: This is a statement of support for the establishment of an interpretive exhibit, as required by Stipulation II.C of the MOA. No change to the Draft EIR is required.

LETTER #2

Department of Toxic Substances Control

Linda S. Adams
Secretary for
Environmental Protection

Maziar Movassaghi
Acting Director
700 Heinz Avenue
Berkeley, California 94710-2721

Arnold Schwarzenegger
Governor

RECEIVED
AUG 07 2009
RICHMOND
PLANNING DEPARTMENT

August 4, 2009

Ms. Lina Velasco
Senior Planner
City of Richmond
450 Civic Center Plaza
P.O. Box 4046
Richmond, California 94804

Dear Ms. Velasco:

Thank you for the opportunity to comment on the Miraflores Housing Development draft Environmental Impact Report (EIR, SCH #2007082154). As you are aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released and regulates hazardous waste pursuant to the California Health and Safety Code, division 20, chapters 6.5 and 6.8. DTSC has overseen the preparation of a Remedial Action Plan (RAP) for the Miraflores Site (Site). DTSC will oversee the implementation of the RAP after it is approved. As a Responsible Agency, DTSC is submitting comments to ensure that the California Environmental Quality Act (CEQA) documentation prepared for this project adequately addresses any management of hazardous wastes and remediation of hazardous substance releases. The following comments intend to clarify certain sections of the draft EIR:

1) Page 3-12, Section g. Please revise this section to read: "Groundwater under the site has been found to contain petroleum, benzene, and volatile organic compounds. The latter were not used in historical nursery operations at the site. Investigations have shown that some of the groundwater contamination resulted from the USTs, but the volatile organic compound contamination is of an indeterminate source and no on-site source has been identified." **2-1**

2) Page 4.3-17, Section 7. Please revise the second sentence to read: "Groundwater contamination includes petroleum hydrocarbons as well as volatile organic compounds." **2-2**

3) Page 4.3-37, Fifth bullet. Please revise this bullet to read: "in accordance with BAAQMD and DTSC rules and regulations." **2-3**

4) Page 4.3-17, Section 7. Please revise the second sentence to read: "Groundwater contamination includes petroleum hydrocarbons as well as volatile organic compounds." **2-4**

5) Page 4.3-37, Fifth bullet. Please revise this bullet to read: "in accordance with BAAQMD and DTSC rules and regulations." **2-5**

6) Page 4.8-1, First and sixth bullets. The DTSC Public Participation Plan was approved in 2006, and the Fact Sheet was revised and approved in 2009. Please revise these bullets accordingly. **2-6**

7) Page. 4.8-26, Section f.
   - Please revise the second sentence to read: "The source of the petroleum hydrocarbons in groundwater beneath the Sakai property appears to be from the former USTs that were located at the Oishi and Sakai nursery properties and from unknown off-site source(s)."
   - Please revise this section to read: "Remediation of the groundwater underlying the former Sakai nursery property is not required based on the risk evaluation performed to assess the risk presented by upward diffusion of vapors originating from the underlying groundwater, and the fact that groundwater beneath the site is not used for drinking water." **2-7**

8) Page 4.8-31,32, Section m. Please revise this section to read: "Remediation of the groundwater underlying the former Oishi nursery property is not required based on the risk evaluation performed to assess the risk presented by upward diffusion of vapors originating from the underlying groundwater, and the fact that groundwater beneath the site is not used for drinking water." **2-8**

9) Page 4.8-48, Section c. Please add the following sentence as a new bullet to the end of this section: "Requiring preparation of a soil management plan prior to disturbance of contaminated soil beneath the streets." **2-9**

10) Page 4.9-11, Section 5.
   - Please revise the second paragraph to read: "including the VOCs perchloroethylene (PCE) and trichloroethylene (TCE) from off-site or undetermined sources."
   - Please revise the third paragraph to read: "However, active groundwater remediation is not proposed in the RAP prepared for the site, as groundwater beneath the site is not used for drinking water, and the risk of vapors emanating from groundwater into future residences was found not to be significant." **2-10**

11) Page 6-2, Section 2. Please revise the last sentence to read: "The RAP and Health and Safety Plan prepared for the remediation process would reduce the potential for accidents during site remediation." **2-11**

Please contact me at (510) 540-3838 if you have any questions or require any assistance from DTSC. Thank you in advance for your cooperation in this matter.

Sincerely,

Homayune Atiqee, Project Manager
Brownfields and Environmental Restoration Program
East Bay Urban Infill Team

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044

Mr. Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

Ms. Joanna Griffith
Community Housing Development Corporation of North Richmond
1535A Third Street
P.O. Box 1625
Richmond, California 94802

Ms. Katie Lamont
Eden Housing Inc.
409 Jackson Street
Hayward, California 94544

Mr. Kyle Flory
PES Environmental
1682 Novato Blvd.
Suite 100
Novato, California 94947

Mr. Nicholas Targ
Holland and Knight
50 California Street, Suite 2800
San Francisco, California 94111

Letter 2: Homayune Atiqee, Project Manager, Brownfields and Environmental Restoration Program, East Bay Urban Infill Team. Department of Toxic Substances Control. August 4, 2009.

2-1: The Draft EIR has been revised to include Comment 2-1. These revisions are included in Chapter 3 of this Final EIR.

2-2: The Draft EIR has been revised to include Comment 2-2. These revisions are included in Chapter 3 of this Final EIR.

2-3: The Draft EIR has been revised to include Comment 2-3. These revisions are included in Chapter 3 of this Final EIR.

2-4: This comment is a repeat of Comment 2-2. As noted under 2-2, text within the Draft EIR has been amended to reflect this comment.

2-5: This comment is a repeat of Comment 2-3. As noted under 2-3, text within the Draft EIR has been amended to reflect this comment.

2-6: The Draft EIR has been revised to include Comment 2-6. These revisions are included in Chapter 3 of this Final EIR.

2-7: The Draft EIR has been revised to include Comment 2-7. These revisions are included in Chapter 3 of this Final EIR.

2-8: The Draft EIR has been revised to include Comment 2-8. These revisions are included in Chapter 3 of this Final EIR.

2-9: The Draft EIR has been revised to include Comment 2-9. These revisions are included in Chapter 3 of this Final EIR.

2-10: The Draft EIR has been revised to include Comment 2-10. These revisions are included in Chapter 3 of this Final EIR.

2-11: The Draft EIR has been revised to include Comment 2-11. These revisions are included in Chapter 3 of this Final EIR.

LETTER #3

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 622-5491
FAX (510) 286-5559
TTY 711

Flex your power!
Be energy efficient!

August 12, 2009

CC080367
CC-080-2.06
SCH #2007082154

Ms. Lina Velasco
City of Richmond
Planning Department
450 Civic Center Plaza
Richmond, CA 94804

Dear Ms. Velasco:

Miraflores Housing Development Plan – Draft Environmental Impact Report

Thank you for including the California Department of Transportation (Department) in the environmental review process for the Miraflores Housing Development Plan Project. The following comments are based on the Draft Environmental Impact Report (DEIR). As the lead agency, the City of Richmond is responsible for all project mitigation, including any needed improvements to state highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. This information should also be presented in the Mitigation Monitoring and Reporting Plan of the environmental document. Required roadway improvements should be completed prior to issuance of the Certificate of Occupancy. Since an encroachment permit is required for work in the State right of way (ROW), and the Department will not issue a permit until our concerns are adequately addressed, we strongly recommend that the City of Richmond work with both the applicant and the Department to ensure that our concerns are resolved during the California Environmental Quality Act (CEQA) process, and in any case prior to submittal of a permit application. Further comments will be provided during the encroachment permit process; see the end of this letter for more information regarding encroachment permits. **3-1**

Signal Operations

On page 4.14-27, Table 4.14-7, the Cumulative Intersection Level of Service Summary indicates that Cutting Boulevard/San Pablo Avenue and Eastshore Boulevard/San Pablo Avenue intersection will have a Level of Service (LOS) F and E respectively, during the PM Peak. Please provide a Synchro Analysis that includes the queuing effects to project study area intersections, **3-2**

especially the State on-or off-ramps. From Synchro, the Department can determine the effectiveness of proposed mitigation measures.

Encroachment Permit

Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by the Department. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the address below. Traffic-related mitigation measures should be incorporated into the construction plans during the encroachment permit process. See the website link below for more information. 3-3
http://www.dot.ca.gov/hq/traffops/developserv/permits/

Michael Condie, District Office Chief
Office of Permits
California DOT, District 4
P.O. Box 23660
Oakland, CA 94623-0660

Please feel free to call or email Luis Melendez of my staff at (510) 286-5606 or Luis_Melendez@dot.ca.gov with any questions regarding this letter.

Sincerely,

Pat L for

LISA CARBONI
District Branch Chief
Local Development – Intergovernmental Review

c: State Clearinghouse

Letter 3: Lisa Carboni, District Branch Chief, California Department of Transportation. August 12, 2009.

3-1: This comment reiterates the responsibilities of the lead agency (City of Richmond) regarding resolution of the CEQA process and resulting mitigation measures.

This comment is both accurate and has been noted. It does not require a change to the Draft EIR.

3-2: The comment requests a Synchro analysis to analyze queuing impacts and assess the effectiveness of the proposed mitigation measures for the two intersections that have level of service E and F in the cumulative condition – San Pablo Avenue/Cutting Boulevard and San Pablo Avenue/Eastshore Boulevard.

The two intersections at issue were studied using two methodologies, consistent with CalTrans' scoping comments. In addition to CCTA methodology, the two intersections were also analyzed based on Highway Capacity Manual (HCM) methodology using Traffix software, one of the software programs cited in Caltrans' *Guide for the Preparation of Traffic Impact Studies*, January 2001. The HCM methodology was used to analyze the effect of project-generated traffic on queuing under cumulative conditions. The Draft EIR has been amended to include the HCM results for queuing impacts. These changes are included in Chapter 3 of this Final EIR. Based on the analysis, it was found that the project's contribution to the cumulative condition at these two intersections was not significant; thus, no Syncro Analysis is required, as there is no mitigation to assess.

3-3: The comment reiterates that a Caltrans-issued encroachment permit is needed to perform work in any State right of way.

This comment is accurate and has been noted. It does not require a change to the Draft EIR.

STATE OF CALIFORNIA – THE RESOURCES AGENCY

Arnold Schwarzenegger, *Governor*

OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION
P.O. BOX 942896
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LETTER #4

RECEIVED
AUG 17 2009
RICHMOND
PLANNING DEPARTMENT

Lina Velasco
Senior Planner
City of Richmond
450 Civic Center Drive
P O Box 4046
Richmond, CA 94804

August 12, 2009

- sent via facsimile (510) 620-6858 and United States Postal Service –

Miraflores Housing Development Draft Environmental Impact Report # 2007082154

Dear Ms. Velasco:

The State Office of Historic Preservation (OHP) has broad responsibility for the implementation of federal and state historic preservation programs in California. We thank you for the opportunity to comment on the above Draft Environmental Impact Report (DEIR) issued under the California Environmental Quality Act (CEQA) and for speaking with my staff regarding the project. We are concerned with the alternatives section of the DEIR and, moreover, we are concerned that it appears that some of the MOA stipulations were not addressed entirely.

A **Memorandum of Agreement** between the City of Richmond and the California State Historic Preserving Office regarding the Miraflores Housing Development **(MOA)** was developed for compliance with Section 106 of the National Historic Preservation Act (NHPA), as amended in 1966, and its implementing regulations found at 36 CFR part 800.

As a preface to our letter, we want to state that we know that there have been lengthy discussions with our office and the signatories of the MOA and other interested parties about this project in the past few years. This letter today addresses the Miraflores Housing Project in the context of its CEQA compliance. **4-1**

According to the MOA under stipulation (B) it states that the City shall review alternatives to the proposed Undertaking site under CEQA, including at least one alternative that involves practical adaptive reuse of representative historic resources in situ known to exist on the Project site.

The MOA under section (D) states that "the City, as a condition of approval of the Project, shall require the incorporation of historically or architecturally significant features of the Sakai and Oishi Nurseries into the design of the project. The feasibility of retaining one or more buildings, including greenhouses 7, 8,9,17 and 18 of the Oishi Nursery shall be studied for preservation by the Project Sponsor for preservation in situ on the Oishi site. The Sakai House, the tank house and one or more greenhouses (such as greenhouse 20) shall be studied by the Project Sponsor in situ on the Sakai site."

The DEIR states that the Oishi house would be relocated to the west side of Oishi Drive near the southern border of the site and the Sakai structures would be moved approximately 30 feet south east of their present location. (DEIR 4.5-18) Moving these buildings and structures does not equate to the in situ stipulation of the MOA. **4-2**

The DEIR proposes to preserve the Sakai House, the Sakai tank house, Greenhouse 20 and the Oishi House out of a total of 25 greenhouses and other contributing resources such as Flower Warehouses, worker housing, boiler and other related buildings from the two historic sites. However, to preserve one greenhouse out of over twenty cannot be called representative. **4-3**

Alternatives Section pursuant to CEQA

Unfortunately, the Alternatives section of the DEIR does not look at a reasonable preservation alternative to the project using a representative number of greenhouses for an adaptive reuse on site. For purposes of CEQA there should be a discussion of what is a representative number of greenhouses which in conjunction with the other proposed preserved contributors could preserve enough of the historic significance of the site to tell its story, and to retain its eligibility to the California Register. That unfortunately has not occurred. The DEIR proposes an Increased Preservation Alternative which would preserve all buildings recommended as historic by the Richmond Historic Preservation Advisory Committee but makes the project infeasible. And the In-Place/Low Density Alternative follows the stipulations of the MOA. **4-4**

To just preserve the two residences (Oishi and Sakai), the water tower, and one greenhouse (No. 20) does not preserve the history of the site which is significant for its flower industry of the Japanese in the Bay Area. "The Sakai and Oishi nursery buildings identified as significant in this report appear to be eligible for the National Register under Criterion A and the California Register under Criterion 1 because of their significant associations with Japanese American history and the history of the bay area nursery business." (DEIR 4.5-17) Hence, the City of Richmond has made a Determination of Eligibility and our office concurred (DOE),

In order to successfully interpret this history the proposed buildings and structures to be preserved cannot consist of merely one greenhouse and two residences, significant for their architectural style and one water tower. The preservation of such an assembly which moreover remains also not in situ, does not tell anything about the significance of the site since it will have lost its historical context, and, therefore will have lost its integrity. Additionally, the site would also no longer be eligible for any Register because of its loss of integrity. **4-5**

To objectively discuss any demolition of any historical resource is always a difficult matter; however, what is proposed in this DEIR to be preserved and what is proposed to be demolished, remains the same in the sense that there remains an adverse impact. It is not successful historic preservation to retain a mere fragment of a larger commercial-industrial complex such as proposed for the two Japanese nurseries which have a rich historical and cultural background. But unfortunately, the DEIR proposes just that. Adequate documentation of the historical resources and site interpretation requirements as delineated in the MOA although would be applicable mitigation measures under CEQA.

However, there is one question that should be asked and which should be posed in the DEIR process. This is the question of a viable preservation alternative to the project. The adaptive reuse of the residences, water tower as a central merchant or market location within the planned development and for the existing surrounding neighborhood has not been examined in lieu of the park. Such an adaptive reuse within the historic location of the existing nursery greenhouses would preserve the sense, location, feeling of the historical Sakai and Oishi nurseries. The retention of several representative greenhouses in their original location by the Sakai house and water tower with the greenhouses used for an agricultural growing purpose and a market or store alternative inside the planned development and for the surrounding existing neighborhood is a viable alternative which has not been discussed. Such an alternative could preserve more of the greenhouses, reuse them for an agricultural use and also provide the ability to interpret the history of the site while adaptively using the buildings and creating a cultural center/hub and sell produce. Such ideas or models for inter-urban growing activities are becoming more important in society and their viability should be examined. **4-6**

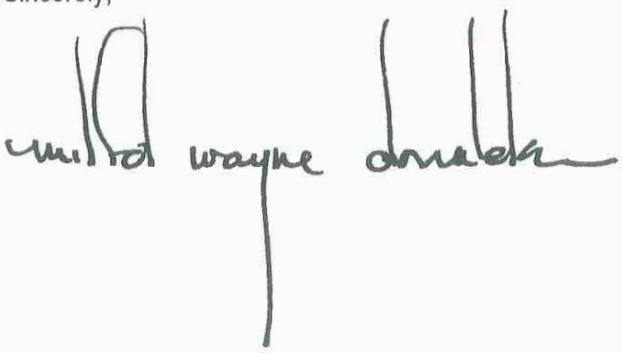
Pursuant to CEQA a reasonable range of alternatives should be developed. The DEIR should discuss a viable Preservation Alternative examining the preservation of the historical resource and still can accomplish most of the project objectives: the development mix of affordable and market-rate housing, day-lighting Baxter Creek, site remediation, creation of open space, and incorporation of historic features of site into project design.

While the DEIR discusses the preservation of the Sakai House, water tower, Greenhouse 20 and the Oishi House there is no discussion of their adaptive reuse. What will the planned uses for the buildings be? **4-7**

We thank you for the opportunity to comment on the above project. Please understand that our comments herein are specifically related to the environmental review process and adequacy of documents prepared for the environmental review purposes. We do not take positions in support of or against projects, but rather focus on the environmental review process itself.

If you have any further questions, please don't hesitate to contact Michelle C. Messinger, Historian II, CEQA Coordinator Local Government Unit at (916) 653-5099 or at mmessinger@parks.ca.gov.

Sincerely,



Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

Cc: Leigh Jordan, Coordinator, Northwest Information Center
Ric Borjes, Chief, Cultural Resources, Rosie the Riveter National Historic Park, NPS
Tom Butt, City Council Member, City of Richmond
Natalia Lawrence, Senior Development Project Manager, City of Richmond
Donna Graves, Director Preserving California's Japantown Project
State Clearinghouse

Letter 4: Milford Wayne Donaldson, State Historic Preservation Officer, Office of Historic Preservation. August 12, 2009.

4-1: This is an introductory comment that summarizes concerns and restates Stipulations B and D of the MOA.

Comment noted. No change to the Draft EIR is required.

4-2: This comment states the commenter's understanding that the Oishi House would be moved to the west of Oishi Drive, and states that moving the building does "not equate to the in situ stipulation of the MOA."

The project description has been revised and the Draft EIR has been amended to state that the Oishi House, along either the Oishi Greenhouse 9 or 17, would be relocated to the open space area to provide an anchor for the growing activities that would occur there. These revisions are included in Chapter 3 of this Final EIR. The proposed project would not retain historic buildings in situ; however, two alternatives to the project consider retaining historic structures in situ: the In-Place/Low Density Alternative and the Increased Preservation Alternative.

The proposed project satisfies the requirements of Stipulation II.D of the MOA with SHPO. Stipulation II.D states that:

> "the City, as a condition of approval of the Project, shall require the incorporation of historically or architecturally significant features of the Sakai and Oishi Nurseries into the design of the project. The feasibility of retaining one or more buildings, including greenhouses 7, 8, 9, 17 and 18 of the Oishi Nursery shall be studied by the Project Sponsor for preservation in situ on the Oishi site. The Sakai House, the tank house, and one or more greenhouses (such as Greenhouse 20) shall be studied by the project Sponsor for preservation in situ on the Sakai site."

The proposed project incorporates historically and architecturally significant features through the rehabilitation and reuse of the Sakai House, water tower, and Greenhouse 20, as well as the Oishi House and either Greenhouse 9 or 17 from the Oishi Nursery. The Sakai House, water tower, and Greenhouse 20 are identified as among the most historically significant structures on the site in the report *Historic Architecture Evaluation, the Oishi, Sakai, and Maida-Endo Nurseries* by Donna Graves, Ward Hill, and Woodruff Minor, which was prepared pursuant to Section 106 of the National Historic Preservation Act.

Stipulation II.D does not require that particular buildings or a particular number of buildings be retained in situ; rather, it requires the City to *study the feasibility of* retaining the listed buildings in situ. The feasibility of preserving and adaptively reusing the Sakai buildings and the Oishi greenhouses in situ was considered during development of the site plan and presented in the In-Place/Low Density Alternative. The in situ preservation and adaptive reuse of all eight structures listed in Stipulation II.D. was analyzed in the *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008, and was determined to be financially infeasible. Thus, the project complies with Stipulation II.D of the MOA.

The reports *Historic Architecture Evaluation, the Oishi, Sakai and Maida-Endo Nurseries* and *Miraflores Historic Preservation Feasibility Assessment*, which were cited in the Draft EIR, have been added to the appendices F and J of the Draft EIR for reference.

4-3: This comment notes that the project will preserve the Sakai House, water tank Greenhouse 20 and the Oishi House, but that to preserve one greenhouse is not representative.

As correctly noted, the proposed project would retain the Sakai House, water tower, and Greenhouse 20, as well as the Oishi House. In response to comments received on the Draft EIR, either Greenhouse 9 or 17 from the Oishi Nursery would also be retained. All the structures would be relocated on-

site. The Sakai ensemble would be moved 30 feet from its present location, but the buildings would be placed such that they retain their original position and relationship to each other. The Oishi House and accompanying greenhouses would be relocated to the open space area to anchor the community garden and other growing activities that would occur there. Therefore, the project would in fact retain "one or more" buildings from the Oishi Nursery and the full Sakai ensemble, although, as discussed below, it was found to be infeasible to retain the buildings in situ. Additionally, the project would include an interpretive exhibit.

Further, as required by the MOA, the Draft EIR considered "the feasibility of retaining one or more buildings, including greenhouses 7, 8, 9, 17 and 18 of the Oishi Nursery" and "the Sakai House, the tank house and one or more greenhouses (such as greenhouse 20)." As discussed in Response to Comment 4-2, that alternative was specifically presented in the In-Place/Low Density Alternative. Moreover the economic feasibility of this alternative, with various reuse scenarios, was explicitly analyzed in the *Miraflores Historic Preservation Feasibility Analysis* prepared by Conley Consulting Group and Architectural Resources Group in 2008 (added to the Draft EIR as Appendix J).

In sum, Stipulation II.D of the MOA recommends that "one or more" buildings be considered for preservation and requires the analysis of the feasibility of retaining certain structures as set forth above, but does not require that a representative number of greenhouses be preserved. As discussed in Response to Comment 4-2, the provisions of Stipulation II.D of the MOA have been met. No further response is required.

4-4: This comment states the commenter's belief that the Draft EIR did not consider a reasonable preservation alternative that adaptively reuses a representative number of greenhouses on-site.

The Draft EIR included a reasonable range of alternatives as required by CEQA. See Guidelines Section 15126.6 ("An EIR need not consider every conceivable alternative to a project. Rather, it must consider a reasonable

range of potentially feasible alternatives..."). With respect to alternatives that would address the significant impact to cultural resources, the Draft EIR included: (1) the Increased Preservation Alternative that would preserve the integrity of the nursery district; and (2) the In-Place/Low Density Alternative that satisfies the MOA analysis requirement, but would not preserve the integrity of the district.

In the Increased Preservation Alternative, the Draft EIR considered preserving all the structures contributing to the historical significance of the nurseries, which would retain the integrity of the district. In addition, the City explicitly considered a variety of different site layouts and uses to the proposed project, and such alternative uses included commercial reuse of the greenhouses. For example, reuse of the greenhouses as community gardens, as commercial retail, or as artist studios were all considered in the *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008.

The adaptive reuse scenarios analyzed are summarized in Table 5-1 below.

TABLE 5-1 **ADAPTIVE REUSE SCENARIOS FOR THE IN-PLACE/LOW DENSITY ALTERNATIVE**

Structure	Scenario 1	Scenario 2	Scenario 3
Sakai House	Residential	Public Use	Office Space
Water Tower	Groundskeeping Storage	Historical Exhibit	None
Sakai Greenhouse 20	Community Garden	Commercial Garden	Artist Studio
Oishi Greenhouses 7, 8, and 9	Community Garden	Commercial Garden	Artist Studio
Oishi Greenhouses 17 and 18	Community Garden	Commercial Garden	Artist Studio

Source: Conley Consulting Group and Architectural Resources Group, *Miraflores Historic Preservation Feasibility Assessment*, 2008.

These alternatives were found to be economically infeasible.

In the In-Place/Low Density Alternative, the City explicitly considered the minimum preservation mitigation alternative as required by the MOA, which would include preservation of the Sakai House, water tower, and Greenhouse 20 and Oishi Greenhouses 7, 8, 9, 17, and 18 in situ. As discussed above, the feasibility analysis found that even the minimum preservation alternative was infeasible. Thus, preservation of something more, such as preservation of "several representative greenhouses in their original location by the Sakai house and water tower" as suggested in the comment letter is not a feasible alternative. The feasibility assessment showed that preservation of 25 percent of the structures, much less any higher percentage, would not be feasible under any of the reuse scenarios.

CEQA does not require the lead agency to consider alternatives that are infeasible (CEQA Guidelines at 15126.6(a)). Thus, CEQA does not require the City to undertake an analysis of a virtually unlimited combination of building preservation alternatives, when even the minimum preservation alternative called for in the MOA was found to be infeasible and when the Draft EIR also includes an alternative that would preserve the district.

Nevertheless, in response to comments, the City revised the project description to include rehabilitation and reuse of one of the greenhouses from the Oishi Nursery. As discussed in Response to Comment 4-3, the Oishi House and accompanying greenhouse will be relocated to the open space area to anchor the community garden and other growing activities that would occur there.

4-5: This comment states that the proposed project would not preserve the integrity of the district and the site would no longer be eligible for listing in the National Register. It also notes that adequate documentation of the historical resource and site interpretation requirements would be applicable mitigation measures under CEQA.

The Draft EIR did find that the proposed project would have a significant, unavoidable impact on historic resources, as the preservation (with relocation on-site) of the Sakai House, the water tower, Greenhouse 20 and the Oishi House does not alone preserve the site's integrity as a district. Even with the revised project description, which would include rehabilitation and relocation of an additional greenhouse from the Oishi nursery, the integrity of the district is not presumed to be maintained. However, as required, the project includes mitigation measures that meet the Stipulations in the MOA to incorporate historically and architecturally significant features of the Sakai and Oishi nurseries into the design of the project, include an interpretive exhibit, and document all buildings and landscape features on the site as detailed in the MOA Stipulations.

4-6: This comment suggests that the residences and water tower should be considered for adaptive reuse as a central market with retention of the existing greenhouses for agricultural growing. The comment states that a reasonable range of alternatives is required and Preservation Alternative that meets most of the project objectives should be developed.

The commenter's suggestions for historic preservation alternatives are hereby noted. As discussed in Response to Comment 4-5, a reasonable range of adaptive reuse scenarios was considered. Those scenarios included commercial use of the greenhouses. Alternatives included in the Draft EIR were developed following a detailed study of the feasibility of project historic preservation consistent with the United States Secretary of Interior Standards. This study, the *Miraflores Historic Preservation Feasibility Assessment* (Conley Consulting Group and Architectural Resources Group, April 2008), assessed the financial feasibility of various initial reuse scenarios, considering scenario costs, available tax credits, and potential income generated. It is referenced in the Draft EIR and has been added as Appendix J.

In addition, as discussed in Response to Comment 4-5, the Draft EIR is consistent with CEQA guidelines concerning assessment of a "reasonable range" of alternatives. Section 15126.6(a) of the Guidelines states:

> "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason."

Section 15126.6(f) of the Guidelines describes the rule of reason guiding alternative development. The guideline states:

> "The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision making."

In developing the alternatives to be analyzed in the Draft EIR, the City applied the rule of reason to identify a range that would allow for informed decision-making and public participation. The alternatives reflect careful consideration by City staff of the need to balance special site concerns, environmental site constraints and potential impacts, project objectives, and City policy. On this basis of this consideration, the City maintains that the alter-

natives presented are sufficiently different from one another so as to provide for meaningful comparison to the proposed project and one another.

Finally, in response to comments, the City revised the project description to include rehabilitation and reuse of one of the greenhouses from the Oishi Nursery. As discussed in Response to Comment 4-3, the Oishi House and accompanying greenhouse will be relocated to the open space area to anchor the community garden and other growing activities that would occur there.

4-7: This comment asks what the planned uses for the historic buildings will be.

The Draft EIR has been revised to include a discussion of the adaptive reuse of the Sakai House, water tower, Greenhouse 20, the Oishi House, and Oishi Greenhouse 9 or 17. These revisions are included in Chapter 3 of this Final EIR.

LETTER #5

EAST BAY
MUNICIPAL UTILITY DISTRICT

RECEIVED
JUL 22 2009
RICHMOND
PLANNING DEPARTMENT

July 16, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
Richmond, CA 94804

Re: Draft Environmental Impact Report - Miraflores Housing Development, Richmond

Dear Ms. Velasco:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Miraflores Housing Project located in the City of Richmond (City). EBMUD has the following comments.

WATER SERVICE

EBMUD's Central Pressure Zone, with a service elevation between 0 and 100 feet, will serve the proposed development. Main extensions, at the project sponsor's expense, will be required to serve the proposed development. Off-site pipeline improvements, also at the project sponsor's expense, may be required to meet domestic demands and fire flow requirements set by the local fire department. Off-site pipeline improvements include, but are not limited to, replacement of existing water mains to the project site. When the development plans are finalized, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions for providing water service to the proposed development. Engineering and installation of water meters and off-site pipeline improvements requires substantial lead-time, which should be provided for in the project sponsor's development schedule. **5-1**

EBMUD owns and operates 4-inch and 6-inch water mains located in South 47th Street and Florida Avenue (shown as Sakai Ave on the Figure 3-5 of the Draft EIR) near the project site that provide service to EBMUD customers in the area. The integrity of these pipelines must be maintained at all times. Any proposed construction activity in South 47th Street and Florida Avenue needs to be coordinated with EBMUD and may require relocation and/or abandonment of the water mains, at the project sponsor's expense. **5-2**

The Draft EIR indicates the presence of contaminated soils and groundwater within the project site boundaries. The project sponsor should be aware that the EBMUD will not inspect, install or maintain pipeline in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be **5-3**

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handled as a hazardous waste or that may pose a health and safety risk to construction or maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping in areas where groundwater contaminant concentrations exceed specified limits for discharge to sanitary sewer systems or sewage treatment plants. **5-3**

Project sponsor for EBMUD services requiring excavation in contaminated areas must submit copies of existing information regarding soil and groundwater quality within or adjacent to the project boundary. In addition, the project sponsor must provide a legally sufficient, complete and specific written remedial plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of all identified contaminated soil and/or groundwater. EBMUD will not design the installation of pipelines until such time as soil and groundwater quality data and remediation plans are received and reviewed and will not install pipelines until remediation has been carried out and documentation of the effectiveness of the remediation has been received and reviewed. If no soil or groundwater quality data exists or the information supplied by the project sponsor is insufficient, EBMUD may require the project sponsor to perform sampling and analysis to characterize the soil being excavated and groundwater that may be encountered during excavation or perform such sampling and analysis itself at the project sponsor's expense. **5-4**

WATER RECYCLING

The proposed project site is located approximately 4.4 miles southeast of EBMUD's North Richmond Water Reclamation Plant and about 3.8 miles northeast of City of Richmond's Wastewater Treatment Plant. The proposed project is not a likely candidate for recycled water due to minimal irrigation demands and the cost to provide recycled water to the project site may be cost prohibitive due to the long length of pipeline required to get to the site. However, EBMUD requests that the project applicant contact and coordinate with EBMUD during the planning of the project to confirm the feasibility of using recycled water at the project site. **5-5**

WATER CONSERVATION

The proposed project presents an opportunity to incorporate water conservation measures. EBMUD would request that the City to include in its conditions of approval a requirement that the project sponsor comply with the Landscape Water Conservation Section of the Municipal Code of the City of Richmond, Section 15.04.205 – Site Development Review. EBMUD staff would appreciate the opportunity to meet with the project sponsor to discuss water conservation programs and best management practices applicable to the integrated projects. A key objective of this discussion will be to explore timely opportunities to expand water conservation via early consideration of EBMUD's conservation programs and best management practices applicable to the project. **5-6**

If you have any questions concerning this response, please contact David J. Rehnstrom, Senior Civil Engineer, Water Service Planning at (510) 287-1365.

Sincerely,

William R. Kirkpatrick
Manager of Water Distribution Planning

WRK:AMW:djr
sb09_159.doc

Letter 5: William R. Kirkpatrick, Manager of Water Distribution Planning, East Bay Municipal Utility District. July 16, 2009.

5-1: This comment stresses that main extensions and off-site pipeline improvements may ultimately be required at developer expense.

Although noted, this comment pertains to progression of the project following resolution of the CEQA analysis. No change to the Draft EIR is required.

5-2: This comment stresses that project construction will ultimately need to be coordinated with EBMUD.

Although accurate and noted, this comment pertains to progression of the project following resolution of the CEQA analysis. No change to the Draft EIR is required.

5-3: In this comment, EBMUD states that it will not make pipeline improvements in contaminated soils.

Draft EIR Section 4.8 contains a discussion of site remediation and the Remedial Action Plan. Although noted, this comment pertains to progression of the project following resolution of the CEQA analysis. No change to the Draft EIR is required.

5-4: This comment discusses requirements for soil and groundwater information and a remediation plan before EBMUD will design installation of pipelines.

EIR Section 4.8 contains a discussion of site remediation and the Remedial Action Plan. This comment is hereby noted. No change to the Draft EIR is required.

5-5: This is a request that EBMUD be contacted in order to confirm the feasibility of using recycled water at the project site.

Although noted, this comment pertains to progression of the project following resolution of the CEQA analysis. No change to the Draft EIR is required.

5-6: This comment is a suggestion to include, as part of the conditions of approval (COA), a requirement that the project comply with the Landscape Water Conservation Section of the Richmond Municipal Code.

Since this section is a standard requirement in the City's Municipal Code, the project would be required to comply with it. Consequently, no change has been made to the Draft EIR.

LETTER #6

WCCTAC

West Contra Costa Transportation Advisory Committee

El Cerrito

Hercules

Pinole

Richmond

San Pablo

Contra Costa County

AC Transit

BART

WestCAT

RECEIVED
JUL 22 2009
RICHMOND PLANNING DEPARTMENT

July 16, 2009

Ms. Lina Velasco
Senior Planner
City of Richmond Planning Dept.
1401 Marina Way South
Richmond, CA 94804

Dear Ms. Velasco:

Thank you for the opportunity to comment on the Miraflores Housing Development Draft EIR. As the sub-regional agency addressing transportation issues for the local cities in West Contra Costa County, our comments extend to the following issues:

1. WCCTAC Action Plan: WCCTAC has a Draft Action Plan that outlines all Regional Routes of Significance (RRS) as well as projected trip increases, based on existing local general plan data. Based on the proposed Miraflores General Plan amendment, you are adding more than 100 new trips. Are these trips identified in the City's recent Draft General Plan update? If so, how will they affect the multi-modal traffic service objectives (MTSO's) identified in the WCCTAC Action Plan? Please refer to the Draft WCCTAC Action Plan 2008 available on our website at www.wcctac.org/wp-content/uploads/2009/03/dec-18-2008-latest-draft-west-county-action-plan.pdf **6-1**

2. Mitigations: The RRS for this proposed project include 1-80, San Pablo Avenue, McDonald Avenue and Cutting Blvd. All RRS that are assigned 50 or more new peak hour vehicle trips by a proposed project should be analyzed. Please confirm that this has occurred. **6-2**

3. Parking Reductions: On page 4-14-29 of the EIR, you discuss the reduction in off street parking ratios under the registered LEED-ND program. WCCTAC strongly supports the reduction of parking spaces in an effort to increase transit and other non-solo vehicle options. Please expand on how the residents will be encouraged and informed about their options? Is there any initial or ongoing incentive to the residents to use transit (i.e. a discount on monthly BART or AC Transit passes)? If so, please note in the Final EIR what these exact efforts include. **6-3**

Thank you for the opportunity to comment on this document.

Sincerely,

Joanna Pallock
Project Manager, WCCTAC

cc: WCCTAC Board

Letter 6: Joanna Pallock, Project Manager, West Contra Costa Transportation Advisory Committee. July 16, 2009.

6-1: This comment asked whether the project trips were identified in the Richmond Draft General Plan Update and whether they affect the multi-modal traffic service objectives (MTSOs) of the 2008 WCCTAC Action Plan Update.

The trips are not identified in the Richmond Draft General Plan Update. However, the following relevant MTSOs were included as standards of significance for the proposed project:

- Maintain LOS "E" or better at all signalized intersections along San Pablo Avenue (page 26).
- Maintain LOS "D" or better at all signalized intersections along Cutting Boulevard (page 36).

As indicated on page 4.14-27 of the Draft EIR, the signalized intersection of Cutting Boulevard and San Pablo Avenue is projected to operate below the MTSO standard with or without the addition of project-generated traffic in the PM peak hour under cumulative conditions. However, the project itself would not increase the volume-to-capacity ratio by over 0.01. Therefore, the project would have a less-than-significant impact on the established level of service under cumulative conditions.

6-2: The comment states that all Regional Routes of Significance (RSS) that have over 50 new trips should be analyzed, including Interstate 80, San Pablo Avenue, McDonald Avenue, and Cutting Boulevard,.

The traffic study evaluated RSS San Pablo Avenue and Cutting Boulevard, where the project would add 50 or more new peak hour vehicle trips. The study did not analyze MacDonald Avenue because trip assignment on this roadway would not exceed the threshold of 50 trips. Similarly, Interstate 80 was not selected for evaluation because the project's contribution would make up less than 0.5 percent of the freeway volumes. For instance, the pro-

ject would add 30 trips on Interstate 80 westbound in the AM peak hour, which represents 0.43 percent of the 2008 peak hour volumes based on data provided in the 2008 Action Plan. This level of volume would not likely result in noticeable change on the freeway or alter the delay index, which is a MTSO for Interstate 80.

6-3: This comment states the commenter's support of reduced parking ratios.

The Draft EIR has been amended to require the senior housing to meet the Richmond Code parking requirements, which are still lower than those for single-family units due to the nature of the use. Also, the Project Description has been revised in response to response to comments to change the parking requirements from 1.2 to 1.5 spaces per unit, which is still a reduction from the Zoning Ordinance. Pursuant to the project's pursuit of LEED-ND designation, the City of Richmond is currently working on establishing a vehicle-sharing program at the project site and a plan for publicizing availability of the program to project residents. No further response is required.

LETTER #7

Lina Velasco

From: Butt, Tom [tom.butt@intres.com]
Sent: Saturday, July 25, 2009 9:55 AM
To: Lina Velasco
Subject: Miraflores Draft EIR

Lina,

The following is my public comment:

1. There should be more emphasis on the proximity of the Richmond Greenway in both the transportation section and the site plan. It is only ¼ mile from the Greenway access to San Pablo Avenue, which is a high quality bus corridor, and it is only ½ mile further to the El Cerrito del Norte BART Station. There is also a trail access from the Greenway adjacent to Miraflores to Macdonald Avenue via the target property. These trail segments should be enhanced as a part of this project. There could be aesthetic and safety improvements, such as landscaping, surveillance cameras and increased lighting to increase the motivation of residents to use it. This could be a transit oriented development that looks more like Metro Walk than Merced. **7-1**
2. The density should be increased. Because of the access and proximity to Macdonald Avenue and San Pablo Avenue, this would be good location to offer off-street parking as a buyer's option and consider strategies such as ZipCar (http://www.zipcar.com/). This would actually reduce traffic and parking conflicts in the neighborhood while also reducing the cost of the housing. Also, see The *High Cost of Free Parking*, Donald Shoup and consult with Stuart Cohen (http://www.transformca.org). These alternative were not discussed in the DEIR although they have many environmental benefits. **7-2**
3. The plan to retain and rehabilitate the Sakai House, a greenhouse and water tower as a cluster in close to its existing location is a good one. Placing the other historic house next to the open space is good. I would suggest trying to enhance the connection of the Sakai cluster to the open space and the trail that runs along its western edge. If the buildings are going to be moved anyway, why not move them all the way back to connect them to the open space? Which brings up my next suggestion. **7-3**
4. Use several salvageable greenhouses to turn the open space into a year-round urban agriculture center. There are many organizations that would be excited about adopting a greenhouse. Contact park Guthrie at Urban Tilth (http://www.urbantilth.org). This would also provide additional context for the Sakai House cluster. **7-4**
5. Consider collaborating with the National Park Service to have the Sakai Cluster added to Rosie the Riveter WWII Home Front National Historical Park. This would add substantial value to the entire project at virtually no additional development cost. **7-5**
6. I was surprised that the homes adjacent to the open space are oriented towards narrow streets instead of the open space. They are isolated by streets and cul de sacs. The open space and the trail that runs along its western edge is an amenity that could add value to these sites and make them the most attractive in the neighborhood. Think about golf course communities. **7-6**
7. While I don't have any problem with moving Baxter Creek, the disconnect created at wall Avenue is disturbing. The southern end of the creek should curve around naturally to connect with the undergrounded part south of Wall Avenue. The plan shows it taking a 90 degree west turn at Wall, running westerly along (under?) Wall, then taking another 90 degree south turn o connect with the existing undergrounded portion south of Wall. This change would cause some redesign of the southern portion of the project, but it would also enable the creek to become an amenity, adding value. **7-7**

Tom Butt

Richmond City Councilman
117 Park Place
Point Richmond, CA 94801
Phone: 510.236.7435
Fax: 510.232.5325
E-mail: tom.butt@intres.com
Tom Butt Political Website: http://www.tombutt.com/

Letter 7: Tom Butt, City Councilman, Richmond City Council. July 25, 2009.

7-1: This comment suggests further emphasizing the proximity of the project site to the Richmond Greenway, via such strategies as trail enhancements, safety improvements, and new lighting, among others.

As reflected in the Draft EIR Project Description, the proposed pedestrian and bicycle path would connect to the completed Richmond Greenway. Although the comment is noted, the Richmond Greenway is outside the project property, and Phase 2 of the City of Richmond's Richmond Greenway Project is currently under construction. As a result, enhancements such as those suggested in this comment are outside the purview of the proposed project.

7-2: This comment suggests that the density should be increased and parking strategies such as Zip Car should be considered.

The Draft EIR considered a high density alternative in the Increased Housing/High Density Alternative. With respect to parking strategies, please refer to Response to Comment 6-3, above.

7-3: This comment suggests connecting the relocated Sakai structures to the open space area.

The proposed relocation of the Sakai House, water tower, and Greenhouse 20 approximately 30 feet would allow the ensemble to be close to the open space area while still being easily accessible to residents of the affordable senior complex. Instead, the project has been revised to relocate the main Oishi House and one greenhouse to the open space area to anchor the community garden and other growing activities that would occur there. The comment is noted for the record and will be provided to the Planning Commission and City Council. No change to the Draft EIR is required.

7-4: This comment suggests using salvageable greenhouses to turn project open space into a year-round urban agriculture center.

As currently proposed by the project, a portion of the open space area would be dedicated as available for agricultural uses. The project has been revised to relocate the main Oishi House and one greenhouse to the open space area to anchor the community garden and other growing activities that would occur there. Additionally, before demolition of existing buildings occurs, as required by the MOA with SHPO, nonprofit organizations interested in preserving additional historic greenhouses would have the opportunity to enter into an agreement with the City to rehabilitate and relocate greenhouses to the open space area in exchange for use of the greenhouses for agricultural activities. If no additional existing greenhouses are rehabilitated and relocated to this area, new greenhouses similar in form to the historic greenhouses would be permitted to be constructed in this location to house the agricultural activities. Although this suggestion has been noted, no change to the Draft EIR is required.

7-5: This comment suggests relocating historic structures to Rosie the Riveter WWII Home Front National Historic Park.

National Park Service property is outside the authority of the City. However, the City of Richmond will continue to coordinate with NPS on strategies to maximize historic preservation and maintain the historic integrity of the project site.

7-6: This comment states that the houses adjacent to the open space should be oriented towards the open space. This comment is design-related and contains an opinion about the proposed project that would be appropriately considered during the entitlement and design review process, rather than through the CEQA process.

The comment is noted for the record and will be provided to the Planning Commission and City Council. No change to the Draft EIR is required.

7-7: This comment suggests that the southern end of Baxter Creek should curve naturally to connect to the underground culvert.

As proposed in the Draft EIR, the restored Baxter Creek would connect to the storm drain system at Wall Avenue. The current configuration does not result in any adverse impacts. The suggested alternative route would require a significant amount of frontage along Wall Avenue in order to provide a sufficient floodplain and would significantly reduce the amount of space developable for housing.

B. Non-Profit Groups/Associations

LETTER #8

RECEIVED
JUL 7 2009
RICHMOND
PLANNING DEPARTMENT

July 6, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Dept.
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Dear Ms. Velasco:

As a co-founder of the citizens' group, Friends of Baxter Creek, I support the effort to daylight Baxter Creek on the Miraflores housing development site. The Friends—and the Urban Creeks Council and Waterways Restoration Institute as well as the cities of Richmond and El Cerrito—have worked diligently over the past decade to restore Baxter Creek in its upper and lower reaches: now it is time to focus on the middle reach and to build on these efforts and restore more of this watershed. Daylighting the creek will provide water quality benefits through the physical, chemical, and biological processes that will take place, treating urban runoff and improving water quality. As urban runoff will be a greater and greater focus of regulatory action in the near future, daylighting this creek would be a step in the right direction. The daylighted stream would also provide much-needed wildlife habitat as well as an amenity for residents of the development and the city. **8-1**

I strongly urge you to daylight this stretch of Baxter Creek.

Sincerely,

Lisa Owens Viani
1108 Chaucer Street
Berkeley, CA 94702

Letter 8: Lisa Owens Viani, Co-Founder, Friends of Baxter Creek. July 6, 2009.

8-1: This comment expresses support for the proposed restoration of Baxter Creek.

No change to the Draft EIR is required.

STEWART WEINBERG
DAVID A. ROSENFELD
WILLIAM A. SOKOL
VINCENT A. HARRINGTON, JR.
W. DANIEL BOONE
BLYTHE MICKELSON
BARRY E. HINKLE
JAMES RUTKOWSKI •
SANDRA RAE BENSON
CHRISTIAN L. RAISNER
JAMES J. WESSER
THEODORE FRANKLIN
ANTONIO RUIZ
MATTHEW J. GAUGER
ASHLEY K. IKEDA ••
LINDA BALDWIN JONES
PATRICIA A. DAVIS
ALAN G. CROWLEY
KRISTINA L. HILLMAN •••
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JANNAH V. MANANSALA
MANUEL A. BOÍGUES ••••
KERIANNE R. STEELE •••
ANA M. GALLEGOS
GARY P. PROVENCHER

PATRICIA M. GATES, Of Counsel
ROBERTA D. PERKINS, Of Counsel
RICHARD T. DRURY, Of Counsel

• Also admitted in Arizona
•• Admitted in Hawaii
••• Also admitted in Nevada
•••• Also admitted in Illinois

LETTER #9

RECEIVED
JUL 22 2009
RICHMOND
PLANNING DEPARTMENT

BY FAX AND US MAIL

July 15, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804
Fax: (510) 620-6542

Re: Miraflores CEQA Review

Dear Ms. Velasco;

I am writing on behalf of the Carpenters Union Local 152 concerning the Miraflores Housing Development project ("Project") (SCH Number: 2007082154). We hereby request that the City of Richmond ("City") fully comply with all requirements of the California Environmental Quality Act ("CEQA") in its review of the Project. In particular, we request that the City analyze all of the Project's environmental impacts, impose all feasible mitigation measures and alternatives to reduce the Project's significant environmental impacts. We are currently in the process of reviewing the Project and its CEQA documentation. Thank you. **9-1**

Sincerely,

Richard Drury

CC: Tom Quinn
Scott Littlehale
Ted Franklin

LOS ANGELES OFFICE
3435 Wilshire Boulevard, Suite 620
Los Angeles, CA 90010-1907
TEL 213.380.2344 FAX 213.381.1088

SACRAMENTO OFFICE
428 J Street, Suite 520
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1099 Alakea Street, Suite 1602
Honolulu, HI 96813-4500
TEL 808.528.8880 FAX 808.528.8881

Letter 9: Richard Drury, Of Counsel, Weinberg, Roger & Rosenfeld. July 15, 2009.

9-1: This letter is a statement of introduction and a notice that the commenter is reviewing the Draft EIR on behalf of the Carpenters Union Local 152 (see Letter 14 for substantive comments).

No change to the Draft EIR is required.

LETTER #10

RECEIVED
AUG 07 2009
RICHMOND
PLANNING DEPARTMENT

TO: Ms. Lena Velasco
Senior Planner, City of Richmond
450 Civic Center Plaza, P.O. Box 4046
Richmond, CA 94804

August 4, 2009

FROM: Chizu Iiyama and Don Delcollo
Executive Board Members
Contra Costa Japanese American Citizens League
6802 Glen Mawr Ave.
El Cerrito, CA 94530

Dear Ms. Velasco,

Thank you for your excellent Miraflora Housing Development Plan Draft EIR. The Contra Costa Japanese American Citizens League is very interested in the redevelopment plans especially in regard to historical preservation. **10-1**

We met with Mayor McLaughlin last year, and with the City Council on February 24th to indicate our concerns about JACL inclusion in the discussion regarding the historic preservation of buildings and the water tower in the project area.. Especially since the project will be based on the sites of the Sakai, Oishi, and Maida families. They are Japanese immigrants who settled in Richmond, and started their nurseries in the early 1900's. Many of the families are also chapter members of the Japanese American Citizens League. **10-2**

The Japanese American nurseries in this area are unique. Quoting from research conducted by the statewide project Preserving California's Japantowns, the El Cerrito Historical Society states "The Oishi and Sakai nursery properties hold the most extensive group of pre-World War II historic resources in the entire state of California that are associated with the Japanese-American flower growing industry. These nurseries are the last remnant of Richmond's once vibrant community of Japanese-American flower growers". They built a special economic and social enclave in areas of Richmond and El Cerrito. With the last of these nurseries closing in 2007 and the impending Oishi-Sakai properties, the physical reminders of the local Nikkei history are quickly fading. The Contra Costa JACL supports the plan's commitment to tell the important story through a combination of preserving historic structures and interpretive exhibit.. **10-3**

We support most of the statements in the El Cerrito Historical Society report with it's excellent job of researching and gathering information regarding the proposed Miraflora Project and their suggestions for historical preservation and interpretation.

Historian Donna Graves, one of the people responsible for the acclaimed Rosie the Riveter National Park, and Jill Shiraki of the Preserving California's Japantowns Project, Contra Costa JACL, the National Japanese American Historical Society in San Francisco, the National Japanese American Citizens League, most nursery families, and Japanese **10-4**

Americans in the area generally support the historical preservation plan. However they want to make sure that it will be located in an area which will keep them safe, well kept, and in good condition. We ask to be consulted on your plans, especially in regard to location. **10-4 cont.**

We would like more information regarding post-development plans, especially because of deteriorating conditions observable today. How will the historic resources be protected through the remediation phase, construction, and reuse. Who will be responsible for their upkeep? How would they be protected against defacing, violence, or destruction? Will the Sakai building be used for agencies or activities? historical exhibits? libraries? schools? **10-5**

We believe that the stories of the Japanese American nurseries of Richmond and their families are more than a successful immigration story. They are a part of our national history. Facing prejudice and legal systematic discrimination the Japanese immigrants in the early 1900's settled in Richmond and parts of El Cerrito. Through hard work, perseverance, and courage they were able to contribute to the financial and social growth of the city.

Then in 1942, as a result of the war between Japan and the United States, the American government ordered all people of Japanese ancestry to leave the West Coast . Most were put into detention centers. The Japanese people in Richmond were part of the 120,000 who were forced to leave their homes, personal properties, businesses, and careers often in the space of a few days.There was no specific charges against them, no trials, no opportunity to make a defense. Incarcerated into camps with barbed wire fences, at "assembly centers" housed in horse stalls and fairgrounds then later in desert and swamp areas in the middle states. Two thirds of those detained were American citizens with a median age of 17 years.

At the end of the war, some Richmond Japanese American families returned to their homes and restarted their nurseries. In their absence, the nurseries were vandalized, equipment was stolen or destroyed, weeds and garbage strewn on their properties. Again, they worked diligently , their flowers and greenery began to bloom, and they were able to cultivate a successful business. **10-6**

What is of importance nationally, is that there was a severe violation by the American government in depriving the Japanese Americans their basic civil rights. There was no sabotage or espionage on the part of the Japanese American people. Despite being forced into the camps, over 33,000 young men served valiantly in the American army, some who volunteered from the camps while their families were behind barbed wire fences. Some of the volunteers were from Richmond .

Many years later on August 10, 1988 Congress passed the Civil Liberties Act of 1988. They acknowledged the mistakes made by the government in its treatment of Japanese Americans during WW 2, an apology signed by President Reagan, and redress for the Japanese Americans affected by the evacuation orders. This is truly an American story.

We are encouraged that the Miraflora Project will work on historic preservation and interpretive exhibit and hope to be part of the process in making decisions.

Sincerely,

Don Delcollo

Mr. Don Delcollo
Executive Board Member
Contra Costa Japanese American Citizens League

Chizu Iiyama

Ms. Chizu Iiyama
Executive Board Member
Contra Costa Japanese American Citizens League

Letter 10: Chizu Iiyama and Don Delcollo, Executive Board Members, Contra Costa Japanese American Citizens League. August 4, 2009.

10-1: This comment is a statement of interest and introduction.

No change to the Draft EIR is required.

10-2: This comment is a statement of the commenter's past involvement in the proposed project.

No change to the Draft EIR is required.

10-3: This comment is a reiteration of the historic significance of Japanese American nurseries in Richmond and a statement of general support for the proposed project.

No change to the Draft EIR is required.

10-4: This comment is a request that the Japanese American Citizens League (JCAL) be consulted on future project planning.

The comment does not pertain to specific environmental issues that are germane to the CEQA analysis or Draft EIR. The comment is noted for the record and will be provided to the Planning Commission and City Council.

10-5: This comment is a request for more information on post-development plans for the historic structures.

The Draft EIR has been amended to include a discussion of adaptive reuse and provisions for the protection and adaptive reuse of historic resources. These changes are included in Chapter 3 of this Final EIR.

10-6: This comment further reiterates that the Japanese legacy in Richmond is of national significance.

No change to the Draft EIR is required.

LETTER #11

RECEIVED
AUG 10 2009
RICHMOND
PLANNING DEPARTMENT

3 August 2009

Lina Velasco, Senior Planner
City of Richmond
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Dear Ms. Velasco,

I am writing to comment on the Miraflores Housing Development Plan Draft EIR on behalf of the *Preserving California's Japantowns* project and its sponsor, the California Japanese American Community Leadership Council (CJACLC). *Preserving California's Japantowns* has conducted a statewide historic resource survey of pre-WWII Japanese American communities across California. The CJACLC is a network that coordinates strategic statewide and regional partnerships, including cultural and community preservation and leadership development programs. **11-1**

The historic nurseries that comprise the location for the Miraflores project are of great interest to us as they appear to be the last in the entire state of California that hold substantial numbers and representative building types reflecting the rich history of pre-WWII Japanese American flower-growing. For this reason, they are highly significant at the local, regional and state level. Additionally, they are of national significance because the largest concentration of Japanese immigrants and their descendants prior to WWII internment lived in California, so this state's history and Japanese American heritage are deeply intertwined.

As the Draft EIR notes, Japanese Americans were the major producers of greenhouse flowers in the Bay Area (p. 4.5-13) and the families that developed nurseries in Richmond were prominent figures in this industry. Kotaro Sakai and Seizo Oishi were founding members of the San Francisco California Flower Market (CFM) in 1912. Kotaro Sakai's son, Sam, is particularly important to this history. As an American-born citizen of the United States, Sam Sakai was appointed President of the CFM after Pearl Harbor and ran its operations from Rowher Relocation Center in Arkansas. He led the organization's rebuilding after the war and is widely regarded as a central figure in the history of Northern California flower growing. The history of these nurseries is an important part of the fabric of Richmond's heritage, and a critical piece of the WWII story on which Rosie the Riveter/WWII Home Front National Historical Park was founded. **11-2**

We support the City's aim to address the historic significance of this site as you develop new uses for the properties, and we commend the amount of work that staff from the Redevelopment Agency, Planning Department and Eden Housing has put into this effort. **11-3**

We strongly support the retention and rehabilitation of the Sakai home, watertower and greenhouse no. 20 on the Sakai property and the Oishi house as described in the Draft EIR. Our preference is that these structures remain "in situ" to protect their integrity. If they must be moved, we encourage that they be kept in the same relation to each other and with the same orientation. 11-4

We also support retention and rehabilitation of greenhouse no. 9 on the Oishi property, if possible. This structure is particularly significant as a reflection of the longevity and tenacity of these families commitment to their place in Richmond. Construction of this greenhouse was begun by Tom Oishi in Fall 1941, but suspended after the Japanese attack on Pearl Harbor. The greenhouse sat as an empty wood frame until the Oishis returned to reclaim their property after the war. Tom Oishi and his new brother-in-law, a Purple Heart-decorated veteran of the all-Japanese American 442nd Battalion, finished the structure, which continued to be used for growing carnations until 2005. 11-5

We understand the economic issues that have shaped the Miraflores development project and the difficult climate in which the City is operating. Should their be a change in the direction of the project, we hope that retention of more historic structures will be considered. For example, the bungalow houses on the south and west of the Sakai properties that were built as homes for Sam and Tets Sakai prior to WWII could be incorporated into a revised housing development rather than demolished. These structures have historic significance for their association with the multi-generational history of these family enterprises. 11-6

The Draft EIR includes language describing the possibility of devoting a portion of the green "buffer zone" near the 80 freeway to urban agricultural uses. We strongly support this creative measure for two reasons. 1). It provides a continuity of use for the site that reinforces its historic meaning. 2) Greenhouses at the eastern edge of the property will help visitors understand the scale of the nursery operations, which cannot be conveyed by the very small number of buildings proposed for preservation. 11-7

Finally, we strongly support plans for accessible interpretation of the history and meaning of these nurseries at their historic location. We believe that this will not only provide a more powerful experience for visitors, it will make the Miraflores development itself more distinctive and reinforce Richmond's unique character. 11-8

Sincerely,

Donna Graves, Project Director
Preserving California's Japantowns

CC: Paul Osaki and Kaz Maniwa, CJACLC
Contra Costa JACL
Rosie the Riveter/WWII Home Front National Historical Park
Rosie the Riveter Trust

Letter 11: Donna Graves, Project Director, Preserving California's Japantowns. August 3, 2009.

11-1: This comment is a statement of introduction. No change to the Draft EIR is required.

11-2: This comment stresses the national, historic significance of Japanese nurseries. No change to the Draft EIR is required.

11-3: This comment expresses support for the City's historic preservation efforts. No change to the Draft EIR is required.

11-4: This comment expresses support for the retention and rehabilitation elements of the proposed project and the commenter's preference that these structures be retained in situ, or at least that they be kept in the same orientation and relationship to each other.

As proposed, the relocation of the Sakai buildings would retain their present orientation and relationship to one another. Comment is noted. No change to the Draft EIR is required.

11-5: This comment expresses the commenter's desire for the retention and rehabilitation of Greenhouse 9 on the Oishi property.

The feasibility of preserving Greenhouse 9, along with other structures, in situ was studied and found infeasible in *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008. In response to comments, however, the project has been modified to include the rehabilitation and relocation on-site of Greenhouse 9 or 17 from the Oishi Nursery. Further, as required by the MOA with SHPO, prior to demolition, the greenhouses would be made available to individuals or organizations as discussed in Response to Comment 7-4.

11-6: This comment advocates the retention of additional historic structures.

The comment is noted. No change to the Draft EIR is required.

11-7: This comment expresses support for devoting a portion of the open space area along Interstate 80 to agricultural uses.

The comment is noted. No change to the Draft EIR is required.

11-8: This comment expresses support for an on-site interpretive exhibit. The comment is noted. No change to the Draft EIR is required.

LETTER #12

El Cerrito Historical Society

P O Box 304, El Cerrito, CA 94530
elcerritohistoricalsociety@yahoo.com

Our name dates to 1775; Castro Adobe started 1839; Incorporated 1917

RECEIVED
AUG 11 2009
RICHMOND
PLANNING DEPARTMENT

August 10, 2009

Lina Velasco, Senior Planner
The City of Richmond
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Dear Ms. Velasco,

The extension of time that the City of Richmond granted for comments on the Miraflores Housing Development Plan Draft EIR has allowed the Historical Society time to actually find and contact the Endo family, former operators of a nursery on the Miraflores site. On the basis of our preliminary conversations with the family, we have revised our comments in paragraph 5 of page 2 of our response to the Miraflores Housing Development Plan Draft EIR (attached). The remainder of the document remains unchanged.

Sincerely,

Tom Panas

cc: Katie Lamont, Eden Housing; Cindy Heitzman, California Preservation Foundation; Marie Nelson, State Historic Preservation Office; Richmond Planning Commission; Richmond Historic Preservation Advisory Committee; Ric Borjes, National Park Service; Donna Graves, Preserving California's Japantowns

El Cerrito Historical Society

P O Box 304, El Cerrito, CA 94530
elcerritohistoricalsociety@yahoo.com

Our name dates to 1775; Castro Adobe started 1839; Incorporated 1917

July 28, 2009

Lina Velasco, Senior Planner
The City of Richmond
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Dear Ms. Velasco,

On behalf of the El Cerrito Historical Society, I would like to present the following comments on the Miraflores Housing Development Plan Draft EIR. The Historical Society would be happy to discuss these comments with you, your staff, and other interested parties.

The Historic Resources discussion in Section 6 on page 3-19 of the Draft EIR states that the Sakai house, the adjacent water tower, and Greenhouse 20 will be relocated on the site and rehabilitated in accordance with the Secretary's standards. This section also states that the "Oishi house" will be relocated on the site and rehabilitated. The document must specify which one of the Oishi houses on the property will be rehabilitated and relocated. **12-1**

The Historical Society supports the relocation and rehabilitation of these four structures as described in the Draft EIR, as well as the interpretive exhibit and the design elements also described on page 3-19. Page 3-19 notes that the interpretive exhibit may be located off-site. The Historical Society feels that the interpretive exhibit must be placed on-site to provide a proper context for historical interpretation and study. **12-2**

The Historical Society believes that the Oishi Greenhouses 9 and 18 must also be preserved. Greenhouse 9 is a unique remnant of the Japanese experience during World War II, as its construction began before the internment but was not completed until after the Oishi family had returned from camp. Greenhouse 18 is believed to be the oldest of the Oishi greenhouses. Both of these greenhouses should be preserved on-site. If necessary, these two greenhouses could be moved to a proper location that clearly acknowledges their context and historical significance. **12-3**

In addition, the post-redevelopment plans for the Sakai house and Oishi house are absent from the document. The Draft EIR must include a specific plan for the houses or they will become derelict. **12-4**

Regarding the proposed moving of all the Historic Resources: will they be taken apart and then reassembled at the new location or will they be just picked up and moved? Some of the structures are in poor condition and are extremely fragile. A qualified preservation architect must assess whether these structures can be moved in one piece or will need to be carefully disassembled and then reassembled at the new location. This assessment must be obtained and integrated into the Draft EIR before it can be approved. **12-5**

The Draft EIR does not include a plan for protecting and conserving the Historic Resources during remediation, construction, and then until the time when they are put into regular use. The Draft EIR must be modified to include such a plan before it can be approved. **12-6**

Regarding broken and missing greenhouse glass: will it be replaced with glass or with a product such as Plexiglas? While the use of glass would result in a more historically accurate renovation, a tougher material would be more durable. In addition, the Historical Society suggests that some of the fixed greenhouse windows be replaced with movable windows. While less historically accurate, doing so would allow better temperature control and give rise to a more useable structure for community organizations. **12-7**

The Draft EIR states on page 4.5-12 that "Japanese American families began operating nurseries in Richmond as early as 1892." The Historical Society assumes that this date comes from the 1892 date found on page 38 of the October 2004 document *Historic Architecture Evaluation - The Oishi, Sakai, and Maida-Endo Nurseries*. The text on page 38 briefly describes the arrival of the first Japanese nationals with nursery skills, the Nabeta brothers, in the Richmond/El Cerrito area. The Historical Society believes that this date is wrong due to a misreading of the October 2004 *Historic Architecture Evaluation*. The Historical Society has reviewed this with the two living Nabeta daughters (Fumiko and Yoshiko), gone over the autobiographical statements made by the Nabeta family in the 1996 document *The Way We Were*, and consulted with Donna Graves, one of the authors of the October 2004 *Historic Architecture Evaluation*. The Historical Society believes a more accurate statement would indicate that the date is about 1900. **12-8**

The Draft EIR states on page 4.5-12 that "The railroad right-of-way of the Atchison, Topeka and Santa Fe Railroad, adjacent to the north boundary of the project site, is a historic property." Also it states on page 4.5-16 that "One historic property, site P-07-002599, is recorded immediately adjacent to the north boundary of the project property. This is the railroad right-of-way of the Atchison, Topeka and Santa Fe Railroad." On what basis are these statements (that the Atchison, Topeka and Santa Fe Railway right of way is a "historic property") made? **12-9**

On page 4.5-13 the list of families that once had nurseries on the Miraflores site does not include the Mayeda, Fukushima, or Hoshi families: "The Miraflores site was formerly occupied by three nurseries operated by Japanese-American families: the Sakai, Oishi and Maido-Endo families". Is this omission intentional or inadvertent? ("Maido" should be "Maida".) **12-10** The three non-listed families are cited on page 4 of Section 2.2.2 of Appendix D of the Draft EIR Appendices document and their presence can be verified on the 1926 Sanborn maps of El Cerrito and the 1930 Sanborn maps of Richmond. Also, the Draft EIR and the Appendices refer (multiple times) to the "Maida-Endo" families. Although these families operated nurseries on the same piece of property, they did so at different times and were separate families. The Historical Society believes that lumping the Maida and Endo families together in this fashion could lead to future misunderstandings about the families and the nursery operations; in addition it does not show proper respect for the individual families. **12-11**

On page 4.5-16 the Draft EIR states that "One historic property, site P-07-002599, is recorded immediately adjacent to the north boundary of the project property. This is the railroad right-of-way of the Atchison, Topeka and Santa Fe Railroad. The berm for the old railroad bed is still extant, although without rails or ties. The current BART tracks are just north of and parallel to the berm, apparently making use of the old right-of-way". The use of "apparently" is incorrect. The historical record clearly shows that this was the right of way of the Atchison, Topeka and Santa Fe Railway. At the inception of the BART system, BART arranged for the use of a portion of the Atchison, Topeka and Santa Fe Railway right of way. BART and the Atchison, Topeka and Santa Fe Railway co-existed in this space until 1979, when the Atchison, Topeka and Santa Fe Railway abandoned its rail line. **12-12**

The text that starts on page 4.5-16 and continues on page 4.5-17 reads "The Sakai and Oishi properties were the only remaining nurseries founded by Japanese Americans before WWII in the entire Bay Area, and were the last remaining of Richmond's community of Japanese American flower growers". This statement inaccurately describes the historic nature of the nurseries. A proper statement would read "The Oishi and Sakai nursery properties hold the most extensive group of pre-World War II historic resources in the entire state of California that are associated with the Japanese-American flower growing industry. These nurseries are the last remnants of Richmond's once-vibrant community of Japanese-American flower growers". **12-13**

There are two places where the street name "Wall Street" is used instead of the correct street name, "Wall Avenue". One is in the Draft EIR on page 4.5-17; the other is in the Draft EIR Appendices, on page 4 of section 2.2.3 ("Endo Nursery Parcel") of Appendix D. **12-14**

The Historical Society appreciates the opportunity to comment on the Draft EIR. Once again, we would happy to discuss our comments with you, your staff, and other interested parties.

Sincerely,

Tom Panas

cc: Katie Lamont, Eden Housing; Cindy Heitzman, California Preservation Foundation; Marie Nelson, State Historic Preservation Office; Richmond Planning Commission; Richmond Historic Preservation Advisory Committee; Ric Borjes, National Park Service; Donna Graves, Preserving California's Japantowns

Letter 12: Tom Panas, Member, El Cerrito Historical Society. August 10, 2009.

12-1: This comment states that the EIR must specify which of the Oishi houses would be rehabilitated and relocated.

The Draft EIR has been amended to indicate the relocation of the main Oishi house. These revisions are included in Chapter 3 of this Final EIR.

12-2: This comment states that the historical exhibit must be placed on-site for proper context.

The project requires an interpretive exhibit on-site, which may only be relocated off-site if it is proven to be infeasible prior to final site plan approvals. The proposed project is designed to comply with the Stipulation II.C of the MOA with SHPO, pursuant to which the City would develop such an exhibit on-site, or, if infeasible, at another appropriate location:

"The City shall develop a permanent, interpretive exhibit on the project site communicating the history of Richmond's Japanese American flower growing community in the vicinity of the project area in addition to information about the Sakai and Oishi nurseries. The exhibit should incorporate information from the historic report, historic photographs, and HABS documentation or other recordation materials and should be located and designed so that it is accessible to the public and of a durable design. The interpretive exhibit should be developed and designed by a qualified team including an historian and a graphic designer or exhibit designer. If the exhibit cannot be accommodated in the new development, another appropriate public venue can also be considered."

The comment is noted. No change to the Draft EIR is required.

12-3: This comment states that Greenhouses 9 and 18 should be preserved, even if they are relocated.

The feasibility of preserving Greenhouses 9 and 18, among other structures, was studied and found infeasible in *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008 (added to the Draft EIR as Appendix J). In response to comments, however, the project has been modified to include the rehabilitation and relocation of either Greenhouse 9 or 17. Furthermore, as required in the MOA with SHPO, prior to demolition the greenhouses would be made available to individuals or organizations as discussed in Response to Comment 7-4.

12-4: This comment states that the Draft EIR must include a specific plan for the historic structures.

The Draft EIR has been amended to include discussion on the adaptive reuse of the structures. These changes are included in Chapter 3 of this Final EIR.

12-5: This comment states that the process for moving the historic structures must be analyzed in the Draft EIR.

Relocation of the historic resources would be done in consultation with a qualified preservation architect. Further, Architectural Resources Group, a preservation architecture firm, analyzed the requirements for relocating the historic resources. This information is included in the *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008; this report has been added to the Draft EIR as Appendix J.

12-6: This comment states that a plan for protecting and conserving the historic structures during the redevelopment process must be included.

The Draft EIR has been amended to clarify provisions for the protection of historic resources during remediation and construction and until they have

been put into regular use. These changes are included in Chapter 3 of this Final EIR.

12-7: This comment asks whether the greenhouse glass will be replaced with plexiglass.

The reuse of these buildings would be conducted in consultation with a preservation architect and the materials selected will be pursuant to the Secretary of Interior's Standards for Historic Preservation.

12-8: This comment states the commenter's belief that Japanese American families began operating nurseries in Richmond in about 1900, rather than 1892.

The Draft EIR has been revised to address Comment 12-8. These revisions are included in Chapter 3 of this Final EIR.

12-9: This comment requests the basis for the identification of an historic railroad right of way.

The basis of these statements is the City of Richmond's *Archaeological Survey Report, Miraflores Housing Development Project, Richmond, Contra Costa County, California*, prepared by Archaeological/Historical Consultants in June, 2004.

12-10: This comment states that the list of families that once had nurseries on site should also include the Mayeda, Fukushima, and Hoshi families.

The Draft EIR has been revised to address Comment 12-10. These revisions are included in Chapter 3 of this Final EIR.

12-11: This comment states that Maida and Endo are separate families and that Maida is misspelled.

The Draft EIR has been revised to correct the spelling and note that the Maida and Endo families are separate. These revisions are included in Chapter 3 of this Final EIR. However, in order to retain consistency with usage in reports and studies cited in the Draft EIR, references to the "Maida-Endo Nursery," which refers to one parcel, in the Draft EIR have not been changed.

12-12: This comment notes that the use of the word "apparently" in describing that the BART tracks follow the old historic railroad right-of-way is incorrect.

The Draft EIR has been revised to address Comment 12-12. These revisions are included in Chapter 3 of this Final EIR.

12-13: This comment provides a suggested revision to a statement regarding Japanese American nurseries.

The Draft EIR has been revised to address Comment 12-13. These revisions are included in Chapter 3 of this Final EIR.

12-14: This comment notes that Wall Street should be changed to Wall Avenue.

The Draft EIR has been revised to address Comment 12-14. These revisions are included in Chapter 3 of this Final EIR.

NATIONAL TRUST FOR HISTORIC PRESERVATION®
Western OFFICE

LETTER #13

BY EMAIL

August 11, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
Richmond, CA 84804

Re: Comments on the Miraflores Housing Development Draft EIR, Richmond, CA

Dear Ms. Velasco:

On behalf of the National Trust for Historic Preservation, thank you for the opportunity to comment on the Miraflores Housing Development Draft Environmental Impact Report.

The National Trust for Historic Preservation provides leadership, education, advocacy and resources to a national network of people, organizations and local communities committed to saving places, connecting us to our history and collectively shaping the future of America's stories.

The National Trust has been involved in planning regarding the future of the Oishi and Sakai nurseries for over two years, advocating for the preservation of historical features of the nurseries as part of the proposed Miraflores housing development. The Oishi and Sakai nurseries may be the sole examples remaining in the entire state of California in which substantial numbers and representative building types reflecting the rich history of pre-WWII Japanese American flower-growing are extant.

Our review of the Draft EIR focused on the degree to which the proposed project may impact the historic integrity of the Oishi and Sakai nurseries and the opportunity to interpret their history and the history of the Japanese American presence in Richmond. We applaud the City of Richmond's Redevelopment Agency, the Planning Department, and Eden Housing's exploration of an alternative that would preserve the nurseries and consideration of devoting a portion of the green "buffer zone" near the 80 freeway to urban agricultural uses. **13-1**

However, we are concerned that the Draft EIR appears to violate the letter and spirit on an agreement between the City of Richmond and the California State Historic Preservation Office that the Miraflores Housing Development EIR would include at least one alternative with practical adaptive reuse of representative historic structures "in situ." **13-2**

The National Trust strongly supports a Miraflores project that retains as much of the historic association, setting, and feeling of the Oishi and Sakai nurseries as possible. In particular, we support the retention and rehabilitation of the Sakai home, watertower and greenhouse no. 20 on the Sakai property and the Oishi house, but we underscore the importance of leaving the structures in place, thus preserving their historic physical relationship and orientation. In addition, we support retention and rehabilitation of greenhouse no. 9 on the Oishi property. **13-3**

We furthermore support a robust interpretive program and exhibit that allows the historic features of the property to tell the story of the last remaining Japanese American nursery in the San Francisco Bay area. **13-4**

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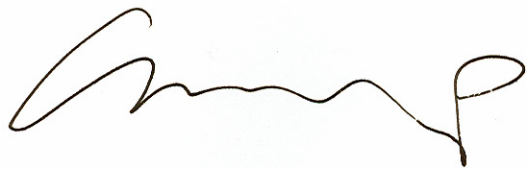
The National Trust fully supports the development of sorely needed quality affordable housing in Richmond, and recognizes that existing historic structures will need to be removed in order to accommodate new housing development on the site. However, we believe that a more appropriate balance between preservation and new construction can be accomplished than has been analyzed in the Draft EIR. Maintaining the historic structures in situ will require a creative site plan that accommodates and is inspired by the historic development patterns, but the benefit will be will be a visually and culturally richer and more engaging environment. **13-5**

Thank you again for the opportunity to comment on this important project.

Sincerely,



Anthony Veerkamp
Senior Program Officer

Letter 13: Anthony Veerkamp, Senior Program Officer, National Trust for Historic Preservation, Western Office. August 11, 2009.

13-1: This comment is a statement of introduction and appreciation, and contains information summarizing subsequent comments in the letter.

No change to the Draft EIR is required.

13-2: This comment expresses concern about whether the project meets the terms of the MOA with SHPO.

Please refer to Response to Comment 1-2 and response to Comment Letter 4, related to proposed project compliance with the MOA.

13-3: This comment states commenter's preference that the Sakai ensemble and Oishi House be preserved in situ and that Oishi Greenhouse 9 be preserved.

Please refer to Response to Comment 1-2, related to proposed project compliance with Stipulation II.D. of the MOA. Also, see Response to Comment 11-5 regarding Oishi Greenhouse 9.

13-4: This comment is a statement of support for an interpretive program and exhibit.

This comment is hereby noted. No change to the Draft EIR is required.

13-5: This comment states that a better balance between preservation and construction could be achieved by maintaining historic structures "in situ."

Please refer to Response to Comment 1-2, related to proposed project compliance with Stipulation II.D. of the MOA. See also Response to Comment 11-5 regarding retaining structures in situ.

STEWART WEINBERG
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PATRICIA M. GATES, Of Counsel
ROBERTA D. PERKINS, Of Counsel
RICHARD T. DRURY, Of Counsel

• Also admitted in Arizona
•• Admitted in Hawaii
••• Also admitted in Nevada
•••• Also admitted in Illinois

LETTER #14

BY EMAIL, FAX AND US MAIL

August 12, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804
Fax: (510) 620-6542
Email: Lina_Velasco@ci.richmond.ca.us

Re: Comments of Carpenters Union Local 152 on Draft Environmental Impact Report for the Miraflores Housing Development project (SCH Number: 2007082154)

Dear Ms. Velasco;

I am writing on behalf of the Carpenters Union Local 152 concerning the Draft Environmental Impact Report ("DEIR") for the Miraflores Housing Development project ("Project") (SCH Number: 2007082154). We hereby request that the City of Richmond ("City") fully comply with all requirements of the California Environmental Quality Act ("CEQA") in its review of the Project. After reviewing the DEIR, it is evident that the document contains numerous errors and omissions that preclude accurate analysis of the Project. As a result of these inadequacies, the DEIR fails as an informational document, fails to identify environmentally superior Project alternatives, and fails to impose feasible mitigation measures to reduce the Project's impacts.[1] A supplemental DEIR should be prepared and circulated for full public comment to address these issues. **14-1**

[1] We reserve the right to supplement these comments at later hearings and proceedings for this Project. See, *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109.

I. BACKGROUND

The Miraflores Project would involve the construction of 226 market-rate housing units and 110 affordable rental units for seniors on a 14-acre parcel in the City. The market-rate units would include a combination of attached and detached single family residences. The Project is expected to house 971 residents. The site is approximately half a mile directly northwest of the El Cerrito del Norte BART station in the City of El Cerrito. The project site is bounded on the north by the BART tracks and a roadbed berm of the old Atchison, Topeka, and Santa Fe Railroad line. From the roadbed berm, the west project boundary runs south along South 45th Street, then east along Florida Avenue, south on South 47th Street and east along Wall Avenue almost to Interstate 80. There are also a few lots at the southwest corner of Florida Avenue and South 47th Street that are within the site boundary. Interstate 80 forms the site's eastern boundary.

The Project would be built on heavily contaminated soil. The Project would place future residents approximately 220 feet from Interstate 80 (I-80), posing significant health risks as discussed below.

II. STANDING

14-2

Members of Local 152 live, work and recreate in the immediate vicinity of the Project site. These members will suffer the impacts of an inadequately mitigated Project, just as would the members of any nearby homeowners association, community group or environmental group. Hundreds of Local 152 members live and work in areas that will be affected by traffic, air pollution, and water pollution generated by the Project.

In addition, construction workers will suffer many of the most significant impacts from the Project as currently proposed, such as from air pollution emissions from poorly maintained or controlled construction equipment, possible risks related to hazardous materials on the Project site, and other impacts. Therefore, Local 152 and its members have a direct interest in ensuring that the Project is adequately analyzed and that its environmental and public health impacts are mitigated to the fullest extent feasible.

III. LEGAL STANDARDS

14-3

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") (except in certain limited circumstances). (See, e.g., Pub. Res. Code § 21100.) The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.) "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of

the statutory language." (*Communities for a Better Environment v. Calif. Resources Agency* (2002) 103 Cal. App. 4th 98, 109.)

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 Cal. Code Regs. ("CEQA Guidelines") § 15002(a)(1).) "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR 'protects not only the environment but also informed self-government.'" (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564) The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." (*Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs*. (2001) 91 Cal. App. 4th 1344, 1354 ("Berkeley Jets"); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810)

Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and all feasible mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); See also, *Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced." (Guidelines §15002(a)(2)) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." (Pub.Res.Code § 21081; 14 Cal.Code Regs. § 15092(b)(2)(A) & (B)) **14-3**

While the courts review an EIR using an "abuse of discretion" standard, "the reviewing court is not to 'uncritically rely on every study or analysis presented by a project proponent in support of its position. A 'clearly inadequate or unsupported study is entitled to no judicial deference.'" (*Berkeley Jets*, 91 Cal. App. 4th 1344, 1355 (emphasis added), quoting, *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal. 3d 376, 391 409, fn. 12 (1988)) As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

> A prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 722]; *Galante Vineyards v. Monterey Peninsula Water Management Dist*.

(1997) 60 Cal. App. 4th 1109, 1117; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 946) 14-3

IV. THE DEIR FAILS TO PROVIDE SUBSTANTIAL EVIDENCE TO SUPPORT A FINDING OF OVERRIDING CONSIDERATIONS

The DEIR concludes that the Project will have significant, unmitigated environmental impacts. As a result a statement of overriding considerations will be required. Under CEQA, when an agency approves a project with significant environmental impacts that will not be fully mitigated, it must adopt a "statement of overriding considerations" finding that, because of the project's overriding benefits, it is approving the project despite its environmental harm. (14 Cal.Code Regs. §15043; Pub. Res. Code §21081(B); *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212, 1222) A statement of overriding considerations expresses the "larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes and the like." (*Concerned Citizens of South Central LA v. Los Angeles Unif. Sch. Dist*. (1994) 24 Cal.App.4th 826, 847)

A statement of overriding considerations must be supported by substantial evidence in the record. (14 Cal.Code Regs. §15093(b); *Sierra Club v. Contra Costa Co*. (1992) 10 Cal.App.4th 1212, 1223)) The agency must make "a fully informed and publicly disclosed" decision that "specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project." (15 Cal.Code Regs. §15043(b)) As with all findings, the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515) 14-4

Key among the findings that the lead agency *must* make is that:

> "Specific economic, legal, social, technological, or other considerations, including ***the provision of employment opportunities for highly trained workers*****,** make infeasible the mitigation measures or alternatives identified in the environmental impact report.. [and that those] benefits of the project outweigh the significant effects on the environment."

(Pub. Res. Code §21081(a)(3), (b))

Thus, the City must make specific findings, supported by substantial evidence, concerning both the environmental impacts of the Project, and the economic benefits including "the provision of employment opportunities for highly trained workers"

created. The DEIR fails to provide substantial evidence to support a statement of overriding considerations.

The DEIR makes no effort whatsoever to analyze the fiscal impacts related to jobs to be created by the Proposed project, or the quality of the new jobs. In particular, the DEIR is devoid of any analysis of whether the new jobs to be created will be higher or lower wage than the jobs to be displaced in the existing buildings. As discussed above, CEQA expressly requires an analysis of: "Specific economic, legal, social, technological, or other considerations, including ***the provision of employment opportunities for highly trained workers.***" (Pub. Res. Code §21081(a)(3), (b)) The Fiscal Analysis makes no attempt to determine whether new jobs created by the Project, in either the construction phase or the operational phase, will be for "highly trained workers," and what the likely salary and wage ranges of these jobs will be. Without this information, the City lack substantial evidence to make any statement of overriding considerations. **14-4**

In short, the City cannot find that the economic benefits of the Project outweigh the environmental costs if it does not know what the economic benefits will be. A revised DEIR is required to provide this information.

V. THE DEIR FAILS TO ANALYZE AND MITIGATE ALL POTENTIALLY SIGNIFICANT IMPACTS

An EIR must disclose all potentially significant adverse environmental impacts of a project. (Pub. Res. Code § 21100(b)(1); 14 Cal.Code Regs. § 15126(a); *Berkeley Jets*, 91 Cal. App. 4th 1344, 1354) CEQA requires that an EIR must not only identify the impacts, but must also provide "information about how adverse the impacts will be." (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831). The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692). The DEIR for this Project fails to do so. **14-5**

A. The DEIR Fails to Adequately Analyze and Mitigate the Project's Impacts Related to Toxic Chemicals.

The Project site is heavily contaminated with an array of highly toxic chemicals at levels many times above state standards. Contamination on the Project site includes toxic chemicals such as lead, dieldrin, DDD, DDE, DDT, petroleum hydrocarbons, benzene, toluene, ethylbenzene, and xylenes. Construction workers may be exposed to significant levels of these toxic chemicals during excavation of contaminated soil, earth **14-6**

moving, and other construction activities. Future residents may also be exposed if the Project is not adequately remediated. 14-6

The DEIR proposes to remediate lead in soil to 248 mg/kg site-wide. (4.8-16) This level is not sufficiently health protective. Remediation should be at least to a level of 200 mg/kg. 14-7

The health effects of lead are well-documented. Lead has been identified by the State of California as a chemical known to cause cancer and reproductive toxicity in humans.[2] According to the United States Environmental Protection Agency ("US EPA"), lead can cause brain damage, learning deficits, hearing problems, headaches, difficulties during pregnancy, high blood pressure, memory and concentration problems, and muscle and joint pain.[3] Reduced IQ is one of the most common effects of lead poisoning in children. Each three microgram increase in lead poisoning has been found to result in a one-point drop in IQ.[4] Adults can be exposed to lead in soil through ***construction and excavation activity***, gardening or other outdoor activities, but children are at much greater risk of lead poisoning due to the fact that they often place their hands, yard toys, soil, and other objects into their mouths.

There is no "safe" level of lead exposure, and it is best to minimize exposure to lead to the maximum extent practicable. However, in July 2003, the Regional Water Quality Control Board ("RWQCB") established an "environmental screening level" ("ESL") for lead for residential shallow soil of 200 ppm.[5] This level superseded the previous level of 400 ppm based on new data concerning lead toxicity. The Department of Toxic Substances Control ("DTSC") recently published a study showing that typical children can be exposed to dangerous levels of lead[6] if exposed to lead in soil at levels from 139 ppm to 247 ppm. The same study showed that children who eat large amounts of soil ("pica children") can have lead poisoning from as little as 89 ppm to 218 ppm lead in soil.[7] California's Safe Drinking Water and Toxics Enforcement Act (Proposition 65) establishes a "safe threshold" for lead of 15 micrograms per day, which translates into a soil lead level for an average child of below 200 ppm. The "safe" exposure levels for 14-8

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[2] Proposition 65 Status Report.
[3] US EPA Lead Fact Sheet.
[4] Lead Health Effects and Sources of Exposure.
[5] San Francisco Regional Water Quality Control Board, Table A: Environmental Screening Levels.
[6] Above 10 micrograms per deciliter of blood.
[7] DTSC, Updated Version of the California EPA Lead Risk Assessment Spreadsheet Model for Predicting Blood Lead in Children and Adults.

pregnant women are even lower – 0.5 micrograms per day. Thus, the threshold level of 200 ppm is well-supported by recent governmental research and publications. 14-8

The mitigation proposed by the DEIR is inadequate to reduce this impact to a level of insignificance. A supplemental DEIR should be prepared to propose more stringent remediation. 14-9

Furthermore, the DEIR proposes to finalize a clean-up plan only after the DEIR is approved, thereby improperly deferring mitigation until after the completion of the CEQA process. The DEIR states, "DTSC is expected to finalize the RAP and issue a RAP approval letter after this EIR is certified." 4.8-15

CEQA does not permit deferral of the development of mitigation measures until after project approval. The overall effectiveness of the proposed mitigation must be evaluated in the Draft EIR and subjected to public comment. (CEQA Guidelines § 15126.4(a)(1)(B); *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309) An agency may not rely on mitigation measures of uncertain efficacy or feasibility. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727) This approach helps to "insure the integrity of the process of decision-making by precluding stubborn problems or serious criticism from being swept under the rug." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935) By deferring approval of the clean-up plan until after certification of the CEQA document, the EIR "sweeps under the rug" questions concerning the effectiveness, and potential adverse impacts of the measure in violation of CEQA. 14-10

B. The DEIR Fails to Adequately Analyze and Mitigate the Project's Impacts Related to Construction Phase Air Pollution.

The DEIR admits that the Project will have significant air quality impacts during the construction phase, including emissions of reactive organic gases ("ROGs" a/k/a "VOCs"), nitrogen oxides (NOx), and particulate matter (PM). (4.3-23) Obviously, construction workers will be most heavily exposed to such pollution. Nevertheless, the DEIR fails to adopt all feasible mitigation measures to reduce this impact.

Scientific research regarding particulate matter ("PM") pollution shows that "the inhalation of particulate matter, particularly the smallest particles, causes a variety of health effects, including premature mortality, aggravation of respiratory (e.g., cough, shortness of breath, wheezing, bronchitis, asthma attacks) and cardiovascular disease, declines in lung function, changes to lung tissues and structure, altered respiratory defense mechanisms, and cancer, among others. (*National Ambient Air Quality Standards for Particulate Matter: Proposed Decision*, Federal Register, v. 61, no. 241, 14-11

December 13, 1996, pp. 65638-65675). A recent article linked long-term exposure to combustion-related fine particulate air pollution to cardiopulmonary and lung cancer mortality. Particulate matter is a non-threshold pollutant, which means that there is some possibility of an adverse health impact at any concentration. See *American Trucking v. EPA: Unjustified Revival of the Nondelegation Doctrine*, 23-SPG Environs Envtl. L & Pol'y J. 17, 26.

14-11

The State of California (California Air Resources Board) listed diesel exhaust as a toxic air contaminant on August 27, 1998. The BAAQMD modified its CEQA Guidelines in December 1999 (BAAQMD 12/99) to acknowledge the impact of diesel exhaust. These Guidelines state with respect to diesel exhaust that: "Because of the potential public health impacts, however, the District strongly encourages Lead Agencies to consider the issue and address potential impacts based on the best information available at the time the analysis is prepared."

Feasible mitigation measures exist to reduce PM impacts during the construction phase, which have not been required for this project. CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); See also, *Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564)

14-12

Feasible measures include switching to cleaner fuels such as alternative fuels (compressed natural gas, liquefied natural gas, propane, ethanol, and methanol) or alternative diesel fuels (emulsified diesel), and fuel borne-catalysts; replacing, repowering, or rebuilding old equipment; and retrofitting equipment with diesel particulate filters, diesel oxidation catalysts, selective catalytic reduction, lean NOx catalyst technology, and exhaust gas recirculation; all of which have been demonstrated on off-road equipment. In addition, the following best management measures can help reduce exposure to diesel pollution and generation of ozone precursors:

- Require on-site electrical service for hand tools;
- Require preparation of a traffic control plan;
- Demonstrate proper inspection and maintenance of construction equipment;
- Limit idling to 5 minutes;
- Configure construction parking to minimize traffic interference;
- Consolidate truck deliveries when possible;
- Provide dedicated turn lanes for movement of construction trucks and equipment on and off site;

- Suspend use of all construction equipment operations during second stage smog alerts;
- Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abutters and the general public; and
- Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows.
- Provide on-site lunch, e.g., a lunch wagon;
- Implement a carpool program for construction workers.
- Require all deliveries to the construction site to be made with trucks that meet clean engine standards or are otherwise equipped with post-combustion controls that reduce emissions compared to uncontrolled equivalents by 50% for NOx, 90% for ROG and CO, and 80% for PM10/PM2.5.
- Prohibit the use of conventional cut-back asphalt for paving and restrict the maximum VOC content of asphalt emulsion;
- Use low-ROG paints and other low-ROG construction materials;
- Employ a construction site manager to verify that engines are properly maintained and keep a maintenance log; **14-12**
- Configure construction parking to minimize traffic interference;
- Consolidate truck deliveries when possible;
- Provide dedicated turn lanes for movement of construction trucks and equipment on and off site;
- Suspend use of all construction equipment operations during second stage smog alerts;
- Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abutters and the general public;
- Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows;
- Require all diesel trucks used by construction contractor(s) at the site, or for on-road hauling of construction material, to be post-1996 models; and
- Diesel portable generators less than 50 hp shall not be allowed at the construction site.

A supplemental DEIR should be prepared to analyze these impacts and consider these mitigation measures.

C. The DEIR Fails to Adequately Analyze and Mitigate the Project's Impacts Related to its Proximity to I-80.

The Miraflores Housing Development Plan proposes to place residential units approximately 220 feet from Interstate 80. (4.3-27) The *California Air Resources Board ("CARB") Air Quality and Land Use Handbook* (p.4) advises that residential development not be placed within 500 feet of major road. In April 2005, CARB released the final version of the *Air Quality and Land Use Handbook: A Community Health Perspective*, which is intended to encourage local land use agencies to consider the risks from air pollution prior to making decisions that approve the siting of new sensitive receptors near sources of air pollution. CARB recommends that where residential uses are proposed within 500 feet of a freeway, that a health risk assessment be conducted.

The DEIR uses an indefensible cancer risk analysis. Rather than using EMFAC 2007, as required by the controlling Bay Area Air Quality Management District CEQA Handbook (BAAQMD CEQA Guidelines p. 31), the DEIR adjusts the EMFAC data downward significantly. The DEIR states, "However, the effect of the adopted regulation reducing DPM was accounted in this assessment ***by adjusting the EMFAC2007 DPM [Diesel Particulate Matter] emission rates***." (4.3-30) The DEIR explains that it reduced the cancer risk calculated based on the EMFAC model by assuming that emission controls would be phased in at very high rates in the future to reduce diesel emissions. (4.3-29-30) Even using this extremely biased calculation, the DEIR concludes that the cancer risk would be 9.6 per million – just slightly below the 10 per million significance threshold. "Over the course of a 70-yearlifetime exposure, the incremental risk for the maximally exposed individual (MEI) is calculated at about 9.6 excess cancer cases per million people, which is below the threshold of 10 in a million." (4.3-33) There is no question that using the EMFAC 2007 model without any adjustments would result in a cancer risk far greater than 10 per million, which would be significant under CEQA.[8] 14-13

The DEIR's analysis is fatally flawed. In *Endangered Habitats League v. County of Orange,* the court held that a lead agency under CEQA must apply the assessment methodologies that have been adopted for use under CEQA and not other methodologies. In *Endangered Habitats League*, the agency adopted CEQA significance standards for traffic, but used a different, and allegedly more accurate, method for determining traffic impacts in an EIR. (*Id.* (2005) 131 Cal.App.4th 777) Under the adopted methodology, traffic impacts would have been considered significant, while under the new method, they were not. The court held that the adopted method was mandatory, and the impacts were therefore significant under CEQA. (*Id*. at 783) Similarly, in this case, the BAAQMD

[8] Furthermore, a more appropriate significance threshold for cancer risk would be 1 per million, which is the threshold that has been adopted by some other air districts and laws.

CEQA Guidelines require the use of EMFAC emission data. Using the unmodified EMFAC model, there is no question that this impact would be significant. The DEIR fails to comply with CEQA by abandoning the EMFAC methodology and adopting a makeshift risk assessment methodology that is found nowhere in law or science.

14-13

Indeed, it should not be surprising that placing residents 220 feet from one of the busiest freeways in the nation (I-80) (less than half the distance recommended by CARB) would result in a significant cancer risk. The DEIR must go through indefensible mathematical gymnastics to make the cancer risk fall slightly below the CEQA significance threshold. This type of misleading analysis is prohibited under CEQA and makes the DEIR fail as an informational document.

Furthermore, CEQA law is clear that the CEQA analysis must be based on the actual environment, not on a hypothetical environment that may or may not come to pass. By assuming that diesel truck emission controls will become widely adopted, the DEIR makes indefensible hypothetical assumptions about the future environment. Furthermore, these assumptions appear to be unfounded because diesel engines are known to last much longer than gasoline engines, often lasting hundreds of thousands of miles, and even longer in California. For this reason, agencies have had significant difficulty encouraging trucking companies to replace older dirty diesel trucks with newer cleaner models.

CEQA prohibits such wishful thinking about future environmental conditions, and requires the analysis to be based on the actual environment as it exists at the time of CEQA review, not some hypothetical future environment that may or may not come to pass. CEQA Guidelines §15125(a) requires that the CEQA analysis be based on the ***actual*** environment as it exists at the time environmental analysis is commenced, not a ***hypothetical*** environment that may or may not exist in the future. "[T]he impacts of the project must be measured against the 'real conditions on the ground.'" (*Save Our Peninsula Com. v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 121-123 *("Save Our Peninsula"*); *Environmental Planning and Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 358 ("*EPIC*"); *City of Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229 ("*City of Carmel*")) "An EIR must focus on impacts to the existing environment, not hypothetical situations." (*Save Our Peninsula*, citing *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 955.) In *Riverwatch,* the court stated, "we note the generally accepted principle that environmental impacts should be examined in light of the environment as it exists when a project is approved." (*Riverwatch, supra,* 76 Cal.App.4th at 1453; see also, *Bloom v. McGurk* (1994) 26 Cal.App.4th 1307, 1315) In *City of Carmel,* the court held that the impacts of a project must be measured against the actual existing environment, not against maximum build-out permitted by a previous general plan. (*City of Carmel, supra*, 183 Cal.App.3d at 246) The court stated, "[i]n assessing the impact of rezoning, it

14-14

is only logical that the local agency examine the potential impact on the existing physical environment." (See also, *EPIC, supra,* 131 Cal.App.3d 350) The cases establish that the baseline for evaluating environmental impacts of a project must be the actual present conditions, not hypothetical future ones.

14-14

Applying the EMFAC model to the actual current environment would unquestionably result in a finding that the Project's cancer risk exceeds 10 per million, which is significant under CEQA. This would require the DEIR to identify the impact as significant and propose mitigation measures to reduce these impacts.

The cancer risk from the nearby I-80 is a highly significant impact. Diesel exhaust has been identified by the California Air Resources Board as a toxic air contaminant and is identified by the State as a known human carcinogen. Studies have demonstrated that children living near major roadways are exposed to high levels of diesel exhaust and have poorer lung function than children living in cleaner areas[9].

Diesel exhaust has been officially recognized by the State of California as a chemical that causes cancer in humans since October 1990[10]. On August 27, 1998, after extensive scientific review and public hearing, the California Air Resources Board ("CARB") formally identified particulate emissions from diesel-fueled engines as a toxic air contaminant ("TAC"). Diesel exhaust is a serious public health concern. It has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death. Fine diesel particles are deposited deep in the lungs and can result in increased respiratory symptoms and disease; decreased lung function, *particularly in children* and individuals with asthma; alterations in lung tissue and respiratory tract defense mechanisms; and premature death. (CARB 6/98.[11])

14-15

CEQA requires analysis not only of direct impacts of the Project, but also indirect impacts resulting from the placement of sensitive receptors near hazardous conditions. The Bay Area Air Quality Management District ("BAAQMD") modified its CEQA Guidelines in December 1999 (BAAQMD 12/99) to acknowledge the impact of diesel exhaust. These Guidelines (p. 47) state with respect to diesel exhaust that:

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[9] Pekkanen, et al., Effects of ultrafine and fine particles in urban air on peak expiratory flow among children with asthmatic symptoms. Environ. Res (1997) 74(1):24-33

[10] California Environmental Protection Agency, Chemicals Known to the State to Cause Cancer or Reproductive Toxicity (Exhibit 5 to Fox Comments).

[11] California Air Resources Board (CARB), Initial Statement of Reasons for Rulemaking, Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, Staff Report, June 1998.

> Because of the potential public health impacts, however, the District strongly encourages Lead Agencies to consider the issue and address potential impacts based on the best information available at the time the analysis is prepared. *Particular attention should be paid to projects that might result in sensitive receptors being exposed to high levels of diesel exhaust. This applies to situations where a new or modified source of emissions is proposed near existing receptors and to* ***new receptors locating near an existing source***.

14-15

Furthermore, the DEIR fails entirely to analyze non-cancer health risks such as asthma. It is well documented that children living within 500 feet of a major roadway experience significantly elevated levels of asthma. (R. McConnel, et al, Traffic, Susceptibility, and Childhood Asthma VOLUME 114, NUMBER 5, May 2006, Environmental Health Perspectives) An EIR must analyze the impacts of a Project on human health. This includes impacts such as asthma as well as cancer.

The court held in *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004), 124 Cal. App. 4th 1184, 1220:

> Guidelines section 15126.2, subdivision (a) requires an EIR to discuss, inter alia, "health and safety problems caused by the physical changes" that the proposed project will precipitate. Both of the EIR's concluded that the projects would have significant and unavoidable adverse impacts on air quality. It is well known that air pollution adversely affects human respiratory health. (See, e.g., Bustillo, Smog Harms Children's Lungs for Life, Study Finds, L.A. Times (Sept. 9, 2004).) Emergency rooms crowded with wheezing sufferers are sad but common sights in the San Joaquin Valley and elsewhere. Air quality indexes are published daily in local newspapers, schools monitor air quality and restrict outdoor play when it is especially poor and the public is warned to limit their activities on days when air quality is particularly bad. Yet, neither EIR acknowledges the health consequences that necessarily result from the identified adverse air quality impacts. Buried in the description of some of the various substances that make up the soup known as "air pollution" are brief references to respiratory illnesses. However, there is no acknowledgement or analysis of the well-known connection between reduction in air quality and increases in specific respiratory conditions and illnesses. After reading the EIR's, the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin. On remand, the health impacts resulting from the adverse air quality impacts must be identified and analyzed in the new EIR's.

14-16

Similarly, in the Miraflores DEIR fails as an informational document because it falsely informs the public that the Project will have no adverse health impacts due to the proximity to I-80. The DEIR's conclusion is patently false with respect to cancer risks and ignores asthma risks entirely, which are also significant. A supplemental DEIR is necessary to analyze these impacts and propose feasible mitigation measures. **14-17**

There are many feasible mitigation measures available to reduce the Project's potentially significant health impact. These impacts can be mitigated by locating people outside of the hazard zone, where impacts are significant, by including a buffer or setback from I-80. These impacts can also be mitigated by designing buildings to maintain indoor air concentrations below levels of concern. Limiting indoor concentrations of diesel exhaust could be accomplished by minimizing outdoor air infiltration, limiting building ventilation rates to the minimum required for comfortable habitation, and using air cleaning devices. Windows could be designed to remain permanently closed, and all doors could be designed to automatically close. The Project could also incorporate box and bag filters, high-efficiency particulate air ("HEPA") filters, and ultra-low particulate air ("ULPA") filters. Such measures must be analyzed in a supplemental DEIR. **14-18**

D. The DEIR Fails to Adequately Analyze and Mitigate the Project's Odor Impacts.

The DEIR contains a false and misleading odor analysis. DEIR states that there are no significant odor sources nearby. (4.3-35) This statement is flatly wrong and renders the DEIR inadequate as a public information document.

The BAAQMD CEQA Guidelines state:

> "Any project with the potential to frequently expose members of the public to objectionable odors would be deemed to have a significant impact. Odor impacts on residential areas and other sensitive receptors warrant the closest scrutiny, but consideration should also be given to other land uses where people may congregate, such as recreational facilities, worksites and commercial areas. Analysis of potential odor impacts should be conducted for both of the following situations: 1) sources of odorous emissions locating near existing receptors, and 2) receptors locating near existing odor sources. Determining the significance of potential odor impacts involves a two-step process. First, determine whether the project would result in an odor source and receptors being located within the distances indicated in Table 4. Table 4 lists types of facilities known to emit objectionable odors. The Lead Agency should evaluate facilities not included in Table 4 or projects separated by greater distances than indicated in Table 4 if warranted by local conditions or special circumstances. Second, if the proposed

14-19

project would result in an odor source and receptors being located closer than the screening level distances indicated in Table 4, a more detailed analysis, as described in Chapter 3, should be conducted.

TABLE 4, entitled, PROJECT SCREENING TRIGGER LEVELS FOR POTENTIAL ODOR SOURCES, lists the following odor sources and screening distances: Wastewater Treatment Plant (1 mile); Sanitary Landfill (1 mile); Transfer Station (1 mile); Composting Facility (1 mile); Petroleum Refinery (2 miles); Asphalt Batch Plant (1 mile); Chemical Manufacturing (1 mile); Fiberglass Manufacturing (1 mile); Painting/Coating Operations (e.g. auto body shops) (1 mile); Rendering Plant (1 mile); Coffee Roaster (1 mile). (BAAQMD CEQA Guidelines, p. 18)

14-19

A simple Google search indicates that there is an auto body shop within one-half mile of the Miraflores Project – less than half the BAAQMD screening distance. Steves Auto Care II, 12267 San Pablo Ave, Richmond, CA 94805 (0.5 miles). There may be other BAAQMD-listed odor sources as well. A supplemental DEIR must be prepared to analyze the Project's odor impacts, and to determine if other listed odor sources are within the screening distances.

By placing workers and hotel guests within one mile of these potential odor sources, the Project "would be deemed to have a significant impact" under the applicable BAAQMD CEQA Guidelines. This impact must be analyzed in a supplemental DEIR and mitigation measures proposed.

14-20

Furthermore, by falsely stating that there are no odor-causing sources within one mile of the Project, the DEIR both fails to properly describe the Project's environmental setting and fails to accurately describe the Project itself. A CEQA document is legally defective if it fails to accurately describe the proposed project. *(Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180; CEQA Guidelines §15071(a)). The courts have repeatedly held that "an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient [CEQA document]." (*County of Inyo v. City of Los Angeles*, (1977) 71 Cal.App.3d 185, 193.) A CEQA document "must include a description of the environment in the vicinity of the project, as it exists before the commencement of the project, from both a local and a regional perspective." (CEQA Guidelines § 15125; *see Environmental Planning and Info. Council v. County of El Dorado* (1982)131 Cal.App.3d 350, 354.) The DEIR is therefore deficient as a matter of law.

E. The DEIR Fails to Adequately Analyze and Mitigate the Project's Criteria Air Pollution Impacts.

The DEIR concludes all operational emissions from the Project will be insignificant, including emissions of nitrogen oxides (NOx), reactive organic gases (ROGs) and particulate matter (PM). (4.3-26) This conclusion is inconsistent with the applicable BAAQMD CEQA Guidance.

The Project includes 336 residential units. The cumulative impacts of the Project include 368 residential units in the area plus 206,000 square feet of commercial development. (4-5)

The BAAQMD CEQA Guidance provides a table for thresholds of significance (total emissions from project operations) based upon the project end use (Table 6: Projects with Potentially Significant Emissions). (BAAQMD CEQA Guidelines, p.25) Table 6 provides size or activity levels for various types of land uses which, based on default assumptions, would result in mobile source emissions exceeding the District's CEQA threshold of significance for NOx of 80 pounds per day. According to Table 6, a residential development exceeding 320 units is likely to generate significant NOx emissions. Also, according to Table 6, commercial development exceeding 44,000 square feet is likely to generate significant NOx pollution. **14-21**

The Miraflores Project's 336 residential units are therefore likely to generate individually significant NOx pollution, since it exceeds the BAAQMD's threshold of 320 units. The cumulative emissions of 368 units will also be significant. The Project's cumulative NOx emissions from 206,000 square feet of commercial space from past, present and reasonably foreseeable future projects will also be significant – exceeding the BAAMQD's threshold of 44,000 square feet by almost 5 times.

The DEIR needs to be revised to identify the Project as a potential significant source of NOx pollutants.

The DEIR should also propose adoption of all feasible NOx mitigation measures. While the Project already includes several measures that will reduce NOx, many other feasible mitigation measures exist and should be implemented. The Project includes greenhouse gas reduction measures that may also reduce NOx, such as LEED-ND (Leadership in Energy and Environmental Design – Neighborhood Development) standards, proximity to transit, the infill nature of the housing, close proximity to transportation, energy-efficient construction methods, inclusion of solar photovoltaic panels to produce energy, passive solar design, regionally-appropriate landscaping, water recycling systems, and comprehensive on-site recycling. (4.7-27) **14-22**

Additional mitigation measures should be considered. First, LEED-ND is no standard at all. LEED-ND is in a draft format only. It has not a fixed or adopted standard. The US Green Building Council, the private entity that publishes LEED, is taking comments on a wide variety of possible options for LEED-ND, which vary from fairly aggressive to very mild. (http://www.usgbc.org/ShowFile.aspx?DocumentID=6073) The Green Building Council's website states, "LEED-ND is currently undergoing a development process in anticipation of a late summer launch of the post-pilot version of the rating system." (http://www.usgbc.org/DisplayPage.aspx?CMSPageID=148) It will be up to this private body to decide the scope and nature of LEED-ND. The Green Building Council's board includes representatives from private corporations such as Starbuck's Coffee, Pulte/Del Webb Homes, Forbo Linoleum Inc., HDR Architecture, CALMAC Manufacturing Corporation, Bank of America, Columbia Forest Products, and many other private companies, many of which appear to have economic interests in the final decision. (http://www.usgbc.org/AboutUs/BoardMemberList.aspx?CMSPageID=131) Since the Green Building Council is a private body, conflict of interest law that would apply to governmental entities do not apply to the Council. There is no way of knowing at this point whether the private body that is developing LEED-ND will adopt meaningful measures.

14-23

The courts have held that an agency may not place the development of mitigation measures in the hands of private entities that are not accountable to the lead agency or the public. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 302-308.) In *Sundstrom* the court found that a proposed mitigation scheme was improper because it would have allowed the applicant itself, subject only to planning staff approval, to conduct the analysis and formulate the mitigation measures. (*Sundstrom*, 202 Cal.App.3d at 302-308.) The court held that only the board of supervisors, as the ultimate decision maker, could grant such an approval, explaining that:

> the conditions improperly delegate the County's legal responsibility to assess environmental impact by directing the Applicant himself to conduct the hydrological studies subject to the approval of the Planning Commission staff. Under CEQA, the EIR or negative declaration must be prepared "directly by, or under contract to" the lead agency. The implementing regulations explicitly provide: "The draft EIR which is sent out for public review must reflect the independent judgment of the lead agency." Moreover, the EIR must be presented to the decision making body of the agency. In *Kleist v. City of Glendale* (1976) 56 Cal.App.3d 770, 779, the court held that the city council cannot delegate responsibility for considering the EIR to a planning board. By necessary

> inference, the Board of Supervisors cannot delegate the responsibility to the staff of the Planning Commission. (*Id.* at 307 (citations omitted).)

Deferral of mitigation is impermissible if it removes the CEQA decision-making body from its decision-making role. By relying on the undeveloped LEED-ND standard, the City improperly places development of mitigation measures in the hands of the private Green Building Council, which is unaccountable to the City or the public, in violation of CEQA.

CEQA also disallows deferring the formulation of mitigation measures to post-approval studies, unless the lead agency relies upon fixed standards and "'meaningful information' reasonably justifying an expectation of compliance." (*Sundstrom* at 308; *see also Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028-29 (mitigation measures may be deferred only "for kinds of impacts for which mitigation is known to be feasible").) A lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation because there was no evidence that replacement water was available).) This approach helps "insure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug." (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.) **14-23**

By relying on the yet undeveloped LEED-ND standards, the City violates CEQA. LEED-ND is not a fixed standard because it has not yet been developed. Thus, it is entirely uncertain whether these standards will provide meaningful mitigation.

Furthermore, LEED-ND merely proposes to require buildings to be LEED-certified at the most basic level. (http://www.usgbc.org/ShowFile.aspx?DocumentID=6073) LEED certification for buildings ranges from basic LEED certification, to silver, gold and platinum. In LEED 2009 there are 100 possible base points plus an additional 6 points for Innovation in Design and 4 points for Regional Priority. Buildings can qualify for four levels of certification:

* Certified - 40-49 points
* Silver - 50-59 points
* Gold - 60-79 points
* Platinum - 80 points and above

The Richmond green building ordinance requires all City building projects to achieve a LEED "Silver" rating under the appropriate LEED rating system for the project type or a GreenPoint Checklist score of 70 points for residential projects.

LEED-ND proposes only to require basic LEED certification for buildings. A supplemental DEIR should be prepared to explore the feasibility of requiring the buildings in the Miraflores Project to meet LEED-Platinum, Gold or Silver standards. This would be a feasible way to mitigate the Project's significant greenhouse gas and NOx impacts. 14-23

VI. THE CITY SHOULD PREPARE AND RECIRCULATE A SUPPLEMENTAL DEIR

A supplemental draft EIR ("SDEIR") should be prepared and circulated for full public review to address the impacts identified above and to propose feasible mitigation measures. CEQA requires re-circulation of an EIR when significant new information is added to the EIR following public review but before certification. (Pub. Res. Code § 21092.1.) The Guidelines clarify that new information is significant if "the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project" including, for example, "a disclosure showing that … [a] new significant environmental impact would result from the project." (CEQA Guidelines § 15088.5.) The above significant environmental impacts have not been analyzed in the EIR and must be addressed in a supplemental DEIR that is re-circulated for public review. 14-24

Sincerely,

Richard Drury

CC: Tom Quinn
Scott Littlehale
Ted Franklin

Letter 14: Richard Drury, Of Counsel, Weinberg, Roger & Rosenfeld. August 12, 2009.

14-1: This comment states that the Draft EIR is inadequate and that a supplemental Draft EIR is required.

This comment states the commenter's opinion. Substantive comments are addressed in subsequent comments. The comment is noted. No further response is required.

14-2: The comment summarizes the proposed project.

No further response is required.

14-3: The comment discusses CEQA requirements.

No further response is required.

14-4: This comment restates the Draft EIR conclusion that the Project requires a statement of overriding considerations, restates the law that the lead agency must make findings that the benefits of the project outweigh the impacts, and asserts that the Draft EIR fails to provide evidence to support such a finding as it does not analyze the fiscal impacts related to whether jobs will be displaced or new jobs will be created.

The Miraflores site is currently vacant and employs no workers; therefore, redevelopment of the site would not displace any existing jobs. Implementation of the project would create the need for skilled workers to fill remediation, abatement, and construction jobs. The Project Description of the Draft EIR has been amended to include a list of project benefits, including job creation, to support the statement of overriding considerations. These changes are included in Chapter 3 of this Final EIR.

14-5: The comment discusses CEQA requirements.

No further response is required.

14-6: The comment summarizes contamination of the project site.

No further response is required.

14-7: The comment states that soil remediation level should be to 200 mg/kg, rather than 248 mg/kg.

The cleanup objective of 248 mg/kg for lead is a site-specific, risk-based number derived by the Department of Toxic Substances Control (DTSC) through lead spread modeling. This cleanup objective represents the cleanup level necessary to be protective of residents, including children, and is based on current toxicology research and the specific parameters of the project site, as discussed further below. Implementation of the Remedial Action Plan would not result in significant adverse impacts to the environment. No change to the Draft EIR is required and no supplemental Draft EIR is warranted.

The comment states that the lead cleanup standard adopted by the RAP (248 milligrams per kilogram (mg/kg)) should have been less than or equal to 200 mg/kg, which is the Tier I Environmental Screening Level (ESL) for lead established by the Bay Area Regional Water Quality Control Board (RWQCB) and the California's Safe Drinking Water and Toxics Enforcement Act (Proposition 65) as a "Safe Harbor" level.

As stated by the RWQCB in their guidance document entitled "Screening For Environmental Concerns at Sites with Contaminated Soil and Groundwater," Interim Final, November 2007 (Revised May 2008) (ESL Guidance), the ESLs are intended to help expedite the identification of potential environmental concerns at sites where contamination is known to be present, and to expedite the evaluation of the need for cleanup. As noted in the ESL Guidance, “The Tier 1 ESLs presented in the lookup tables are NOT regulatory cleanup

levels." Additionally, "The presence of a chemical at concentrations in excess of an ESL does not necessarily indicate that adverse impacts to human health or the environment are occurring; this simply indicates that a potential for adverse risk may exist and that additional evaluation is warranted. Use of the ESLs as cleanup levels should be evaluated in view of the overall site investigation results and the cost/benefit of performing a more site-specific risk assessment."

Accordingly, and consistent with the ESL Guidance, a site-specific risk assessment was performed. The lead cleanup level adopted under the RAP was developed to achieve safe conditions, using the DTSC LeadSpread model under conservative, site-specific conditions. The site-specific risk assessment included evaluating the exposure to lead in air and drinking water, the potential uptake of lead in home-grown produce, and the concentration of lead in soil.

The risk for lead in soil at the Miraflores property was assessed by comparing measured lead concentrations in soil samples to screening levels developed using the DTSC LeadSpread Version 7.0. LeadSpread provides estimates of blood lead concentrations in children and adults for residential and industrial land use scenarios based on a multiple pathway analysis. LeadSpread evaluates five exposure pathways (soil contact, soil ingestion, inhalation, drinking water ingestion, and food ingestion) and the potential for adverse health effects resulting from those exposures.

An acceptable lead concentration in soil must result in an estimated blood lead concentration of no greater than 10 micrograms per deciliter (μg/dl). LeadSpread outputs two values, Preliminary Remedial Goal (PRG)-95 and PRG-99, for the acceptable concentration of lead in soil. If soil lead concentrations are at or below the PRG-95 value, at least 95 percent of individuals are expected to have blood lead levels at or below the Center for Disease Control's (CDC) ceiling level of 10 μg/dl blood lead concentration. In contrast, if soil lead concentrations are at or below the PRG-99 value, at least 99 percent of individuals are expected to have blood lead levels at or below the CDC's 10

μg/dl ceiling level. Therefore, the soil lead concentration represented by PRG-95 is invariably higher, that is, less conservative, than that for PRG-99. DTSC typically uses PRG-99 for determining if soil lead concentrations at a site exceed acceptable levels, rather than PRG-95, because the former is expected to result in a lower incidence of blood lead levels in excess of the CDC ceiling level.

The LeadSpread spreadsheet showing the input parameters and output is provided in the Draft RAP prepared for the Miraflores property. The acceptable concentration of lead are the PRG-95 and PRG-99 values of 383 mg/kg lead and 248 mg/kg lead, respectively. Thus, DTSC considers remediation of soil to lead concentrations of 248 mg/kg to be protective of human health and appropriate for the planned use of the property. Since current data indicate that average lead-in-soil concentration on the Miraflores site is 106 mg/kg, the LeadSpread model shows that at a cleanup level of 248 mg/kg, at least 99 percent of individuals on the Miraflores site would be expected to have blood lead levels below the CDC's 10 μg/dl ceiling level.

The Proposition 65 Safe Harbor level is not an appropriate standard for use at the Miraflores property for several reasons. First, the Proposition 65 intake values for lead of 0.5 ug/day or 15 ug/day are older values calculated using an approach applied to chemicals generally, whereas the currently accepted approach for evaluating lead is based on a more robust, lead-specific database that relates blood lead levels to neurobehavioral changes. Second, the assumptions made for the Proposition 65 standard are developed for generic exposures to lead in consumer products and the environment, whereas the cleanup standards developed for the Miraflores Project are site-specific and are designed using protective assumptions for children in a residential setting.

While the proposed project would already reduce lead conditions to below the significance threshold, to further reduce lead concentrations in soil, the site-specific cleanup confirmation methodology would use 248 mg/kg as the ceiling value for lead concentrations found on the Miraflores property. This

approach would result in an even lower average lead concentration subsequent to the soil remediation.

14-8: The comment discusses the health effects of lead exposure.

No further response is required.

14-9: This comments states that the mitigation proposed to reduce the lead impact to a less-than-significant level is inadequate and that a supplemental EIR should be prepared.

Please refer to Response to Comment 14-7 above.

14-10: This comment states that the project proposes to defer approval of the clean up plan until after approval of the Draft EIR and that this is improperly "deferred" mitigation.

The Draft EIR does not improperly defer mitigation of site contamination. As noted in the Project Description, the Draft RAP for the Miraflores site is a component of the project, is included in the Draft EIR, and is subject to review during the CEQA process. The Draft RAP is included as Appendix D of the Draft EIR. Just like the City, which cannot approve the proposed project development until after certification of the EIR, the Department of Toxic Substances Control cannot approve the RAP until after the EIR is certified.

14-11: The comment summarizes health effects of and policy guidance on particulate matter pollution.

No further response is required.

14-12: The Comment states that feasible mitigation measures exist to reduce PM impacts and that a supplemental Draft EIR should be prepared to analyze the impacts and consider these mitigation measures.

Particulate matter emissions and impacts have been thoroughly analyzed in of in Section 4.3 of the Draft EIR. of While all the air district requirements were incorporated as mitigation, the Draft EIR has been changed to include additional mitigation measures for PM air pollution during the construction phase of the project. These mitigation measures are included in Chapter 3 of this Final EIR. Since implementation of the mitigation measures originally included in the Draft EIR would reduce the impacts of construction emissions to a less-than-significant level, and adding additional measures would only further reduce the impacts, a supplemental EIR to analyze the impacts of the additional mitigation measures is not needed.

14-13: The comment restates the California Air Resources Board (CARB) recommendation to conduct a health risk analysis when residential uses are proposed within 500 feet of a freeway, states that the Draft EIR uses an indefensible cancer risk analysis (because it assumed emission controls would be phased out "at very high rates"), and states that this led to a faulty finding of a less-than-significant impact, which renders the Draft EIR "fatally flawed."

Per the CARB *Air Quality and Land Use Handbook,* a health risk analysis was conducted since the project proposes residential units within 500 feet of freeways. The guidance recognizes that there is variability based on site specific conditions, and that the potential impact to health risks should be analyzed within 500 feet of a freeway.

As noted in the comment, the Draft EIR did conduct a health risk assessment using the most recent models – the EMFAC2007 model. This model was released by CARB in November 2006.
The EMFAC2007 model uses information on regulations and standards to predict emissions from various vehicle types and vehicle technologies (e.g. gasoline catalyst or diesel) in the future and is the basis for on-road vehicle emissions inventories for California. These emissions inventories are primarily used to develop air quality control plan strategies. Updates to the model usually occur in cycles of about five years, depending on the significance of changes to the prediction methodology. Default use of the current version of

the model includes regulations and standards adopted only through 2005. This default does not take into account emission reductions required by law. On December 12, 2008, CARB approved a new regulation to accelerate the phase-out of older diesel trucks and buses. The new regulation is a comprehensive plan to significantly reduce diesel particulate matter (DPM) emissions from existing on-road diesel vehicles in California through performance standards requiring retrofits and/or replacement of truck and bus fleets between 2011 and 2023. By January 1, 2023, almost all heavy duty diesel vehicles will be required to have a 2010 model year engine or equivalent. CARB predicts that by 2020, this measure will reduce the health risk from DPM emissions exposure by over 80 percent from 2000 levels.

Among the inputs to the EMFAC2007 model is the vehicle model year, or multiple model years in the case of a vehicle fleet. This allows the model to measure how changes in vehicle fleet distribution (by age, fuel type, or quantity) may affect emission factors for a single year or multiple years in the future. For the health risk assessment in the Draft EIR, the vehicle age distribution inputs to the EMFAC2007 model were adjusted to reflect the newly-adopted CARB regulations and measure their effect on future DPM emissions. These inputs assumed that there would be some non-compliance with new regulations, just as the model assumes some non-compliance with State inspection and maintenance programs.

The Miraflores project team, including City of Richmond staff, the developer, and EIR consultants, met with the Bay Area Air Quality Management District (BAAQMD) on September 30, 2008 to discuss the health risk analysis for the project. The District recommended that current regulations be incorporated into the analysis and acknowledged the 220-foot buffer from Interstate 80. About two months after that meeting, CARB adopted the new regulations discussed above.

The application of the CARB diesel vehicles regulation will significantly reduce DPM emissions and is appropriate for the health risk analysis in the Draft EIR. Inputs were adjusted to reflect future conditions that can reasona-

bly be expected to occur. The model was not improperly manipulated. No change to the Draft EIR is needed, and no supplemental Draft EIR is warranted.

14-14: This comment states that CEQA analysis must be based on the actual environment, not a hypothetical one, and that because diesel engines are known to last longer than standard engines, they will take longer to replace.

This comment confuses the environmental baseline, which is based on the actual environment, with the requirements of a risk assessment, which by its very nature is required to make assumptions about future conditions. As discussed above in Response to Comment 14-13, the assumptions used in the EMFAC2007 model are reasonable, and indeed, they are conservative, as they also assume a degree of non compliance with CARB's 2008 regulation accelerating the retrofits and replacement of older diesel trucks. The result of the regulation will be that by 2023, nearly all heavy-duty diesel trucks on California highways will meet 2010 new engine standards. This adopted regulation will remove the older, more polluting vehicles from the roadway.

As such, the health risk assessment in the Draft EIR is not based on "a hypothetical environment that may or may not come to pass" but on a reasonable analysis of the effect of adopted regulation that realistically accounts for some non-compliance.

The health risk from exposure to DPM emissions is predicted for a 70-year exposure period that would begin in the near future. During that time, emissions from vehicles and vehicle activity would change. All air quality studies attempt to predict future conditions based on a set of factors that can reasonably be assumed to occur. These include future growth projections, traffic conditions and emission factors. The Draft EIR analysis assumed that traffic will increase at a rate consistent with projections by Caltrans and Contra Costa County Transportation Authority, and that DPM emission rates will change in a manner consistent with the EMFAC2007 model using inputs reflecting the latest adopted regulations to reduce emissions from existing diesel

vehicles. These are reasonably foreseeable conditions that are more accurate than assuming existing conditions would prevail for the next 70 years.

No change to the Draft EIR is needed, and no supplemental Draft EIR is warranted.

14-15: The comment discusses the health impacts of diesel exhaust, particularly on sensitive receptors, and CARB and BAAQMD policy regarding diesel exhaust.

No further response is required.

14-16: The comment states that the Draft EIR provides false conclusions with respect to cancer risk and fails to analyze non-cancer health risks, such as asthma.

The Draft EIR analysis of the health risks associated with diesel particulate matter (DPM) emissions, and conclusions that the resulting cancer risk is below the threshold of significance, are correct and supported by evidence in the record, as discussed in Responses to Comments 14-13 and 14-14 above.

The health risk analysis in the Draft EIR is based on conditions specific to the Miraflores site. The specific geometry, traffic volume, vehicle mix, and meteorological conditions of the site were taken into account. Meteorological conditions were characterized by actual meteorological data collected by BAAQMD near the site. These data, illustrated in the Figure F-1 below, show that the project site is located in a position that is upwind of Interstate 80 the majority of the time. The project site is located southwest of Interstate 80. Wind blows from the freeway to the project site about 20 percent of the time, while wind blows from the freeway to locations on the opposite side of the highway about 60 percent of the time. The location of the project site with respect to the freeway and the prevailing wind flow, along with the 220-foot open space area between residential units and the freeway, are the pri-

mary reasons that cancer risk from DPM emissions would be less than significant.

Additionally, asthma and respiratory illnesses can be caused by air pollution, and this is specifically discussed in the Draft EIR. Additional modeling of risk associated with $PM_{2.5}$ emissions has been added to the Draft EIR. The $PM_{2.5}$ analysis results show that asthma risk associated with proximity to Interstate 80 would be below the lowest current proposed draft significance threshold. These changes are included in Chapter 3 of this Final EIR.

A supplemental Draft EIR is therefore not necessary.

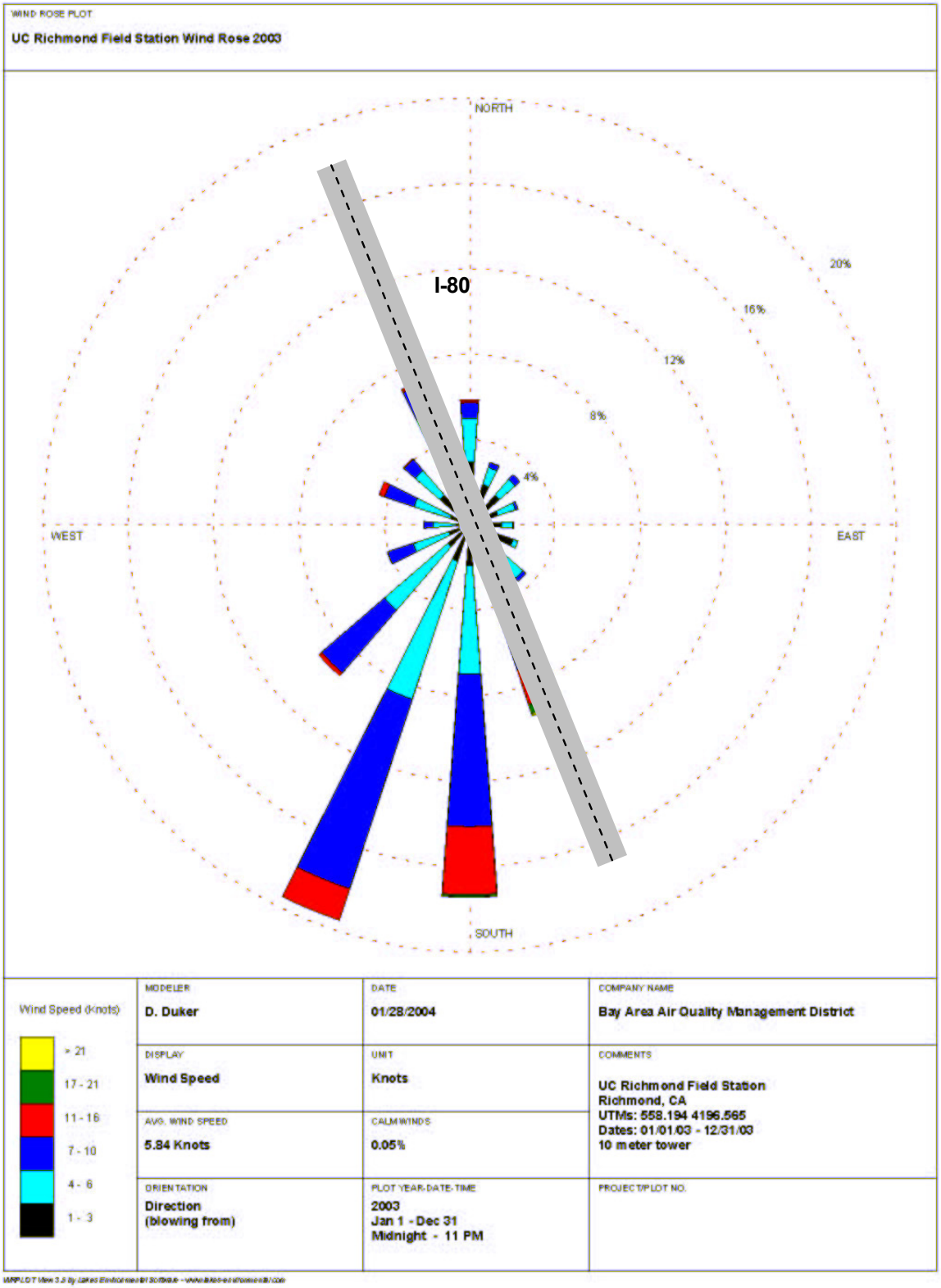
14-17: This comment summarizes the commenter's conclusions regarding health risks, stating that the Draft EIR incorrectly concludes that the cancer risk is not significant and fails to discuss asthma risks, and therefore requires that a supplemental EIR be prepared.

The comment is addressed in Responses to Comments 14-13, 14-14, and 14-16, above. No change to the Draft EIR is needed, and no supplemental Draft EIR is warranted.

14-18: This comment states that there are feasible mitigation measures to reduce the health risk from PM, including air filtration, and that these measures must be considered in a supplemental Draft EIR.

As discussed in Responses to Comments 14-13, 14-14, 14-16, and 14-17, the health risk impacts of the proposed project are less than significant. In addition, it should be noted that the health risk assessment assumed outdoor air quality even though according to studies by the CARB, California residents spend over 90 percent of their time indoors and total exposure levels of diesel particulate matter in residences without HVAC systems equipped with

Figure F-1: Richmond Wind Rose 2003



filtration systems are approximately one-third lower than outdoor levels.[1] As a result, the health risk assessment for the Draft EIR can be considered conservative, since residents spend the vast majority of their time indoors, where concentrations of DPM are approximately 30 percent lower. There is no need for additional mitigation measures.

14-19: The comment states that the Draft EIR was "false and misleading" in stating that there were no odor sources and therefore no odor impacts. The commenter identifies Steve's Auto Care II, located at 12267 San Pablo Avenue, as an odor source.

The Draft EIR was correct in concluding there are no odor sources nearby. BAAQMD identifies auto body shops as potential odor sources when they qualify as "painting/coating" operations (BAAQMD CEQA Guidelines, p. 18). The potential "source" identified by the commenter, Steve's Auto Care II, does not provide painting and coating services and therefore does not fall under any of BAAQMD's odor source categories. No BAAQMD-listed odor sources exist within the screening distance of the project. A supplemental Draft EIR is therefore not necessary.

14-20: This comment states that by failing to identify Steve's Auto Care II as an odor source, the Draft EIR did not adequately describe the baseline and is therefore deficient.

No BAAQMD-listed odor sources exist within the screening distance of the project. See Response to Comment 14-19, above.

14-21: This comment states that the conclusion in the Draft EIR that operational air impacts are not significant is inconsistent with BAAQMD guidance because the number of housing units and commercial square footage are

[1] California Air Resource Board (CARB), 2003, Recommended Interim Risk Management Policy for Inhalation-Based Residential Cancer Risk, October 9, 2003. ARB, 2005, Summary of Adverse Impacts of Diesel Particulate Matter. BAAQMD, 2005, Air Toxics NSR Program Health Risk Screening Analysis (HRSA) Guidelines.

higher than the BAAQMD table "Projects with Potentially Significant Impacts."

As the title suggests, the referenced table provides guidance as to what general level of project *may* exceed BAAQMD's significance thresholds. Although the air study analyzed a commercial component, there is no commercial development proposed in the project description, so the air analysis is overly conservative. Moreover, rather than relying on general assumptions, the Draft EIR analyzed the specific air emissions from the proposed project.

The air quality analysis in the Draft EIR uses the URBEMIS2007 model to predict daily emissions. The URBEMIS2007 model was developed with support from CARB and local air districts, and is recommended by BAAQMD for this type of analysis. The model combines project-specific traffic forecasts with the latest vehicle emission factors developed by CARB; as such, it reflects the most current knowledge available regarding vehicle emissions. The data from BAAQMD CEQA Guidelines referenced in the comment were published in 1999 and therefore do not reflect current methods for quantifying emissions. The Draft EIR presents a more up-to-date analysis of the expected long-term project emissions, which shows the project would result in less-than-significant operational emissions, including emissions of nitrogen oxides.

The air quality analysis also included an analysis of whether the project would have a potentially significant cumulative impact on regional air quality (e.g. concentrations of ozone and particulate matter that exceed ambient air quality standards in the region). Since the project's emissions of ozone precursor pollutants (i.e. ROG and NOx) and PM_{10} would be below the BAAQMD significance thresholds, it would not have a cumulatively considerable contribution to these air pollutant levels. The BAAQMD CEQA Guidelines recommend that project cumulative impacts be based on the project-level impacts and the evaluation of the consistency of the project with the local General Plan, and consistency of the General Plan with the regional air quality plan. The analysis of cumulative air quality impacts on page 4.3-35 of

the Draft EIR addresses these impacts and found the project to have less-than-significant impacts to regional air quality and a less-than-significant cumulative impact.

14-22: This comment states that the Draft EIR should include adoption of all feasible NO_x mitigation measures.

Since the project and cumulative impacts related to NO_x emissions would be less than significant, no additional NO_x mitigation measures are required as mitigation.

14-23: This comment states that LEED-ND certification is not an adequate mitigation measure because it is in draft form and is managed by a private body; therefore it is improper deferred mitigation.

The proposed project intends to pursue LEED-ND Gold certification. The project does not rely on LEED certification as mitigation. Nevertheless, the Project Description of the Draft EIR has been modified to include an expanded list of measures that will be included as features of the project. These changes are included in Chapter 3 of the Final EIR.

14-24: This comment states the commenter's belief that a supplemental Draft EIR should be prepared when significant new information is identified.

As discussed in Response to Comments 14-1 to 14-23, no new significant information and no new significant adverse impacts have been identified. As a result, preparation and re-circulation of a Supplemental Draft EIR are not necessary.

C. *Private Individuals*

LETTER #15

Sophie Mintier

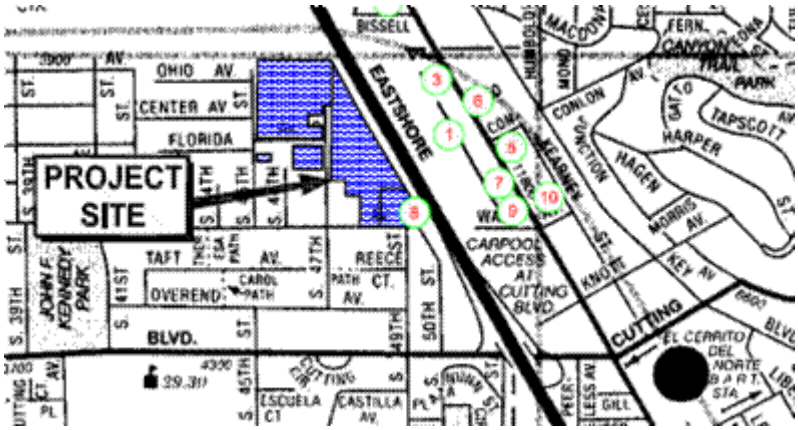
Subject: FW: TOM BUTT E-FORUM: Housing at Richmond nursery site would hurt history, report finds

From: Sherry Padgett <sherrybp@pacbell.net>
To: 'Butt, Tom' <tom.butt@intres.com>
Cc: Gayle McLaughlin; jeffritterman@yahoo.com <jeffritterman@yahoo.com>; Bill Lindsay; Steve Duran
Sent: Thu Jul 02 11:23:23 2009
Subject: RE: TOM BUTT E-FORUM: Housing at Richmond nursery site would hurt history, report finds
Tom –

Current and ongoing top-drawer scientific studies continue to prove beyond any doubt that vehicle emissions cause severe negative human health impacts to those living within 300 feet (greatest impact) to 1,000 feet of major roads and freeways.

Links to just a few of the recent articles are below. The last link gives a direct example of current guidance from the Air District.

- Why are 336 housing units being considered for the contaminated nursery site which shares a property line with Interstate 80? **15-1**
- Why would Richmond continue to intentionally allow low income housing be built next to freeways and railroads where air pollution is directly linked to poor or severely poor health? **15-2**



- Why doesn't the General Plan call for a no-residence zone within x-feet of major freeways and railroad tracks? **15-3**
- Could/would Richmond Redevelopment and the City of Richmond Planning Department change course to discourage or stop "affordable housing" being built where difficult personal circumstances will undoubtedly grow worse through heavy traffic air pollution exposure? **15-4**
    - Predictable serious health problems are directly tied to living a stone's throw from one of the busiest freeways in the country.

http://oem.bmj.com/cgi/reprint/64/1/8
Occupational and Environmental Medicine
Published online 8/15/2006

"Respiratory health and individual estimated exposure to traffic-related air pollutants in a cohort of young children"

http://aje.oxfordjournals.org/cgi/reprint/164/12/1190
American Journal of Epidemiology
10/10/2006
"Living near Main Streets and Respiratory Symptoms in Adults"

http://www.ajph.org/cgi/reprint/96/9/1611
Research and Practice
September 2006
"Proximity of Licensed Child Care Facilities to Near-Roadway Vehicle Pollution"

http://ajrccm.atsjournals.org/cgi/content/abstract/166/8/1092?ijkey=c7e9a351842d74290f0c475c1cfc9bc4b7001f3f&keytype2=tf_ipsecsha
American Journal of respiratory and Critical Care Medicine
2002, pp 1092-1098
"Air Pollution from Traffic and the Development of Respiratory Infections and Asthmatic and Allergic Symptoms in Children"

http://pediatrics.aappublications.org/cgi/reprint/123/Supplement_3/S168
Journal of The American Academy of Pediatrics
2009
"Outdoor Air Pollution, Genetic Susceptibility, and Asthma Management: Opportunities for Intervention to Reduce the Burden of Asthma"

page 5170, pdf page 4, first paragraph
"Traffic-related air pollutants also seem to increase the risk of asthma, as shown in results from the CHS (Fig 2). Children living within 75 m of a major road with elevated estimated levels of traffic-related pollution showed an increased risk of asthma. Residence within 75 m of a major road was associated with a 1.5-fold increased risk of lifetime asthma and wheeze. This association was not explained by differences in ethnicity or other socio-demographic characteristics of children living near major roads. Ongoing work also shows a strong relationship between traffic and new-onset asthma during school years. These findings are consistent with a growing body of evidence from international studies that breathing fresh vehicle exhaust increases the risk of new-onset asthma.5"

http://toxsci.oxfordjournals.org/cgi/reprint/102/1/76
Toxicological Sciences
November 27, 2007
"Combined Inhaled Diesel Exhaust Particles and Allergen Exposure Alter Methylation of T Helper Genes and IgE Production In Vivo"

http://envirohealthhouston.org/files/Highways%20and%20Health%20Fact%20Sheet.pdf
Baylor College of Medicine
2004 Fact Sheet

http://oem.bmj.com/cgi/content/abstract/53/4/241
Occupational and Environmental Medicine

1996
"Chronic respiratory symptoms in children and adults living along streets with high traffic density."

http://www.ehponline.org/members/2005/113-5/ehp0113-a00310.pdf
Environmental Health Perspectives
May 2005
"***Dwelling Disparities: How Poor Housing Leads to Poor Health"***

http://www.pe.com/localnews/inland/stories/PE_News_Local_D_air10.30cf633.html
The Press-Enterprise PE.Com
12/10/2007
"Breathing Distance: Air officials call housing near freeways a health risk"

"Regional air-pollution officials want cities and counties to stop allowing homes to be built next to busy freeways and roads where harmful pollution from trucks and cars is at its worst.

"So far, cities have largely dismissed the South Coast Air Quality Management District's warnings pointing out that homes and apartments should be at least 500 feet from the nearest heavily used thoroughfare.

"The district cites studies showing increased risks of heart attack, lung ailments and other illness among people who live near heavy traffic.

"The health data is clear: We shouldn't have residences, schools, parks and sensitive uses immediately next to larger transportation corridors," said Barry Wallerstein, the air district's executive officer."

http://articles.latimes.com/2007/jan/26/science/sci-lungs26
Los Angeles Times
1/26/2007
"Freeway Air Damages Young Lungs"

"In the largest and longest study of its kind, USC researchers have found that children living near busy highways have significant impairments in the development of their lungs that can lead to respiratory problems for the rest of their lives."

http://articles.latimes.com/2007/jan/30/entertainment/et-notebook30
Los Angeles Times
1/30/2007
"It may be time to hit the brakes"

"A new study from researchers at USC about the effects of local highway pollution on children's health would be alarming under any circumstances, especially for parents. But it happens to arrive just as Los Angeles is building or planning scores of projects -- including housing, parks and schools -- right on the edge of major freeways."

http://www.envplan.com/abstract.cgi?id=b32124
Environment and Planning B: Planning and Design
January 2007
"The exposure of disadvantaged populations in freeway air-pollution sheds: a case study of the Seattle and Portland regions"

http://www.aqmd.gov/CEQA/igr/2007/nov/DEIRbaseline.pdf
South Coast Air Quality Management District

11/16/2007
"Draft Environmental Impact Report (Draft EIR) for the proposed Base Line Road 45-Unit Affordable Housing"

Sherry Padgett

From: Butt, Tom [mailto:tom.butt@intres.com]
Sent: Thursday, July 02, 2009 8:26 AM
Subject: TOM BUTT E-FORUM: Housing at Richmond nursery site would hurt history, report finds

Housing at Richmond nursery site would hurt history, report finds

local flavor vs. development
By Katherine Tam
West County Times
Posted: 07/01/2009 02:30:05 PM PDT
Updated: 07/02/2009 06:20:59 AM PDT

By Katherine Tam

STAFF WRITER

Demolishing 38 greenhouses and other structures from a trio of prewar Japanese nurseries to make way for 336 units of affordable and market-rate housing would hurt local historic resources, a city report found.

The structures at the South Richmond site, some dating to the 1920s, are the state's last-remaining Japanese nurseries of this kind.

"Although the most significant structures from the Sakai nurseries would be retained, implementation of the proposed project would result in demolition of other contributing structures on-site and therefore would cause a significant adverse impact to historical resources," the draft environmental impact report states.

The 464-page report on the Miraflores Housing proposal lists several potential impacts, including on air quality and noise, as well as mitigation measures to reduce the impacts to less-than-significant levels. The loss of historic resources is the only one listed as "significant" and "unavoidable."

The public comment period for the report ends July 29.

Richmond, which owns the site, wants to build 110 rental units for seniors and 226 single-family homes to be sold at market rate. The site is bounded by BART tracks to the north, South 45th Street to the west, Interstate 80 to the east and Wall Avenue to the south. About 575 feet of Baxter Creek now hidden in an underground culvert would be uncovered. A path along the creek's west side would be created.

Most of the Sakai, Oishi and Maida-Endo greenhouses and other structures on the site would be demolished. One greenhouse, two houses and a water tower would be saved. An interpretive exhibit would detail the history of the Japanese-American flower-growing community. The city would honor that history in its selection of street names and landscaping.

The soil and groundwater have been contaminated by years of pesticides and other substances, and must be cleaned up before anything is built. A remedial action plan calls for excavating soil, removing underground storage tanks and monitoring groundwater.

The Planning Commission and City Council are expected to review the project before the end of the year, said Lina Velasco, senior planner.

The draft environmental impact report lists four alternatives:

- Build nothing.
- Preserve six greenhouses, the Sakai house and a water tower and reduce the number of new houses to 99. It would be harder to open Baxter Creek because some greenhouses sit in the creek's path.
- Preserve 28 greenhouses, the Sakai house, the Oishi house and several other structures considered historically important. No more than 77 new homes would be built. It would be harder to open Baxter Creek.
- Increase the number of new housing units to 471 by allowing buildings of up to four stories.

The Oishi, Sakai and Maida-Endo nurseries were among a number of other flower-growing businesses in the Bay Area in the early 20th century. Many families bought land before the 1913 Alien Land Law barred Japanese immigrants from owning property, according to local historian Donna Graves. The immigrants carved out a livelihood for themselves with nurseries they spent decades building.

Following the attack on Pearl Harbor in 1941, Japanese-Americans were forcefully relocated to internment camps. A number could not pay their mortgages and property taxes during internment and lost their nurseries; some were able to keep them and revived their businesses after the war. Operations continued for decades and ended relatively recently.

Today, the Oishi, Sakai and Maida-Endo nurseries carry 39 gable-roofed greenhouses, eight houses, sheds, pump houses, water tanks and other structures. A few have deteriorated and are no longer eligible for the National and California Historic Register; others still have enough historical integrity to make it on the list.

"The Sakai and Oishi properties are the only extant cut-flower nurseries begun by Japanese Americans before World War II in the entire Bay Area, and are the last remaining of Richmond's community of Japanese American flower growers," according to Graves.

Reach Katherine Tam at 510-262-2787 or ktam@bayareanewsgroup.com.

Read it yourself
The draft environmental impact report for the proposed Miraflores development is available at City Hall, 450 Civic Center Plaza; Richmond Main Library, 325 Civic Center Plaza; and Point Richmond Library, 135 Washington Ave. It also can be downloaded through the city's Web site at www.ci.richmond.ca.us under the "Planning and Building Services" section.
The 45-day public comment period ends at 5 p.m. July 29.

WANT TO RECEIVE TOM BUTT E-FORUM AND OTHER ACTION ALERTS ON RICHMOND POLITICAL AND COMMUNITY ISSUES DELIVERED TO YOUR EMAIL ADDRESS? EMAIL YOUR NAME AND EMAIL ADDRESS AND/OR THE NAMES AND EMAIL ADDRESSES OF OTHERS WHO WOULD LIKE TO BE PLACED ON THE MAILING LIST AND THE MESSAGE "SUBSCRIBE" TO tom.butt@intres.com. COMMENTS, ARGUMENTS AND CORRECTIONS ARE WELCOME. TOM BUTT IS A MEMBER OF THE RICHMOND CITY COUNCIL WHEN OPINIONS AND VIEWS EXPRESSED, WITHOUT OTHER ATTRIBUTION, IN TOM BUTT E-FORUM, THEY ARE THOSE OF TOM BUTT AND DO NOT REFLECT OFFICIAL VIEWS OR POSITIONS OF THE CITY OF RICHMOND OR THE RICHMOND CITY COUNCIL UNLESS OTHERWISE NOTED. VISIT THE TOM BUTT WEBSITE FOR ADDITIONAL INFORMATION ABOUT TOM BUTT'S ACTIVITIES ON THE RICHMOND CITY COUNCIL: http://www.tombutt.com. PHONE 510/236-7435 OR 510/237-2084. SUBSCRIPTION TO THIS SERVICE IS AT THE PERSONAL DISCRETION OF THE RECIPIENT AND MAY BE TERMINATED BY RESPONDING WITH “UNSUBSCRIBE.” IT MAY TAKE A FEW DAYS TO REMOVE ADDRESSES FROM THE DISTRIBUTION LIST

Letter 15: Sherry Padgett. July 2, 2009.

15-1: The comment asks why a residential project is proposed for the Miraflores site given its contamination and proximity to Interstate 80.

The proposed project would be infill development, located in an existing residential neighborhood with transit and services available nearby. The contamination of the site would be addressed through implementation of the Remedial Action Plan, which would remediate the site to a level safe for human occupancy. Remediation and redevelopment of the site would replace the vacant and deteriorated structures of the existing site with housing that reflects the development and architectural character of the surrounding neighborhoods. The health risk assessment prepared for the project determined that risk levels for exposure to diesel particulate matter emissions from Interstate 80 would fall below the threshold of significance for all residential units. Additional modeling of risk associated with $PM_{2.5}$ emissions has been added to the Draft EIR. The $PM_{2.5}$ analysis results show that asthma risk associated with proximity to Interstate 80 would be below the lowest current proposed draft significance threshold. These changes are included in Chapter 3 of this Final EIR. More detail is provided in Response to Comment 14-14 above. No change to the Draft EIR is necessary.

15-2: This comment asks why the City of Richmond intentionally allows low-income housing to be built next to freeways and railroads, where air pollution is directly linked to poor health and provides a list of citations to studies related to health risks next to roadways.

To the extent this question is related to the proposed project, it is important to note that no housing is proposed adjacent to the freeway; rather, there would be a 220-foot-wide open space area adjacent to the freeway, then market rate housing, then affordable senior housing, which would be located approximately 450 feet from the freeway. Additionally, the health risks of the project were adequately analyzed as discussed in the responses to Comment Letter 14. To the extent this question is related to past development decisions

made by the City of Richmond, it is unrelated to the proposed project. As such, it does not pertain to environmental issues that are germane to the CEQA analysis or Draft EIR.

15-3: This comment questions land use policy contained in the City of Richmond General Plan.

This comment does not pertain to environmental issues that are germane to the CEQA analysis or Draft EIR.

15-4: This comment questions the City of Richmond's future development policy.

This comment does not pertain to environmental issues that are germane to the CEQA analysis or Draft EIR.

LETTER #16

LAW OFFICE OF ROBERT SAKAI
26429 Chatham Ct
HAYWARD, CALIFORNIA 94542
TELEPHONE (510)538-6407
FACSIMILE (510)550-4955
EMAIL ROBERTSAKAI@ROBERTSAKAI.NET

July 16, 2009

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Steve Duran, Executive Director
Richmond Community Redevelopment Agency
440 Civic Center Plaza, Suite 200
P.O. Box 4046
Richmond, California 94804

Dear Ms. Velasco and Mr. Duran,

On behalf of the Sakai and Oishi families, I present the following thoughts:

I understand that the Richmond Community Redevelopment Agency is moving forward with plans for the property that was the Sakai & Oishi families home and business for three generations. We are very happy that other families and residents of Richmond will be able to enjoy the property as we did.

We are honored that the developer wishes to preserve the history of the land and memory of our families, however, the preservation of our homes, tank house, and greenhouse 20 is more than we expected and more than we feel is necessary. We suggest that an interpretive exhibit comprised of relics, audio, visual and/or a video would be a more appropriate way of preserving that history. **16-1**

We look forward to sharing memories of our community's life and work with the designer of the interpretive exhibit and hope that the exhibit will be situated so that it reaches the widest possible audience.

Thank you for the opportunity to submit this letter. On behalf of my family, we wish you every success.

Sincerely,

Robert Sakai

Robert Sakai

Letter 16: Robert Sakai, 26429 Chatham Court, Hayward, CA. July 16, 2009.

16-1: The comment expresses appreciation for the applicant's historic preservation efforts, and states the commenter's belief, as former nursery owner of the site, that an interpretive exhibit would be sufficient to preserve the site's history.

This comment is hereby noted. No change to the Draft EIR is required.

LETTER #17

To: Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Fr: Carolyn Washington CW
4830 Wall Avenue
Richmond, Ca 94804
CarolWW@sbcglobal.net
(510) 529-2166

Re: Review and Comment Period: Miraflores Housing Development

Da: August 11, 2009

Dear Ms. Velasco,

My name is Carolyn Washington, and I own my home and have lived at the corner of South 49th and Wall Avenue for over 40 years.

I have read the Draft Environmental Impact Report (DEIR) for the Miraflores Housing Development project and have the following concerns / comments:

"The DEIR concludes that the Project could result in significant impacts associated with air quality; biological resources; cultural resources; geology, seismicity and soils; hydrology and water quality; and noise. Potential environmental impacts and any associated mitigation measures for the Project are discussed in the DEIR. " - City of Richmond DEIR, Miraflores Housing Development

- **Proactive Rodent / Pest control**: After reviewing the DEIR, I am concerned with the level of proactive measures being taken to ensure the residents are protected from the inevitable invasion of rodents and other pests into our existing homes. As an example, when the new homes were built on the corner of South 47th and Wall Avenue in the early '80s, my home was inundated by gophers, rats and other unseemly pests. What is being done to **proactively** prevent this from happening with the Miraflores development? **17-1**

- **Air Quality Control**: I am a Senior suffering from Chronic Obstructive Pulmonary Disease (COPD).
  As such, I am concerned with the potential levels of harmful / hazardous particulates in the air during and after construction. What plans are in place to **proactively** provide temporary relocation support during the height of construction activity? I understand this level of support has been extended to other neighborhoods in the recent past. **17-2**

Thank you for reviewing my concerns and comments. Please feel free to contact me at the above referenced phone number and / or email address should you have any questions.

Regards,
Carol Washington

cc: Park Plaza Neighborhood Council

Letter 17: Carol Washington, 4830 Wall Avenue, Richmond, CA. August 11, 2009.

17-1: This comment questions whether measures are being taken to prevent the invasion of rodents into existing homes.

Section 6.4 of the Draft Remedial Action Plan (contained in Appendix D of the Draft EIR) for the site includes provisions for the elimination of rodents during the demolition phase. Elimination of rodents would be conducted by a licensed exterminator. Elimination practices would be conducted moving west to east and south to north across the Miraflores property to minimize the potential for rodent migration into surrounding residential properties.

17-2: The comment asks about plans to temporarily relocate existing residents to avoid air quality impacts during construction.

As recorded the Draft EIR, potentially significant impacts related to air quality during project construction would be mitigated to less-than-significant levels. As a result of these measures, the relocation of existing residents is considered unnecessary.

LETTER #18

Rosemary M. Corbin
114 Crest Avenue
Richmond, CA 94801

Lina Velasco, Senior Planner
City of Richmond
450 Civic Center Plaza
P.O. Box 4046
Richmond, CA 94804

Dear Ms Velasco,

I am writing to comment on the Miraflores Housing Development Plan Draft EIR. I am writing as an individual, however, I am the Chair of Richmond's Historic Preservation Advisory Committee, and I am a member of the Board of the Rosie the Riveter Trust.

The historic nurseries which comprise the area of the proposed Miraflores project are important to Richmond's history, to the history of Japanese people in the United States, and to the telling of the story of the WWII home front, which is the charge of the Rosie the Riveter WWII Home Front National Historical Park.

Because of the significance of the Japanese nurseries I urge the City of Richmond to insure that enough of the buildings and artifacts are preserved in their historic locations to be able to tell and illustrate the significant story of the Japanese in Richmond and throughout California. The preservation of the historic homes of the the Oishis and the Sakais, together with, at least Greenhouse 20, and hopefully Greenhouse 9, and the water tower will allow us to tell the story of the significant contributions the Japanese immigrants made to the economy of Richmond and the surrounding areas. **18-1**

In a development of this size the mitigations mentioned above are entirely reasonable, and, hopefully, the City of Richmond will require them.

Thank you,
Rosemary M. Corbin
Former Mayor

Letter 18: Rosemary M. Corbin, 114 Crest Avenue, Richmond, CA. August 12, 2009.

18-1: This comment stresses the historical significance of the nurseries and supports the preservation mitigation measures in the Draft EIR.

This comment is hereby noted. No change to the Draft EIR is required.

LETTER #19

525 32nd Street
Richmond, CA 94804

Lina Velasco, Senior Planner
City of Richmond Planning Department
450 Civic Center Plaza
P.O. Box 4046

Dear Lina Valasco,

As a resident of Richmond, I favor the Increased Preservation followed by the In Place/Low Density Alternate. When I tell people that I live in Richmond, the first thing they think of is crime. Increasing the density of housing in this area to Middle or High density will not help with our crime. Providing communities with jobs and mixed use (with shops, cafes, and neighborhood stores) will provide healthier communities.

My first preference is Increased Preservation with the hope that the greenhouses could be turned into a Butterfly Farm attraction. Since butterflies are often thought of as the symbol of change, maybe it would change Richmond's image to something positive. Also, saving the buildings without preserving much of the greenhouses will not make the site as interesting to visit. **19-1**

My second preference would be the In Place/Low Density Alternate. That alternative would also preserve a significant amount of the greenhouses while not increasing the housing density. My concern when I look at the new development projects is they look the same and do not create a distinct Richmond. Preserving some of Richmond's heritage is important. **19-2**

Sincerely,

Jayma Brown

Jayma Brown
525 32nd Street
Richmond, CA 94804
jaymabrown@earthlink.net
(510)237-0231

Letter 19: Jayma Brown, 525 32nd Street, Richmond, CA. August 12, 2009.

19-1: This is a statement of support for the Increased Preservation alternative and suggestion that the greenhouses be turned into a butterfly farm.

This comment is hereby noted and will be forwarded to the City of Richmond Planning Commission and City Council for consideration. No change to the Draft EIR is required.

19-2: The commenter states that the second preference for the project is the In-Place/Low Density alternative.

This comment is hereby noted and will be forwarded to the City of Richmond Planning Commission and City Council for consideration. No change to the Draft EIR is required.

LETTER #20

08/12/2009 02:18 17074511898 DBARNETT PAGE 02

RECEIVED
AUG 1 2 2009
RICHMOND
PLANNING DEPARTMENT

Mira-Flora Project
Richmond Ca

Lina Velasco, Senior Planner
City of Richmond Planning Dept
450 Civic Center Plaza
P.O Box 4046 Richmond, Ca 94804

PAGE 03
DBARNETT
08/12/2009 02:18 17074511898

Official Comment

- Arlen Barnett
- 270 so 46st
- Richmond Ca 94804
- I protest forcing residents to sell their property
- If they don't want to sell. 20-1
- The amount paid to those who will sell must be above
- The market value.

- 8-12-09 .....Owner

Letter 20: Arlen Barnett, 270 South 46th Street, Richmond, CA. August 12, 2009.

20-1: The comment objects to the forced sale of nearby properties and states that residents who do sell property to accommodate the project must be paid more than market value.

During the process of land acquisition for the proposed project, no property owners were forced to sell their land. Following a process of due diligence that included three appraisals, the Agency paid fair market value for all private property acquired for the project.

D. Public Hearing Transcript

PUBLIC FORUM

CITY OF RICHMOND

PLANNING COMMISSION

PARTIAL TRANSCRIPT

In the Matter of:)
)
)
Miraflores Housing Development)
Project)
_____)

OFFICES OF THE CITY OF RICHMOND

CITY COUNCIL CHAMBERS, MULTIPURPOSE ROOM

440 CIVIC CENTER PLAZA

RICHMOND, CALIFORNIA

THURSDAY, JULY 16, 2009

7:13 P.M.

Reported by:
Richard Friant

1 APPEARANCES

2
PLANNING COMMISSIONERS
3
Ms. Virginia Finlay, Chair
4
Mr. Nagaraja Rao, Vice Chair
5
Mr. Charles Duncan
6
Ms. Jovanka Beckles
7
Ms. Sheryl E. Lane
8
Ms. Carol Teltschick-Fall
9

10 PLANNING COMMISSION STAFF

11 Ms. Mary Renfro, Legal Counsel

12 Ms. Janet Harbin

13 Ms. Lina Velasco, Senior Planner

14
PUBLIC SPEAKERS
15
Mr. Steve Noack, Design Community & Environment
16
Mr. Patrick Lynch, City of Richmond
17
Mr. Tom Panas, El Cerrito Historical Society
18
Ms. Paula Shiu
19
Ms. Katie Lamont, Eden Housing and Community Housing
20 Development Corporation of North Richmond

21

22

23

24

25

1 I N D E X

2 PAGE

3 Opening of Hearing for Item 1. PLN09-026, 1

4 Miraflores Housing Development Project

5

6 Certificate of Reporter 48

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1 P R O C E E D I N G S

2 CHAIRPERSON FINLAY: I will open the hearing and
3 explain any deviation from the standard speaker rules.
4 City staff will present a preliminary analysis of
5 the project being reviewed. The Applicant will explain
6 the proposal. And the Applicant is allowed five minutes
7 for their presentation. Now, an individual or group that
8 has requested before the meeting to speak in opposition to
9 the project may address the Commission for up to five
10 minutes as well. Members of the public who have submitted
11 speaker forms may address the Commission for up to two
12 minutes each.
13 The Applicant and/or proponents may rebut the
14 item, and there will be a two-minute time limit for that
15 rebuttal. The opponents may then offer a rebuttal, and
16 there will be a two-minute time limit for the opponent's
17 rebuttal.
18 Now, on projects that are complex and/or have
19 attracted significant public interest, the Chair may grant
20 the Applicant and opponent up to an additional ten minutes
21 to present and to speak in opposition of the project. If
22 ten or more speakers have signed up, the Chair may limit
23 the time of each speaker to one minute.
24 The Chair has the ability to determine the order
25 of the speakers. How many speakers do we have on this

item, Ms. Velasco?

MS. VELASCO: Three, Madam Chair.

CHAIRPERSON FINLAY: Thank you.

The Commission, after we've heard from these speakers, the Commission will then ask any follow-up questions of any of the speakers. City staff will then present its summary and recommendations to the Commission. The Commission will discuss the item. The Commission will then vote to close or to continue the public hearing.

After additional discussion, the Commission will vote to approve, approve in a modified form, deny, deny without prejudice, continue, take the application under advisement, or to make recommendations to the city council when council action is required.

The Chair of the Commission will then inform the audience of the Commission's action, outline the appeal procedure, and indicate when this action becomes final.

Decisions of the Planning Commission may be appealed to the city council. The Planning Commission's decisions for tonight's hearings may be appealed by notifying the city clerk in writing and paying the appeal fee of $150 by 5:00 p.m. on Monday, the 27th, 2009, stating wherein the planning Commission's decision is in error.

Please note that if you challenge a decision on

1 any of the items listed on this agenda in court, you may
2 be limited to raising only those issues you or someone
3 else raised in writing or at public hearings on the item.
4 Because of the complexity of the Miraflores
5 project, I'm going to grant a 15-minute time frame for the
6 initial speakers for both the proponents and the
7 opponents. That does not mean that you must take the
8 entire 15 minutes if, in fact, you don't need them, but
9 again, you certainly have that in this instance.
10 We will leave the speakers two minutes each to
11 discuss the item who are not the initial speakers, for
12 both sides of the application.
13 Mr. Chair, may we -- would you read the next
14 agenda item, please?
15 COMMISSIONER DUNCAN: Yes. The next agenda item
16 is item 1. PLN09-026, the Miraflores Housing Development
17 Project. There's no action by the Planning Commission
18 tonight. We are to receive and provide comments only.
19 CHAIRPERSON FINLAY: And, Commissioner Duncan,
20 I've called you Commissioner Lee, and now I just called
21 you the chair, but I plead (inaudible); and so it just is.
22 I'm sorry, everyone. I know who you are, Charlie.
23 All right. Thank you.
24 All right. Shall we begin.
25 May I hear from the Applicant.

1 Ms. Velasco, are you going to lead us off?
2 MS. VELASCO: Yes.
3 Good evening, Madam Chair, Mr. Vice Chair,
4 Commissioners. Lina Velasco, senior planner.
5 The item before you tonight is a request to hold
6 a public hearing to receive and provide staff comments on
7 the Draft Environmental Impact Report. The Draft EIR has
8 been prepared by Design Community & Environment, the
9 city's consultant, to analyze the potential environmental
10 impacts of the Miraflores Housing Development Project in
11 accordance with CEQA, the California Environmental Quality
12 Act.
13 A Notice of Completion and Notice of Availability
14 were filed June 15th, 2009, to provide notification that
15 the Draft EIR was completed and available for public
16 comment. This hearing is an opportunity for the public
17 and Planning Commission to provide verbal comments to
18 staff. The purpose of the hearing is only to receive
19 comments. Questions and comments will not be responded to
20 during the hearing nor will any action be taken by the
21 Planning Commission.
22 All comments received during the public comment
23 period, including those received tonight, will be
24 evaluated and responded to by the consultant either as a
25 revision to the Draft Environmental Impact Report or a

1 separate section in the final EIR that's presented for
2 certification. The public comment period will close on
3 July 29th at 5:00 p.m., and written comments can be made
4 up until that date.
5 A court reporter is here tonight to document
6 comments, so we're requesting that commenters state their
7 name, first and last, for the record.
8 So I want to introduce Steve Noack, who is the
9 principal at DC&E, who will be doing a presentation on
10 both the project but also the analysis of the Draft
11 Environmental Impact Report.
12 CHAIRPERSON FINLAY: All right. And do we have
13 the timer on? Is someone taking care of that?
14 MS. VELASCO: Yes.
15 CHAIRPERSON FINLAY: Okay. Thank you very much.
16 Yes, sir.
17 MR. NOACK: Good evening. My name is Steve
18 Noack, and I'm the principal, a principal with Design
19 Community & Environment. Tonight I'm just going to walk
20 you through a very brief presentation on the Miraflores
21 project and the Environmental Impact Report.
22 CHAIRPERSON FINLAY: And may we also have your
23 city of residence, please?
24 MR. NOACK: My office is in Berkeley, California.
25 CHAIRPERSON FINLAY: Thank you.

1 MR. NOACK: So I'm just briefly going to go over
2 the project description.
3 The site is about a 14-acre site, and the site
4 basically includes 226 for sale market rate residences and
5 110 affordable rental units for seniors. It also includes
6 recreation facilities in the form of a tot lot and small
7 park, space for community gardening or agricultural
8 cultivation in raised beds, and also rehabilitation of a
9 component of the historical elements of the property as
10 they are now, and that would be rehabilitation of the
11 Sakai house, the water tower, and greenhouse 20.
12 And as I probably should have mentioned, the site
13 was formerly used as an agricultural facility growing
14 flowers, and it primarily includes greenhouses as well as
15 a few residential homes and supporting buildings.
16 And here's just a brief site plan of the site.
17 I have to put my glasses on here.
18 So the senior housing facility is to the west
19 side of the property. Along the east side is
20 Interstate 80. And there's a buffer zone, including kind
21 of a green area and rehabilitation of Baxter Creek on the
22 site. And then the remaining components of the project
23 itself include the for sale units.
24 And I will add, I believe that the Applicant
25 tonight is going to provide a more detailed description of

1 the project. So I'm just going to quickly go through the
2 areas that we looked at.
3 Well, first of all, the actions on the project
4 are the general plan amendment, zoning change, and
5 approval of a Remedial Action Plan, but that will be done
6 by Department of Toxic Substances Control, the State of
7 California. It also -- city actions also include approval
8 of a tentative subdivision map and then design review of
9 the housing development.
10 The issues that we looked at in the EIR pretty
11 much run the full gamut of environmental issues,
12 including, as you see, aesthetics, agricultural resources,
13 given the former use of the site, air quality, biological
14 resources, cultural resources, geology, seismicity, and
15 soils.
16 We looked at greenhouse gas emissions, we looked
17 at the hazards and hazardous materials on the property, we
18 analyzed hydrology and water quality, land use
19 compatibility of the property with adjoining properties,
20 noise, population and housing, public services and
21 recreation, traffic, and utilities and infrastructure.
22 And a number of potentially significant impacts
23 were identified in Chapter 4 of the EIR, and they related
24 primarily to air quality, biological resources, cultural
25 resources, geology, seismicity and soils, hydrology and

1 water quality, and noise. And all except for cultural
2 resources were found that they could be mitigated to less
3 than significant levels by implementation of mitigation
4 measures.
5 In terms of the cultural resources, it was
6 determined that the project would result in demolition of
7 other contributing structures on site and would cause a
8 significant and adverse impact to historical resources.
9 In terms of project alternatives, we looked at
10 four alternatives, including the no project alternative,
11 which would basically -- the site would remain in its
12 current use and state. In-place low density alternative.
13 We looked at increased preservation alternative. And also
14 an increased housing high-density alternative. And the
15 environmental document found that the project would be --
16 the most environmentally-sensitive project is the project
17 that's proposed.
18 And I do want to reiterate, tonight we're here to
19 address -- to listen to comments by the Commission as well
20 as the public, any questions they have on the Draft EIR;
21 we're really not here to discuss the merits of the project
22 or issues in the EIR. I look forward to coming back to
23 you with a final EIR, and at that time we'll do a full
24 presentation and discussion of the findings and the
25 mitigation measures.

1 So the next step here is to receive all of the
2 comments on the Draft EIR, which the comment period closes
3 July 29th; and then we will prepare a final EIR, which
4 will include a Response to Comments as well as any
5 potential changes to the Draft EIR as a result of those
6 comments. We'll also prepare a mitigation monitoring and
7 reporting program, which will outline how the mitigation
8 measures included in the EIR will be monitored through
9 duration of project, construction, and then we will go
10 into the final hearings at that time.
11 So that concludes my presentation at this time.
12 CHAIRPERSON FINLAY: Any questions?
13 Very good. Thank you.
14 Were there going to be any other speakers from
15 either Community Housing Development Corp or Eden?
16 MS. VELASCO: No. I believe some of them have
17 signed up to speak tonight, but there's no formal
18 presentation since we're not talking specifically about
19 the project.
20 CHAIRPERSON FINLAY: Very good. All right.
21 COMMISSIONER DUNCAN: Well, if that's the case,
22 then I do have some questions for Mr. Noack.
23 CHAIRPERSON FINLAY: Questions or comments?
24 COMMISSIONER DUNCAN: Comments.
25 CHAIRPERSON FINLAY: Let's hold our comments

until after the public has had an opportunity, and then we'll come in after that, if that's all right. Thank you.

I'm not going to separate -- well, no, that's not true. Is there anyone here who wishes to speak against the project?

Okay. Very good. In that case, let's call the three speakers.

MS. VELASCO: Okay. I have Paula Shiu and Thomas Panas and Katie Lamont.

CHAIRPERSON FINLAY: Thank you. And while these speakers are coming up to the front to speak, I want the record to reflect that I did have a meeting today with Norma Thompson, who is the director of Real Estate Development with Community Housing Development Corporation, with Joanna Griffith, assistant director for Real Estate Development with the Community Housing Development Corporation of North Richmond, Katie Lamont, who is the associate director of Real Estate Development for Eden Housing, Linda Mandolini, executive director of Eden Housing. And they are all part of -- they're not the applicants, but they're the people that will be developing the site. And Steve Duran, director of Richmond's Community and Economic Development Agency.

Now, Commissioners, did anyone else have any meetings that you wish to have on the public record?

1 Yes, Commissioner Teltschick-Fall?
2 COMMISSIONER TELTSCHICK-FALL: I would just like
3 to say that I went to visit the site the day before
4 yesterday, and Patrick showed me around out there, if that
5 could be called a meeting.
6 CHAIRPERSON FINLAY: Patrick being whom?
7 COMMISSIONER TELTSCHICK-FALL: Patrick with the
8 Housing --
9 CHAIRPERSON FINLAY: Patrick Lynch?
10 COMMISSIONER TELTSCHICK-FALL: Yes.
11 CHAIRPERSON FINLAY: All right. Very good.
12 Thank you.
13 All right. Call the first speaker, please.
14 MS. VELASCO: Paula Shiu.
15 (Conversation beyond range of microphone.)
16 CHAIRPERSON FINLAY: We'll need your name and
17 your city of residence, please.
18 MR. PANAS: Good evening, Chairman Finlay,
19 Planning Commission members, members of the staff. My
20 name is Tom Panas. I live at 7345 Fairmount in
21 El Cerrito. I'm an active member of the El Cerrito
22 Historical Society, and the historical society in turn has
23 been an active participant in the Miraflores redevelopment
24 exploration and planning.
25 I'd like to start by commending the staff and the

consultants on the tremendous job they've done on the Draft EIR. I mean, it was a monumental undertaking, and while at times we sort of feared they were shirking the task, they've done a great job; and I'd like to thank you guys all for the wonderful job you've done and the community outreach that you've done.

The nursery properties are a unique piece of our history, both for El Cerrito and Richmond, more so for Richmond than El Cerrito in fact; not only our local history, but also our country's history as evidenced by the fact that a number of these buildings have been suggested or considered to be eligible for the National Register. I believe the treatment of these historic resources as proposed is a natural starting point. My comments are going to be strictly on the cultural section here; the rest of it is way beyond me. **S1-1**

These historic resources are unique in that they represent one of the longest standing indigenous industries in Richmond before 1900. We don't have a lot of those in Richmond or in El Cerrito. In addition, these resources uniquely represent a story of an immigrant community that came in, built itself up, was shipped out of town in a very unfortunate manner, and came back and rebuilt an industry as vital as it had been before.

The historical society has a number of technical **S1-2**

1 comments on the document that we'll be forwarding to the
2 planning staff, but we'd like to suggest that there's a
3 couple of other buildings that probably we should consider
4 for preservation. In particular, there's one greenhouse
5 that was started before the war and after the war, in our
6 opinion, that uniquely represents the story that we're
7 trying to record here.

S1-2

8 I'd like to thank the Commission for its time,
9 and any questions we'd be happy to address with the staff
10 of the Commission.
11 CHAIRPERSON FINLAY: Thank you. We look forward
12 to getting your written comments so you can go a little
13 further than that.
14 COMMISSIONER DUNCAN: I have a question of the
15 speaker.
16 CHAIRPERSON FINLAY: Certainly.
17 MR. PANAS: Oh, certainly, sir, I'm sorry.
18 CHAIRPERSON FINLAY: Commissioner Duncan.
19 COMMISSIONER DUNCAN: Which greenhouse was that?
20 MR. PANAS: It's either greenhouse nine or ten --
21 eight or nine on the --
22 COMMISSIONER DUNCAN: The Oishi property, okay.
23 Thank you.
24 CHAIRPERSON FINLAY: Would you call the next
25 speaker, please.

MS. VELASCO: Yes. Paula Shin.

MS. SHIU: Hello. My name is Paula Shiu, that's S-h-i-u.

MS. VELASCO: Oh, sorry.

MS. SHIU: I'm a resident of Richmond, property owner, 4901 Wall, which is the remaining agricultural property at the end of the greenhouse.

I, as a Asian American, think the history of the greenhouses is very important, and I applaud and appreciate any efforts to preserve any part of that heritage that we have on site. **S2-1**

As a property owner and a community member, I am concerned about this project. **S2-2**

COMMISSIONER RAO: Pardon me. Would you please speak into the mic, please. People in the back can't hear you.

MS. SHIU: Oh, okay. As a concerned community member, I am concerned that this project move forward expediently. We've been waiting a long time. And the property in its present state is not something we like to see. **S2-3**

So that's all I have to say. Thank you.

CHAIRPERSON FINLAY: Thank you.

Any questions for this speaker?

Thank you.

1 Next speaker, please.
2 MS. VELASCO: Katie Lamont.
3 MS. LAMONT: Good evening, Commissioners. My
4 name is Katie Lamont. I'm the associate director of Real
5 Estate Development with Eden Housing, and I'm here to
6 represent Eden Housing and Community Housing Development
7 Corporation of North Richmond.
8 The folks that Virginia mentioned earlier, most
9 of them are here in the audience. Linda Mandolini is our
10 executive director, Joanna Griffith is the associate
11 director for Real Estate Development at CHDC. And we just
12 wanted to let you know that we're here today. We're very
13 pleased to be here finally.
14 We've been working very closely with the Richmond
15 Redevelopment Agency and with the planning department over
16 the last six years to assess the environmental conditions
17 of the site and to develop a reuse plan that cleans up the
18 property from the contamination that is there, addresses
19 the environmental concerns, and tries to develop a
20 sensitive response to those. S3-1
21 We have been engaged with the community for quite
22 some time. The property is located in the Park Plaza
23 neighborhood. We've been meeting since 2004 with folks at S3-2
24 the Park Plaza, Laurel Park, and Pullman neighborhood
25 councils.

1 When the redevelopment agency bought the property
2 in 2006, we created a resident advisory committee. In
3 addition to Paula Shiu, we also have Madalyn Law and Annie
4 Johnson here in the audience who are also members of our
5 resident advisory committee. We also have Eva Hills from
6 the Park Plaza Neighborhood Council who is here today as
7 well. And we really appreciate the time that they have
8 shared with us to work with us to develop a plan that
9 meets their needs as well as respects some of the
10 environmental concerns like, particularly, the historic.
11 There's also a creek that we're restoring. And so we're
12 very thankful for everyone's time helping us develop this
13 sensitive solution.

S3-2

14 I'd also like to acknowledge Larry Oishi, who is
15 here with us in the audience, and to thank him and his
16 family for all the help that they have been. We were in
17 escrow on the property for a very long time; it was a very
18 difficult acquisition. They've been very patient, and
19 they've remained supportive and engaged with us as we've
20 developed the reuse plans. And they actually have
21 submitted a letter. I'm not sure if Lina received it
22 today, but they did submit a letter in support of our
23 proposed redevelopment.

S3-3

24 So we're pleased to be here before you today and
25 look forward to coming back over the next couple months.

1 Thank you.

2 CHAIRPERSON FINLAY: Thank you.

3 Any questions for this speaker?

4 Thank you very much.

5 In that case, we can continue on. Let's open

6 this up for comments then from the Planning Commission. I

7 can start at one end, or I can just wait for you to raise

8 your hand. And who wishes to go forward?

9 Commissioner Duncan.

10 COMMISSIONER DUNCAN: Thank you. I have some

11 comments and some questions. Perhaps, Mr. Noack, I would

12 start with you.

13 First of all, I wanted to congratulate you. As

14 Draft EIRs go, this is very complete, and for the most

15 part things were clear. My comments will be centered in

16 the cultural resources section primarily because that's

17 sort of the dangling piece in the project.

18 First of all, in reference to the historic

19 resources on the site and the narrative, there's a real

20 disconnection between the narrative and your graphics.

21 The Oishi house and the Sakai house are not figured in the

22 graphics in any way. All the greenhouses are numbered,

23 but for this uninitiated reader to sort of slog through

24 the narrative and try to peg which of the resources were

25 going to be saved and then tie this back to the schematic

S4-1

plan was pretty difficult. So in the final EIR, if you could be clearer about making those connections, I think it would be very helpful to the reader. **S4-1**

Number two, I understand that the Sakai house and the outbuildings associated with it will be moved about 30 feet; is that correct? **S4-2**

MR. NOACK: Yes.

COMMISSIONER DUNCAN: Why 30 feet? Is it because of a road alignment? **S4-2**

MR. NOACK: I believe so. It's -- I guess I don't -- I can't necessarily speak to the, kind of, the merits of the project or the design --

COMMISSIONER DUNCAN: Understood.

MR. NOACK: -- but I believe it was to bring it into, number one, a historical -- a cluster of historical features, and number two, to be able to design around it in terms of the site design itself.

COMMISSIONER DUNCAN: Okay. Tandem to that question, the Oishi house, it's not clear based on the existing site plan and the proposed site plan where that's going to wind up. It's a much more significant move, is it not? **S4-3**

MS. VELASCO: Commissioner Duncan, I can probably answer some of those questions.

The first, in terms of the moving of the ensemble

of the Sakai house, the water tower, and the greenhouse, they currently exist approximately where you see Endo Way. And so because of the road alignment in the area --

COMMISSIONER DUNCAN: Okay. That's what I thought. They're just going to be --

MS. VELASCO: Yeah.

COMMISSIONER DUNCAN: And they will retain the same relationship and proportion to each other?

MS. VELASCO: Correct. They're shown in the same proportions and distance and spacing as originally, as they exist today.

COMMISSIONER DUNCAN: And then the Oishi house, that -- that doesn't really show up clearly on the proposed site plan.

MS. VELASCO: And I think your point is well taken. It's currently shown on the east side of Oishi Drive, the most northern house. And that's on the concept plan.

CHAIRPERSON FINLAY: To make sure that we're all on the same page, would you give us the page number, please?

MR. NOACK: 3-14.

MS. VELASCO: Yeah.

COMMISSIONER DUNCAN: Could you repeat that for me, Lina, so I can look at the plan?

MS. VELASCO: So it's on the east side of Oishi Drive --

COMMISSIONER DUNCAN: I see, okay.

MS. VELASCO: -- and the most northern house --

COMMISSIONER DUNCAN: Okay.

MS. VELASCO: -- closest to the creek.

COMMISSIONER DUNCAN: So that is a more substantial move I think.

In terms of the Sakai complex, as a small move, I think that kind of passes muster in terms of preservation, because it's essentially the same site. **S4-4**

One of the -- if you're going to do this for a housing development, one of the things that maintains the historic character of the building is to not relocate it. In this instance, for the sake of a road alignment, I think the Sakai complex is okay. **S4-5**

The Oishi house, on the other hand, is it not possible to design around it and leave it where it is? Because from the interpretive point of view, what you want to do is build up layers of the new stuff over the old that's undisturbed to maintain its integrity. And I was wondering if it might be possible to leave the Oishi house where it is. **S4-6**

CHAIRPERSON FINLAY: Would you identify yourself, sir.

1 MR. LYNCH: Patrick Lynch, director of housing
2 for the City of Richmond.
3 CHAIRPERSON FINLAY: Thank you.
4 MR. LYNCH: And we're the developing agency, and
5 this is one of our projects.
6 I'd like to shed a few lights.
7 Thank you for your comments, Commissioner Duncan.
8 Those are some of the challenges that we're facing as we
9 develop the site. We do have a more complete site plan
10 that you will see next time, because on simultaneous track
11 we are, if you will, on parallel tracks happening
12 simultaneously, we are developing the documents.
13 And we are also working with nonprofits in trying
14 to determine a way in which we can create, if you will,
15 the relationship between some of the structures and how
16 those structures are to be maintained on site and try to
17 get as many eyes, if you will, on the site and then how
18 we -- how the nonprofits may act in terms of their --
19 their program oversight. And is this public space that's
20 available? Is it more of a museum?
21 It's also -- we are working with the service
22 providers to create the environment that works best for
23 that. And I'd like to think that we will have that
24 completed the next time that you see us. But I want you
25 to know those are some of the exact challenges that we are

1 discovering.

2 COMMISSIONER DUNCAN: And I understand that we're

3 very much in a beginning schematic phase, and so stuff is

4 moving at this point.

5 MR. LYNCH: Right. But it is our intention, we

6 are going to save them, we're just trying to figure out

7 what's the best configuration to do that.

8 COMMISSIONER DUNCAN: So the source of my comment

9 has to do with good preservation practice. If you don't

10 have to move things absolutely, you shouldn't. And so as

11 a mitigation measure, something that maintains the site's

12 historic integrity, I would shoot for that, as a comment.

S4-7

13 MR. LYNCH: Thank you.

14 COMMISSIONER DUNCAN: Number two -- I have to

15 pull my page back up again -- there was a statement in

16 Chapter 4 that really sort of had to do with your

17 pro forma and your ability to retain some of these

18 buildings, and I'll quote this. This is on page 4.5-24.

19 "Miraflores Historic Preservation Feasibility

20 Assessment conducted by Connolly Consulting Group and

21 Architectural Resources Group evaluated the financial

22 feasibility of multiple preservation scenarios. It

23 analyzed rehabilitation costs of historic structures,

24 potential eligibility for historic preservation tax

25 credits, and potential retail income from adaptive reuse

S4-8

1 of historic structures to determine financial feasibility.
2 The report concluded that all scenarios analyzed,
3 including the preferred alternative and the in-place low
4 density alternative, were economically infeasible because
5 they would require subsidies beyond the historic
6 preservation tax credit to cover rehabilitation costs."
7 What is the implication to your commitment to
8 saving the Sakai complex and the Oishi house?
9 MR. LYNCH: In practical sense, it's not. We
10 have many layers of financing on this particular project.
11 This was just one particular that members of the public
12 were well aware of. And we've been asked in a number of
13 our community meetings over the years to pursue this line
14 of finance, possible financing, and it doesn't work.
15 We are -- we have built into our budget in other
16 funding line items to maintain the structures. We even
17 have considered if we -- is it economically viable to grow
18 vegetables in the greenhouses versus flowers. I mean, we
19 are looking at --
20 COMMISSIONER DUNCAN: Exactly. Exactly.
21 MR. LYNCH: -- a number of activities. It just
22 doesn't work for the historical tax credits, and that was
23 a commitment that we had made to the public, to pursue
24 that line of thinking first.
25 COMMISSIONER DUNCAN: Okay. Thank you.

S4-8 cont.

1 Couple more comments as suggestions for items in
2 the EIR. First of all, in keeping with I believe what
3 Mr. Panas suggested, I came up with the same suggestion
4 you did independently. I think in addition, despite your
5 pro forma difficulties, that if the Sakai house is sort of
6 a complex that includes a greenhouse, then the Oishi house
7 should include one greenhouse as well. Speaking in the
8 abstract from the interpretive point of view, just a
9 comment.

S4-9

10 MR. LYNCH: Yes, thank you.
11 COMMISSIONER DUNCAN: And finally, I would
12 suggest -- you say that because somewhat -- we're losing
13 so much of the site that are potential historic resources,
14 you suggest photographing the site as a matter of
15 documentation. The pre-war Japanese American community
16 and the cultural landscape is disappearing very quickly.
17 I would go to a greater length to document the site. I
18 would do a Level I HABS documentation with complete
19 drawings as well as photographs, because the landscape
20 plan is very important there. And if you could draw that
21 as well as photograph it, it would make an excellent
22 record that would wind up in the Library of Congress.
23 In terms of your development costs, the costs of
24 a HAB set of drawings is small compared to the other
25 things that you have to deal with, and I think the

S4-10

1 cultural benefit is very large. And so as a line item in
2 the EIR, I would suggest that as a mitigation, that you
3 would include a full set of HAB (inaudible) and
4 photographs.

S4-10 cont.

5 MR. LYNCH: Thank you.
6 COMMISSIONER DUNCAN: That's all I have.
7 CHAIRPERSON FINLAY: Very good. Commissioners,
8 anyone else wish to speak to the item?
9 COMMISSIONER RAO: I have just a question
10 (inaudible) if I may.
11 CHAIRPERSON FINLAY: Commissioner Rao.
12 COMMISSIONER RAO: I would like to know if you
13 could describe a little bit on the major contaminants in
14 the soil there and how we wish to address that issue.
15 MR. NOACK: Sure. Okay. Well, without getting
16 into the document to read the -- what the contaminants
17 are, suffice to say that over the many years of use on the
18 property as for floriculture, that there was a significant
19 amount of pesticides and herbicides that were used.
20 And one very important component of this project
21 is implementation of the Remedial Action Plan, which is
22 actually a document that's approved by DTSC, as I had
23 mentioned earlier. And it's a comprehensive description
24 of the existing contaminants on the site as well as
25 exhaustive in terms of its description of the mitigation

1 clean up levels that -- and the process by which that will
2 occur, as well as what the final acceptable clean up
3 levels are on the site before it can be occupied for
4 residential use. So it's a very detailed report in and of
5 itself. We provide a summary in this report; and as I
6 say, it's a separate action that is covered here, but will
7 be approved by the state DTSC as part of the project.
8 I mean, we -- I'm happy to provide a description
9 if you'd like of the listing of the contaminants, but I
10 can provide more of that at the next hearing (inaudible).
11 COMMISSIONER RAO: You can just read it, it's
12 okay; if it's not a problem, just read a couple lines,
13 couple paragraphs.
14 MR. LYNCH: Just the summary is Appendix D if
15 anyone is following along. And if anyone would care, we
16 have a full document in our office, and we will go over it
17 with anyone, as we have already with the community.
18 CHAIRPERSON FINLAY: I believe that document is
19 also available on disc.
20 MR. LYNCH: Yes.
21 CHAIRPERSON FINLAY: And the summation of the
22 available chemicals at the site are in 4.8, hazardous --
23 hazards and hazardous material. There's one page that
24 outlines it all and then a series of definitions of what
25 you're going to be finding there.

1 COMMISSIONER BECKLES: Madam Chair --
2 CHAIRPERSON FINLAY: Excuse me. Did you have
3 anything further?
4 COMMISSIONER RAO: I have one more question.
5 Did I hear you say that Park Plaza Neighborhood
6 Council and Laurel Park Neighborhood Council are in
7 support of this project; am I correct?
8 MR. LYNCH: Yes. Yes.
9 COMMISSIONER RAO: Okay. Thank you.
10 CHAIRPERSON FINLAY: Might I also comment that
11 Pullman Neighborhood Council was also involved in the
12 discussions, and thank you for that kind of outreach into
13 the community, not only the primary neighborhood council,
14 but the adjacents were also included. Thank you.
15 Did that complete your comments?
16 COMMISSIONER RAO: Yes. Thank you. Thank you
17 very much.
18 CHAIRPERSON FINLAY: Thank you.
19 Commissioner Beckles.
20 COMMISSIONER BECKLES: Thank you, Madam Chair.
21 My question is one of the concerns I have are --
22 is one that the community mentioned, and that was the
23 problem of rodents. And I wonder if there is a strategy
24 in place or in development to deal with that, what will
25 happen, you know, once the site, you know, is disturbed.

S5-1

1 MR. NOACK: Yeah, I believe as part of the
2 preparation before any remediation takes place, that the
3 site will be fully remediated from rodents if you will. I
4 mean, they'll have exterminators out there, and they will
5 address that issue before any ground disturbance would
6 create a problem.
7 And certainly everybody is very much aware of
8 that. I think at every meeting I've attended, I've said
9 not let's forget that issue, because that was -- came
10 across loud and clear during the public scoping comments
11 when we were going through the initial parts of this EIR.
12 COMMISSIONER BECKLES: Thank you.
13 MR. LYNCH: Along those lines, just from sort of
14 a programmatic point, the funds available to clean this
15 site are State of California CALReUSE funds. So we know
16 what's going on with the state budget. We are going to
17 prepare these responses as quickly as possible so that we
18 can begin to draw down those dollars.
19 Now, how does that relate to your comment? We've
20 already begun to contact extermination firms, so that when
21 our documents are approved, we can hit the ground running
22 and draw down those state funds and to meet what we
23 consider to be not only just our -- (inaudible) somewhat,
24 not only just our community commitment, this is the right
25 thing to do. And so we've already begun.

1 CHAIRPERSON FINLAY: Gentlemen, when you're
2 answering a question, please either allow me to introduce
3 you, or introduce yourself, because the court reporter is
4 having a terrible time figuring out who's talking. And
5 it's awkward when it's "He said." Not real definitive,
6 "He said."
7 Any other questions, Commissioner Beckles?
8 COMMISSIONER BECKLES: I don't. Thank you,
9 Madam Chair.
10 Thank you.
11 Commissioner Teltschick-Fall, how about you?
12 COMMISSIONER TELTSCHICK-FALL: Yes, thank you. I
13 have a couple of comments and a couple of questions.
14 I think I should probably ask one of the
15 questions first, because it has bearing on the comment.
16 Patrick, you were saying about, you know, that
17 you were looking into all these different economic
18 possibilities there; and I guess I'm still not quite clear
19 as to whether or not that's still a possibility, that
20 you're still pursuing that, that you could have some sort
21 of -- that you could make some kind of economic use,
22 perhaps a job-producing use out of the greenhouses. Is
23 that still a possibility?
24 CHAIRPERSON FINLAY: Mr. Lynch.
25 MR. LYNCH: Yes. Thank you. Yes. Let me expand

that just for a moment. It's a little bit off topic, but I think it's important just so that everyone is aware.

Not only have we looked at the reuse of the greenhouses in terms of their -- the historical use for flowering plants, but in addition to that, vegetables. In addition to that, we have discussed with different horticulture societies, how then do you maintain that? And they -- even our level of conversations are not just in how do we do that, but, you know, you can't mix vegetables with flowers. And then do we do that as a co-op? Do we do it as part of the gardening space for the residents that live there? We're exploring all these options. We haven't reached any conclusions, it's simply in the exploration stage, but we are discussing, if you will.

So it is our desire to maintain the greenhouses, but I cannot tell you at this time if they're going to be housed for flowering plants or for vegetables. That, I don't know just yet.

COMMISSIONER TELTSCHICK-FALL: Well, my comment then about that would be that I really like that idea, and I think that it could bring vitality to that development and to the whole neighborhood to have something besides just housing, and that it's also very wise right now with the housing market being what it is, and it could just, I

S6-1

1 think, create a more vibrant community. And so I would
2 just like to urge you to stay very open minded about it.
3 You could end up with a lot of interesting mix.
4 It could be part co-op; it could be part business venture. **S6-1**
5 You know, you might get that people -- some of the people
6 living there involved in it, and you could get other
7 people involved in it too, local businesses. So I like
8 that very much.
9 I did also just want to say that the document is
10 readable, so I appreciate that.
11 And then I was just wondering about the
12 landscaping and all of those beautiful roses that I saw
13 growing there that had so bravely continued without any
14 help whatsoever all these years. They obviously want to **S6-2**
15 grow. So I was wondering if you plan to include any of
16 those original stock roses in the landscaping.
17 MR. LYNCH: Yes.
18 CHAIRPERSON FINLAY: Mr. Lynch.
19 MR. LYNCH: Yes. Yes. Absolutely, yes.
20 COMMISSIONER TELTSCHICK-FALL: Thank you.
21 CHAIRPERSON FINLAY: Yes, Commissioner Lane.
22 COMMISSIONER LANE: Thank you. My questions were
23 more concerning the housing and the affordable housing
24 piece.
25 Questions -- well, first of all, I'd like to say

that it's great that the site will have affordable housing on it for seniors. My question was concerning whether there were options explored for affordable housing for the for sale units.

S7-1

CHAIRPERSON FINLAY: Mr. Lynch.

MR. LYNCH: Yes. Yes. We have not determined the exact mix. That's the process that we're in now as we are developing a more detailed site plan with elevations and the exact number of homes. The answer is yes.

COMMISSIONER LANE: And then the second question kind of is connected to that. Is the inclusionary housing ordinance satisfied with the rentals, or will it have to be satisfied through the homes for sale? I'm trying to understand that more.

S7-2

CHAIRPERSON FINLAY: Mr. Lynch.

MR. LYNCH: No. It is our intent to greatly exceed those numbers. Yes.

COMMISSIONER LANE: Then I have another question concerning the community gardens. So it's noted that a community garden will be on site. I assume this will be outside, so not in the proposed greenhouse that is retained on site. So the question is concerning, since it has been indicated that the soil is contaminated, it will be remediated, still I had a concern about the safety of that soil to grow food. So I understand the safety of

S7-3

1 folks who live in homes there, but actually to eat food
2 that was grown through that soil. So I want to understand
3 how that's determined and then further review and checks
4 and testing of that soil in the future.

S7-3

5 CHAIRPERSON FINLAY: Mr. Lynch.
6 MR. LYNCH: Well, I have a few comments, but
7 let's begin with the -- why don't you start.
8 MR. NOACK: Okay. Steve Noack.
9 CHAIRPERSON FINLAY: Thank you, Mr. Noack.
10 MR. NOACK: Actually, the community garden, it's
11 proposed that it would be planted in raised beds, and part
12 of that -- for that reason is to, although the soil will
13 be cleaned up to levels that are considered safe, I think
14 as a precautionary measure, the soil for the vegetables
15 will still be in raised beds.
16 CHAIRPERSON FINLAY: And we're really talking
17 about two different types of community gardens. The one
18 that is referred to most often, the vegetable garden, is
19 in the, as I understand it, the courtyard of the senior
20 complex, and those are the raised beds we're talking
21 about.
22 And then the second community -- potential for
23 community gardening would be in the actual greenhouses.
24 And I'm sure those would have to be in raised beds as
25 well. So we've got two different types; one primarily for

the seniors' complex, and then one for whatever it evolves into being.

Mr. Lynch.

MR. LYNCH: Right, and that is correct. In addition, we are, once again, you will see it as we come back with a Remedial Action Plan and others we have discussed, there is a hold-and-haul type of a process that the soil is taken away, and the other way is in which the soil is removed and is capsulated under streets. So we are -- that you will see as we come back to you. So that will address the other contaminated soil on site.

CHAIRPERSON FINLAY: And, Mr. Noack, I understand from the EIR that you will be doing a test of the soils a year later, and DTSC will ascertain whether it is important to continue to test those soils on an ongoing basis or whether the problems appear to be resolved at that time; is that correct?

MR. NOACK: That is correct.

CHAIRPERSON FINLAY: All right. Any other questions?

COMMISSIONER LANE: Not right now.

CHAIRPERSON FINLAY: Okay. Thank you.

Commissioner Teltschick-Fall.

COMMISSIONER TELTSCHICK-FALL: One more question I just thought of. I am not completely understanding

S8-1

about the alternatives that you have here at the back of the document. Are those viable alternatives as well? Do you consider those viable alternatives? **S8-1**

CHAIRPERSON FINLAY: I'm sorry, Mr. Noack.

MR. NOACK: Those -- when you say "viable alternatives," the California Environmental Quality Act requires that an Environmental Impact Report look at alternatives that could perhaps mitigate any potentially significant impacts of the project itself. So those alternatives were developed, you could say, as viable alternatives to the project to compare potential impacts to see if any of the alternatives would result in the possibility of fewer impacts than the project itself.

COMMISSIONER TELTSCHICK-FALL: And if you selected, say, for example, a lower-density option or a little more historical preservation, would the project still be economically viable for the development? **S8-2**

MR. NOACK: That really isn't in my purview as the environmental planner on the project. My job is to really report on the impacts itself.

CHAIRPERSON FINLAY: Thank you, Mr. Noack.

Any other questions?

COMMISSIONER TELTSCHICK-FALL: No, thank you.

CHAIRPERSON FINLAY: All right. In that case I'd like to make a few -- some -- there might be a question

1 involved, there might be just a comment.
2 I am also -- it's difficult when you're looking
3 at a project like this to always keep on the straight and
4 narrow in your questions or in your comments of only
5 what's in the Environmental Impact Report. I realize why
6 we're here, but I'm going to take a little license if
7 you'll bear with me.
8 First of all, I wanted to also agree with
9 Commissioner Duncan's statement. I thought that the
10 Environmental Impact Report and the reports in the
11 appendices were very, very well done, but I did share his
12 frustration in looking for things that I could not locate;
13 specifically, "house" doesn't cut it. And yes, I spent a
14 lot of time at the site and finally figured it all out.
15 But a little more explanation would have made the document
16 a little easier to read.

S9-1

17 A question that is not answered in the report,
18 unless I missed it, was who's going to operate the senior
19 housing component. I know the answer to that, but for
20 anybody who comes to this fresh -- it will be Eden -- but
21 for somebody who comes to this fresh, that should be
22 answered somewhere and about how that's going to be
23 handled. And then the rest of the site will be developed
24 by a developer still to be determined.

S9-2

25 I'm editing this as I go, because I've already

made a couple of comments.

I realize that we're still in the development phase, but -- and I also realize that when we discuss the bike easement, which we clearly state is outside of the project, it's, again, a little frustrating when you can't see something provided that says, but it's going to be there. Just like the Greenway project, well, we know it's there somewhere, but it took me a while to get my bearings to say, oh, yeah, it's over there with the bike easement.

S9-3

The question that was still -- that had gone begging was we know that the EIR says that it is not going to be the responsibility of the developers of this site to pay for the bike easement or to maintain the bike easement, but the question then, of course, comes to the fore, well, then who is it. And so I was looking for that. The areas of the walkways versus the creek path were not clearly delineated.

Now, again, I realize these are development issues, but we're all very curious about how they're going to work together; and, again, that was not clearly delineated.

An additional frustration is when I read an Environmental Impact Report and it gives me percentages for units. Now, granted, we can all have a unit here go one way or the other, but 25 percent of 26 -- or 226

S9-4

units, why do I have to do the math? Why doesn't somebody just come out in the Environmental Impact Report to say we're going to have 5 percent of bedrooms, which equal 11 one-bedroom units in the affordable -- in the market rate housing; 25 percent two bedrooms, which is 57; 60 percent three bedrooms, which is 136; and 10 percent four bedrooms? I mean, I'm running around going, okay, let's get out the calculator. But those are such easy jumpable things, and that's what the public is looking for.

S9-4 cont.

This is a development issue, and I realize the purpose of a PAD, planned area development, I also realize what infill housing is and transit-oriented housing is; but I'm going to have to look at some point when we get a development plan in front of us, very carefully, at the lack of setbacks or the minuscule setbacks and the lack of side yard setbacks. I'm going to be looking at that with a jaundiced eye. I just need to warn somebody out there.

S9-5

Parking standards. I understand that the Environmental Impact Report is to give us some parking standards and to say, yeah, this is what they are. I'm not going to say that you're wrong, and I'm not even going to say that it may not be within the most current thinking about what this kind of housing is supposed to accomplish; but I am going to tell you that this complex would have approximately 507 parking spaces if we didn't start giving

S9-6

1 away the density bonuses, or take those into
2 consideration, density bonus, senior housing, and the PAD
3 determination.
4 What is being proposed in the Environmental
5 Impact Report is -- if it had been the regular parking
6 standards for the City of Richmond, the market rate
7 housing would have 452 parking spaces. What is being
8 recommended is 260, for a net loss of 192 parking spaces.
9 The senior housing, under the current housing -- zoning
10 for senior housing would be 55 parking spaces. What's
11 being recommended is 36 parking spaces, for a net loss of
12 19. This is a total net loss of 211 spaces on very narrow
13 streets, only 36 feet wide. And I see this, even taking
14 into consideration what we're trying to accomplish with
15 this type of housing, as a parking disaster for this
16 community.

S9-6

17 So I'm not going to say that the EIR isn't
18 correct in its calculations, but I am going to say that,
19 again, I'm going to look at this very carefully and I see
20 this again just as a parking nightmare. What, again,
21 frustrated me, and I've seen a lot of these reports in the
22 years I've been doing this, we talk about the trips that
23 are going to be generated, but it took me hours and hours
24 and hours for somebody to finally tell me that the
25 calculations were based on 1.2 spaces per unit.

S9-7

1 Now, when I'm looking at a unit that can be one,
2 two, three, or four bedrooms, and I'm being told that for
3 a four-bedroom house we're probably only looking at 1.2
4 parking spaces per unit, I've got to tell you, it doesn't
5 make sense to me. And my problem is that I'm a Realtor,
6 and I deal with this stuff all the time. So I'm not
7 concerned about what's going to happen to the traffic on
8 Cutting and San Pablo, although that will deteriorate, as
9 much as I'm concerned about what's going to happen in
10 house in this community when there are no places to park
11 the cars that every single family has at least two of, and
12 possibly how many children do you have, multiply that by
13 16 years of age, and you've got a whole nother figure,
14 plus an occasional clunker.

S9-8

15 So I just, again, want to warn somebody that the
16 best thing that could probably happen to you is that I'm
17 no longer on this Commission if that's what's presented.
18 All right. There was a notice, and I'm now
19 looking at 3-19, that there was some discussion of an
20 interpretive exhibit. And the EIR goes on to say -- and,
21 again, I'm not faulting you for saying this -- that, well,
22 if they can't find a place to put it on the site, well,
23 then we'll find someplace else. That makes me very
24 nervous. That means it gets lost in the shuffle
25 somewhere, it doesn't get done.

S9-9

Again, I'm looking for someone to say it will be here, and if not here, as a condition, then someone specifically is going to pay "X" amount of dollars to put it someplace else, because that's way too sloppy, so I'm looking for a condition to tie that one down. **S9-9**

I've got -- I think that the daylighting of Baxter Creek, and I'm on 30-20 at this point, is a very exciting concept. I do have some concerns about safety for children. And I know that as I read through some of the information, or I spoke to someone, they were saying that they're concerned about that too, but it always helps to hear it from someone else. **S9-10**

Really enjoyed seeing the results of the risk assessment that was done, that's 4.3-27. **S9-11**

I'm terribly concerned about the noise. Every environmental impact I've seen, and that's been 15 years' worth, I'm always assured that the noise is not going to be a problem, that it can be attenuated. I live in Marina Bay, and we have a complex that is built somewhat close to the railroad tracks and it isn't attenuated. And we've got -- we've got some properties here that with their proximity to the BART tracks and to Highway 80, I don't know how you're going to do that effectively. And I know that your consultants tell you you can, but I'm here to say I just don't see it. **S9-12**

By the way, I gave the folks I met with today some misinformation. On 14.11-15, I had stated that the daily traffic values on Interstate 80, I believed, were going to increase according to forecasts up to, I said, 25 percent between the years 2000 and 2025. I was wrong. The EIR states that the forecasts are an increase up to 60 percent, which tells you something about car use as well. **S9-12**

14.13-10, we're talking now about education, educational facilities. I'm sure that the information that you had in there was correct when this document was prepared. We're looking at some potential closures. It says here that King Elementary School is going to be the closest school to the facility. Someone needs to check to see if King is on the closure list. I don't remember offhand, and I didn't have time to check that out. **S9-13**

The same thing with Kennedy High School. It's also listed here as the closest school. And I know that they were discussing closure for Kennedy. I don't know where we are with that at this point, but certainly that possibility probably needs to be addressed somewhere in the response on the EIRs.

When we're talking about the project trip generation, 14.14-21, the piece of information that I would really like to know is it's always trips generated. I read the traffic report. What I couldn't find there is **S9-14**

1 how many cars are used for the base calculation for the
2 trips. Because that would correlate them back to me to
3 the whole parking issue. And for the life of me, I can't
4 find it. It might be there and I just didn't know what I
5 was looking at.

S9-14

6 I was, however, very distressed to read, and,
7 again, this is not a critique of the EIR, that the CEQA
8 amendments that are due out at the end of 2009 would
9 possibly remove consideration for parking capacity from
10 the CEQA standards of significance.
11 Okay. Those are my comments.
12 Any other comments?
13 All right. In that case, we want to thank you
14 gentlemen very much. Certainly thank Eden, and certainly
15 thank Community Housing Development Corporation. Thank
16 you, Mr. Lynch. Thank you, Mr. Noack.
17 Staff, do you have anything further that you'd
18 like to say regarding this application?
19 MS. VELASCO: Just a reminder to the
20 commissioners and to the public that the public comment
21 period closes on the 29th. So people could still submit
22 written comments up to that date. The EIR is available
23 online and so is the Notice of Availability where they can
24 send the comments to.
25 Thank you.

1 CHAIRPERSON FINLAY: And where do they send the
2 comments?
3 MS. VELASCO: To the planning department, to my
4 attention, Lina Velasco.
5 CHAIRPERSON FINLAY: And the address?
6 MS. VELASCO: 450 Civic Center Plaza, P.O. Box
7 4046, Richmond, California 94804.
8 CHAIRPERSON FINLAY: And your phone number in
9 case they need to reach you?
10 MS. VELASCO: (510) 620-6841.
11 CHAIRPERSON FINLAY: Thank you.
12 COMMISSIONER RAO: I have a question of the
13 staff. Can I ask a question?
14 CHAIRPERSON FINLAY: Of course, Commission Rao.
15 COMMISSIONER RAO: I know that you have scheduled
16 August 20th as the PC hearing to consider recommending to
17 the city council certification of the final EIR. I was
18 wondering if the Applicant would like to say about this,
19 or the staff, as to what is expected of the Applicant
20 between now and August 20th in front of the Commission to
21 come and, you know, try to get the approval of it, on the
22 final EIR, according to the rules.
23 MS. VELASCO: In terms of entitlements or in
24 terms of making modifications to this document?
25 COMMISSIONER RAO: Modifications and

1 entitlements, yeah, the basics, just the basics of it.
2 MS. VELASCO: Okay. Well, what's anticipated now
3 is at the close of the public comment period, the
4 consultant will work with the planning department to
5 prepare responses to those comments, which, as I mentioned
6 earlier, will be incorporated into the final document
7 that's submitted for consideration for certification.
8 Right now we are working closely with the
9 Applicant on finalizing their development plan, which
10 would be considered for the general plan amendment as well
11 as the rezoning by the city council. In the past we've
12 heard from the Commission and other boards that they like
13 that these two things be separated out, which is what we
14 anticipate we'll move forward. So consideration of
15 certification of the EIR will be first, which will be
16 followed up by the entitlements. And specifically right
17 now what they'll be requesting is the general plan
18 amendment as well as the rezoning and separately the
19 design review permit for the actual housing will be done
20 separately.
21 COMMISSIONER RAO: Great. Thank you very much.
22 CHAIRPERSON FINLAY: Very good.
23 Yes, Mr. Lynch.
24 MR. LYNCH: Thank you, Madam Chairman, members of
25 the Commission. I'd like to extend certainly our

1 department, if anyone has any further comments, not only
2 in your official capacity as planning commissioners but
3 just as interested individuals, please share your thoughts
4 with us.
5 And, yes, we will explain the design element.
6 Certainly the four and three bedrooms have the garages.
7 We were thinking of trying to create a more biking
8 community, if you will, and maybe we bit off a little too
9 much. So as we go through and prepare our documents, come
10 back for you in terms of the design element, we certainly
11 wish to hear your comments, but we're trying to figure out
12 a way to provide housing, because of our proximity to Del
13 Norte as well as Richmond BART, to encourage people to
14 bike. And we thought, well, one way to do that is to take
15 away garages on some units and increase them on others so
16 you get an average. And we need to do a better job
17 explaining that and provide some design elements back to
18 you. So that's our intention.
19 We want you to know it wasn't an oversight on our
20 part, we were thinking of how do we take some smart growth
21 design elements and create a neighborhood of walking and
22 biking and this and that. So I just wanted to share that
23 with you.
24 We are open to your comments. And please stop
25 by, share your thoughts on design with us and the

residents.

CHAIRPERSON FINLAY: The difficulty -- I certainly understand the concept. The difficulty on this particular site is, yeah, we want everybody to walk, I don't, I should; but you're still a half a mile away from Target, you're still a quarter of a mile away from BART, you have no access to AC Transit. It's a very isolated spot, quite frankly. And so when you say a half a mile, a quarter mile, it is isolated, and it is not particularly a real conducive area to walk. So, I mean, you've got to take that into consideration.

MR. LYNCH: Thank you.

CHAIRPERSON FINLAY: Thank you.

Any other comments?

Very good. Thank you.

May we have the next agenda item, please.

(Thereupon, the Public Comment portion of the July 16, 2009, Public Forum of the City of Richmond Planning Commission was completed at 8:15 p.m.)

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CERTIFICATE OF REPORTER

I, RICHARD FRIANT, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing City of Richmond Planning Commission Public Forum; that thereafter the recording was transcribed.

I further certify that I am not counsel or attorney for any of the parties to said Public Forum, nor in any way interested in the outcome of said Public Forum.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of July, 2009.

RICHARD FRIANT

Speaker S1: Tom Panas, Member, El Cerrito Historical Society

S1-1: The comment reiterates the unique historic value of the project site.

The comment is noted. No further response is required.

S1-2: The comment refers to a written comment from the El Cerrito Historical Society.

No further response is required.

Speaker S2: Paula Shiu, Resident, 4901 Wall Street, Richmond

S2-1: This comment is a statement of appreciation for the greenhouse histories and preservation efforts.

The comment is noted. No further response is required.

S2-2 and S2-3: These are comments of general concern that the project move forward expeditiously.

The comment is noted. No further response is required.

Speaker S3: Katie Lamont, Associate Direct of Real Estate Development, Eden Housing

S3-1: The comment summarizes Eden Housing's history of involvement in development of the project.

The comment is noted. No further response is required.

S3-2: The comment expresses appreciation for resident involvement in the development of the project.

The comment is noted. No further response is required.

S3-3: The comment expresses appreciation for Larry Oishi and the Oishi family for their support of the project.

The comment is noted. No further response is required.

Speaker S4: Commissioner Charles Duncan

S4-1: The comment requests clear labeling of historic features in the document figures.

The Draft EIR has been amended to identify key historic resources in the figures. These changes are included in Chapter 3 of this Final EIR.

S4-2: The comment asks why the Sakai House, Greenhouse 20, and the water tower are proposed to be moved 30 feet from their present location.

The project proposes to move the Sakai ensemble 30 feet to allow for the development of the senior housing complex on the west side of the site and to allow Endo Way to align with South 46th Street.

S4-3: The comment asks where the Oishi House would be relocated.

The project proposes to move the Oishi House to the open space area along Interstate 80. The Draft EIR has been amended to include rehabilitation and relocation of an additional greenhouse from the Oishi Nursery and to identify the location of the Oishi House and associated greenhouse on the existing and proposed site plan figures. These changes are included in Chapter 3 of this Final EIR.

S4-4: The comment expresses the commenter's opinion that moving the Sakai ensemble 30 feet is essentially the same site.

The comment is noted. No further response is required.

S4-5: The comment expresses the commenter's opinion that there is good justification for moving the Sakai house.

The comment is noted. No further response is required.

S4-6: The comment expresses the commenter's opinion that the Oishi House should remain in situ.

The comment is noted. No further response is required.

S4-7: The comment expresses preference for preserving historic buildings in situ where possible.

The comment is noted. No further response is required.

S4-8: The comment asks about the implications of the historic preservation tax credit feasibility assessment for preservation of the Sakai ensemble and Oishi House.

Patrick Lynch, Director of Housing for the City of Richmond, stated that while the historic preservation tax credits do not cover the rehabilitation costs of the project, the Agency has other sources to fund preservation of the structures.

S4-9: The comment states commenter's desire to preserve a greenhouse from the Oishi Nursery.

See Response to Comment 7-4.

S4-10: This comment suggests completing full photographic documentation of the site.

Full documentation is required by the MOA with SHPO and is included as a mitigation measure in the Draft EIR. No change is made to the Draft EIR.

Speaker S5: Commissioner Jovanka Beckles

S5-1: The comment asks whether there is a plan to control rodents on-site.

The Draft Remedial Action Plan includes rodent control measures. Please refer to Response to Comment 17-1.

Speaker S6: Commissioner Carol Teltschick-Fall

S6-1: The comment expresses preference for developing job-producing uses in the greenhouses that would be located in the open space area.

The comment is noted. No further response is required.

S6-2: The comment asks whether any of the rose varieties that were previously grown in the nurseries would be used in the landscaping on-site.

As mentioned in the Project Description of the Draft EIR, flower varieties that were historically grown on-site would be used in landscaping common areas.

Speaker S7: Commissioner Sheryl E. Lane

S7-1: The comment asks whether any of the for-sale units would be offered at affordable levels.

As acknowledged in the hearing by Patrick Lynch, Director of Housing for the City of Richmond, the process for determining affordability was underway and would be determined through the entitlement process.

S7-2: The speaker asked whether the project's inclusionary housing requirements would be satisfied completely by the affordable senior rental component.

Patrick Lynch, Director of Housing for the City of Richmond, stated that the City intends to provide affordable housing in addition to the units in the senior rental complex.

S7-3: The comment expresses a concern over the safety of growing food in the open space area.

The Remedial Action Plan for the project identifies a lead cleanup goal of 150 mg/kg in the open space area to allow for in-ground gardening, which is below the cleanup goal for the rest of the site. The 150 mg/kg cleanup goal was derived by the Department of Toxic Substances Control and specifically designated for the open space area to ensure that the soil would be safe enough for gardening following remediation.

Speaker S8: Commissioner Carol Teltschick-Fall

S8-1: The comment asks whether the alternatives presented in the Alternatives section of the Draft EIR are viable.

CEQA requires that an EIR look at alternatives that could mitigate any potentially significant impacts of the proposed project. In developing the alternatives to be analyzed in the Draft EIR, the City applied the rule of reason to identify a range that would allow for informed decision making and public participation. The alternatives were developed to balance environmental site constraints and potentially significant impacts with project objectives. See also Response to Comment 4-6.

S8-2: The comment asks whether some of the alternatives evaluated for the project would be considered economically viable.

The *Miraflores Historic Preservation Feasibility Assessment* prepared by Conley Consulting Group and Architectural Resources Group in 2008 determined that the In-Place/Low Density Alternative was financially infeasible. This report has been added to the Draft EIR as Appendix J. While the report did not specifically analyze the Increased Preservation Alternative shown in the Draft EIR, it is reasonable to conclude that it would also be financially infeasible, since it would entail preservation of a larger number of structures. The Increased Housing/High Density Alternative is presumed to be economically feasible.

Speaker S9: Chairperson Virginia Finlay

S9-1: This comment states that the labeling of historic structures throughout the Draft EIR was difficult to follow.

The Draft EIR has been amended to identify the location of key historic structures in the figures. These changes are included in Chapter 3 of this Final EIR.

S9-2: This comment inquires as to who will operate proposed senior housing.

Eden Housing would operate the senior housing component. No further response is needed.

S9-3: This comment expresses frustration that the proposed pedestrian and bicycle path is not shown on Draft EIR figures.

The Draft EIR has been amended to identify the location of the proposed pedestrian and bicycle path in the figures. These changes are included in Chapter 3 of this Final EIR.

S9-4: This comment expresses frustration with the fact that housing quantities are expressed in percentages.

The Draft EIR has been amended to include the proposed quantity of each type of housing unit. These changes are included in Chapter 3 of this Final EIR.

S9-5: The comment notes that during the development entitlement phase, setbacks will be examined.

This comment refers to the merits of the project, and does not pertain to environmental issues that are germane to the CEQA analysis. For this reason, no response to these kinds of comments is required. Nevertheless, this comment is noted and will be forwarded to the City of Richmond Planning Commission and City Council for consideration.

S9-6: This comment notes that the plan did not provide enough parking in the commenter's opinion.

The Draft EIR has been amended to note increased parking ratios for the senior and market-rate components of the project. These changes are included in Chapter 3 of this Final EIR.

S9-7: This comment notes the parking standards were difficult to understand.

The Draft EIR has been amended to state the parking ratio. This change is included in Chapter 3 of this Final EIR.

S9-8: This comment restates the commenter's opinion that the parking ratio is insufficient.

See Response to Comment S9-6, above.

S9-9: This comment expresses concern about the potential off-site location of the interpretive exhibit.

The comment is noted. No further response is required.

S9-10: The comment refers to concerns regarding the safety of the daylighted creek for children.

Several features of the proposed restoration design for Baxter Creek would foster safety. As noted in the Draft EIR, housing would be located so that the daylighted portions of Baxter Creek would be visible from multiple homes as a safety precaution. The restored creek channel would have a bankfull width of 13 feet and would be located within a wide floodplain (ranging in width from approximately 55 feet at the pedestrian bridge to 120 to 140 feet throughout most of the corridor). The width of the creek channel and floodplain would decrease the creek velocity during high flow periods, thus reducing the chance that a child could be carried away by fast-moving flows. The bankfull depth of the creek (which would occur only during rainy periods) would only be up to approximately 1.5 feet, and the creek would be even shallower during most of the year, with an average depth of about 6 inches. Furthermore, the design of the bank is very gradual and does not include any steep drop-offs, which would decrease the likelihood that a child could fall in and not be able to get out.

S9-11: The comment expresses satisfaction with the risk assessment in the Air Quality section.

The comment is noted. No further response is required.

S9-12: The comment states the opinion that the analysis is incorrect with regard to the noise impacts.

The commenter's opinion provides no specific examples from the Draft EIR that would otherwise allow for a more informed response. The noise analysis for the project responds to the Standards of Significance from Appendix G of CEQA. The noise analysis identified potentially significant impacts related to excessive noise in housing units closest to the BART tracks and Interstate 80, and temporary noise increases due to remediation and construction activities.

Both impacts would be reduced to a less-than-significant level through implementation of mitigation measures including noise barriers, building sound insulation, restricted hours for remediation and construction operations, and other measures. These mitigation measures are commonly used and their effectiveness at reducing excessive noise levels has been demonstrated. No change to the Draft EIR is warranted.

S9-13: This comment questions whether King Elementary School, which is closest to the project, is on the closure list.

As of mid-2009, there were no approved plans to close any of the three schools closest to the project in the 2009-2010 school year. The possibility of closures in subsequent years is unknown. No further response is required. A West Contra Costa Unified School District Board resolution (Resolution No. 67-0809) from February 11, 2009 stated that Kennedy High School would remain open at least through the 2010-11 school year with funding from the City of Richmond, and for a longer period of time if another external funding source were to be identified. The resolution also designated Kennedy High School to accommodate students from other high schools that were on the list of potential closures. DeJean Middle School was also designated to receive students from other schools that would potentially close.

S9-14: This comment states that trip generation rates are missing from the Draft EIR.

The Draft EIR has been amended to provide information on trip generation rates for each type of housing on the site. This change is included in Chapter 3 of this Final EIR.