

1 of 211

Final Revised Supplemental Environmental Impact Report

East Dublin Properties
Stage 1 Development Plan and Annexation

Comments and Responses

SCH No. 2001052114

Lead Agency
City of Dublin

March 2002

Final Revised Supplemental Environmental Impact Report

East Dublin Properties
Stage 1 Development Plan and Annexation
Comments and Responses

SCH No. 2001052114

City of Dublin
Planning Department
100 Civic Center Plaza
Dublin, CA 94568
(925) 833-6610

March 2002

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I. Introduction

A Revised Draft Supplemental Environmental Impact Report (RDSEIR) for the proposed project was prepared and distributed for public and agency review in January 2002. The proposed Project includes annexation of the Project area to the City of Dublin and Dublin San Ramon Services District (DSRSD), rezoning the area to the City of Dublin PD-Planned Development Zoning District and a related Stage 1 Development Plan to guide future development of the Project area. A full description of the proposed project is contained in the DEIR document.

Under the California Environmental Quality Act (CEQA) and implementing CEQA Guidelines, after completion of the Draft EIR, lead agencies are required to consult with and obtain comments from public agencies and organizations having jurisdiction by law over elements of the project and to provide the general public with an opportunity to comment on the Draft EIR. Lead agencies are also required to respond to substantive comments on environmental issues raised during the EIR review period.

As the lead agency for this project, the City of Dublin held a 45-day public review period between January 15 and March 1, 2002.

This document contains all public and agency comments received during the 45-day public review process regarding the DEIR and responses to those comments. The City reviewed all comments received and prepared responses in compliance with CEQA Guidelines Section 15088. These responses reflect good faith reasoned analysis, supported by factual information, to identify and resolve environmental issues raised through the comments. This Final EIR has been prepared pursuant to CEQA Guidelines Section 15089.

Included within the document is an annotated copy of the comment letter, identifying specific comments, followed by a response to that comment. Following the comments and responses is a section containing staff-initiated text changes and corrections.

All revisions have been reviewed and considered with respect to whether they raise substantive issues requiring recirculation of the DSEIR (per CEQA Guidelines Section 15088.5). The City has determined that none of the responses trigger the requirement to recirculate the DSEIR contained in the Guidelines.

II Annotated Comment Letters and Responses

Letter No.	Commenter	Date	Comment Page #	Response Page #
	Federal Agencies			
	None		-	-
	State Agencies			
1	Department of Toxic Substances Control	2/11/02	3	6
2	Cal Trans Division of Aeronautics	2/21/02	7	9
3	Cal Trans	2/28/02	10	13
4	Department of Fish and Game	3/1/02	18	26
	Local Agencies			
5	Alameda County Congestion Management Agency	2/27/02	33	35
6	Alameda County Flood Control and Water Conservation District Zone 7	3/1/02	38	41
7	Dublin San Ramon Services District	2/19/02	43	45
8	Livermore Area Recreation and Parks District	3/1/02	46	120
9	City of San Ramon	2/25/02	128	129
10	City of Livermore	3/1/02	130	203
	Individuals and Organizations			
11	Sierra Club San Francisco Bay Chapter	2/27/02	247	248
12	Allen Matkins (representing local property owners)	2/28/02	249	253
13	Stuart Flashman	3/1/02	255	260



Department of Toxic Substances Control

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Edwin F. Lowry, Director
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721

Gray Davis
Governor

Winston H. Hickox
Agency Secretary
California Environmental
Protection Agency

February 11, 2002

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DUBLIN PLANNING

City of Dublin
Attn.: Mr. Andy Byde
East Dublin Properties
100 Civic Plaza
Dublin, California, 94568

Dear Mr. Byde:

Thank you for the opportunity to comment on the East Dublin Properties Stage 1 Development Plan and Annexation Draft Supplemental Environmental Impact Report (SCH# 2001052114). As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a Resource Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any required remediation activities which may be required to address any hazardous substances release.

The submitted Draft Environmental Impact Report is a planning document and does not include a summary of past land use(s). However, the initial study included as Appendix A indicates that some pesticide use may have been associated with past agricultural use(s) and that petroleum-based products may have been used to maintain farm equipment as well as at a former trucking and truck storage location. While Phase I Environmental Site Assessments have been completed for each parcel within the Project area, the mitigation measures proposed include further site-specific environmental review in the form of Phase II Environmental Site Assessments pending Project approval. We strongly recommend that sampling be conducted as a part of each Phase II Environmental Site Assessment to determine whether potential contamination release associated with past land use is an issue which will need to be addressed in the CEQA compliance document. If hazardous substances have been released, they will need to be addressed as part of this project.

1.1

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at www.dtsc.ca.gov.

Mr. Andy Byde
February 11, 2002
Page 2

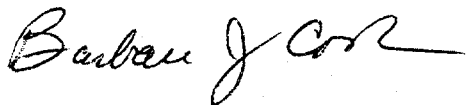
For example, if the remediation activities include the need for soil excavation, the CEQA document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of upset should be there an accident at the Site.

1.1
(cont.)

DTSC can assist your agency in overseeing characterization and cleanup activities through our Voluntary Cleanup Program. A fact sheet describing this program is enclosed. We are aware that projects such as this one are typically on a compressed schedule, and in an effort to use the available review time efficiently, we request that DTSC be included in any meetings where issues relevant to our statutory authority are discussed.

Please contact Ryan Miya at (510) 540-3775 if you have any questions or would like to schedule a meeting. Thank you in advance for your cooperation in this matter.

Sincerely,



Barbara J. Cook, P.E., Chief
Northern California - Coastal Cleanup
Operations Branch

Enclosures

cc: without enclosures

Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95814-3044

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

Responses to Department of Toxic Substances Control Letter

Response 1.1: In regard to future Phase II Environmental Site Assessments for individual properties in the project area, such studies will be required as part of future environmental reviews for individual properties in the area as specific development projects are submitted for City review (see Initial Study, Appendix of Volume 2 of the EDSEIR). Sampling of soil and/or groundwater would be included as warranted on individual properties. If hazardous materials are discovered, a remediation plan will be required to be prepared by the specific developer in conjunction with applicable regulatory agencies.

Information on the Voluntary Cleanup Program offered by DTSC is acknowledged.

DEPARTMENT OF TRANSPORTATION

DIVISION OF AERONAUTICS - M.S.#40

1120 N STREET

P. O. BOX 942873

SACRAMENTO, CA 94273-0001

PHONE (916) 654-4959

FAX (916) 653-9531

Letter 2

9 of 211



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FEB 25 2002
DUBLIN PLANNING

February 21, 2002

Mr. Andy Byde
City of Dublin
100 Civic Plaza
Dublin, CA 94568

Dear Mr. Byde:

Re: *City of Dublin's Revised Draft Supplemental EIR for East Dublin Properties, Stage 1 Development Plan and Annexation; SCH# 2001052114*

The California Department of Transportation (Department), Division of Aeronautics, reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to CEQA. The following comments are offered for your consideration.

The proposal includes mixed density residential uses, retail, service, office and light industrial, parks, open spaces, community facilities, roadways and similar land uses.

The proposal also includes four school sites within two miles of the Livermore Municipal Airport. In accordance with Education Code Section 17215, a school site within two miles of an airport runway will require a school site evaluation by the Division of Aeronautics. Our records indicate that in a letter dated January 15, 1993, we evaluated several school sites in the general area of the project site. In our letter, we stated that a portion of one of the middle schools fell within the airport protection area (APA) and we recommended that the school be moved north of the APA. We also expressed concern with potential noise impacts associated with frequent high single event noise levels due to the proximity of certain school sites to the airport traffic pattern. However, since school site evaluations are only good for five years, the school district should be advised to notify the State Department of Education of the need for a new evaluation by the Division of Aeronautics. For questions concerning the school site evaluation, the school district should be advised to contact the Department's Aviation Consultant for Alameda County, Dan Gargus, at 916/654-5222.

2.1

The southern portion of the project site appears to be within Safety Zones A, B and C of the Alameda County Airport Land Use Commission (ALUC) modified APA. The proposal should be submitted to the ALUC for a consistency determination. The proposal should also be submitted to the Livermore Municipal Airport Manager, Leander Hauri, to ensure that the proposal will be compatible with future as well as existing airport operations.

2.2

Mr. Andy Bye
February 21, 2002
Page 2


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The need for compatible and safe land uses near airports in California is both a local and a state issue. Along with protecting individuals who reside or work near an airport, the Division of Aeronautics views each of the 250 public use airports in California as part of the statewide transportation system, which is vital to the state's continued prosperity. This role will no doubt increase as California's population continues to grow and the need for efficient mobility becomes more crucial. We strongly feel that the protection of airports from incompatible land use encroachment is vital to California's economic future.

2.3

Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at 916/654-5314.

Sincerely,


SANDY HESNARD
Environmental Planner

c: State Clearinghouse, Alameda County ALUC, Livermore Muni Airport,
State Dept of Education

Responses to Letter 2: Caltrans Division of Aeronautics

Response 2.1: In regard to the four school sites proposed within the Eastern Dublin Property Owners Association project area, the project applicant has been made aware of the need to update school site evaluations prior to final sitting of schools. Information on the State Education Code, attached to the comment letter from the Division of Aeronautics, will be forwarded to the project applicants for appropriate action.

Response 2.2: The commenter notes that the southerly portion of the site appears to lie in Safety Zones A, B and C of the Alameda County Land Use Commission modified APA. Referral to the ALUC is therefore required for a consistency determination. This referral is clearly identified on page 8 of the Initial Study for the proposed Project. No further analysis is required at this level of environmental review.

Response 2.3: Regarding the comment that the need for safe and compatible land use near airports is a high priority local and state issue, the City of Dublin concurs with this statement and has indicated future referral of this land use plan to the ALUC at the appropriate time.

DEPARTMENT OF TRANSPORTATION**Letter 3**

P. O. BOX 23660
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*Flex your power!
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February 28, 2002

ALA-580-16.7
 File #ALA580712
 SCH #2001052114

Mr. Andy Byde
 Senior Planner
 City of Dublin
 100 Civic Plaza
 Dublin, CA 94568

Dear Mr. Byde:

East Dublin Properties - Revised Draft Supplemental Environmental Impact Report of January 2002

Thank you for continuing to include the California Department of Transportation in the environmental review process for the above-referenced project. We have reviewed the Revised Draft Supplement, Volumes 1 & 2, and have the following comments to offer.

We are concerned about the additional traffic volume and the impact this project will have to Interstates 580 and 680 (I-580, I-680) in the project vicinity. We would like to see discussion of the existing freeway conditions, and recommend including in the report a table of existing LOS (Level of Service) for the mainline. Delay information for the conditions without the project and with the project are important for studying project traffic impacts. Mitigation measures for significant impacts should be included in the project. 3.1

Our other comments concerning this project were sent to Ms. Jeri Ram, Planning Manager, in a letter dated November 6, 2001 (attached). That letter was a follow-up to the Response to Comments on the Draft Supplemental Environmental Impact Report (DSEIR). We would appreciate a response to these comments. 3.2

Should you require further information or have any questions regarding this letter, please call Paul Svedersky of my staff at (510) 622-1639.

Sincerely,

Jean C. R. Finney

JEAN C. R. FINNEY
 District Branch Chief
 IGR/CEQA

Attachment

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 MAR 04 2002
 DUBLIN PLANNING

DEPARTMENT OF TRANSPORTATION

P. O. BOX 23660
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November 6, 2001

ALA-580-16.7
File #ALA580712
SCH #2001052114

Ms. Jeri Ram
Planning Manager
City of Dublin
100 Civic Center Plaza
Dublin, CA 94568

Dear Ms. Ram:

East Dublin Properties (PA 00-025) – Response to Comments on the Draft Supplemental Environmental Impact Report (DSEIR)

Thank you for your letter of October 5, 2001 with your response to comments made by the California Department of Transportation (Department) in the environmental review process for the above-referenced project. We have reviewed your responses and offer the following additional comments for information and clarification:

With reference to Response 1.1, we recognize that traffic impact fees will be assessed to developers. However, our continued general concern is that State facilities should be studied in significant detail to identify operational conditions with and without the proposed development. This information can then be used to assess future development impact. Underestimating the traffic impact would lead to insufficient mitigation measures and/or impact fees.

Response 1.1 made reference to traffic studies performed as part of the Project Study Reports (PSR) for the I-580 improvements to Tassajara Road and Fallon Road interchanges as support that this development is not expected to result in significant traffic impacts. However, the PSR traffic studies for those highway improvements focused on the change of traffic conditions with and without those interchange improvements. According to the Department's "Guide for the Preparation of Traffic Impact Studies," [<http://issc.dot.ca.gov/trafops/dvsrv/January2001.pdf>] the traffic impact study for this development needs to address the traffic conditions of the East Dublin Properties. For example, Table 1.1 in the response cited as many as 393 vehicles per hour (vph) for westbound I-580 Fallon road on-ramp during the PM peak hour, and 335 vph for the eastbound I-580 El Charro Road off-ramp during the AM peak hour. What is the impact of these additional trips?

With reference to Response 1.2, freeway Level of Service (LOS) values based on the Highway Capacity Manual (HCM) were included in the response. The table used speed as a measure of effectiveness, but not delay because "delay is not a standard measurement in freeway analysis." Delay may not be standard measurement for those freeway corridors that are not operating at or near capacity, but in this case since I-580 is congested, delay is an appropriate indicator. The table

also cited LOS F at various locations throughout the freeway corridor during the AM and PM peaks. Response 1.2 concluded that "the added traffic by the proposed Project would not cause a change in levels of service and does not change the impact conclusions set forth in the DSEIR." We disagree that LOS change is needed as proof of impact. For the I-580 corridor, impact could occur **within** the same LOS, particularly with segments that are already at LOS F, since there is no worse level of service.

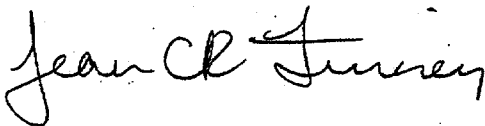
Furthermore, although the methodology for calculating the LOS was consistent with HCM 2000, the results are meaningless because the freeway queue would cause upstream traffic to slow down. Based on the traffic volumes in Table 1.2, the project would generate the most freeway trips during the AM peak period in an eastbound direction. From Hacienda Drive to Tassajara Road to Fallon road, the project would increase freeway volumes by 11% and 13%. This represents a significant impact to I-580.

We urge the City of Dublin to look more closely at all traffic impacts this project will have, and to mitigate accordingly.

Should you require further information or have any questions regarding this letter, please call Paul Svedersky of my staff at (510) 622-1639.

Sincerely,

RANDELL H. IWASAKI
Acting District Director

By 

JEAN C. R. FINNEY
District Branch Chief
IGR/CEQA

c: Katie Shulte Joung, State Clearinghouse

Responses to Letter 3: Caltrans

Response 3.1: The comment requests a discussion of existing traffic conditions on I-580 and I-680 and a summary table of existing LOS for mainline freeway, and notes the importance of delay information for analyzing project traffic impacts and that the Project should include mitigation measures for significant impacts.

Existing travel speeds on I-580 were obtained from the 1999 Caltrans survey on "Travel Times and Speed Profiles of the Bay Area Highway System." As indicated in the discussion of existing traffic conditions on I-580 on page 3.6-1 of the Revised DSEIR, recurring congestion exists on I-580 in both the AM and PM commute periods. The response below summarizes existing traffic conditions on I-580 and I-680 in a narrative form.

In the AM peak period, congestion occurs in the westbound direction. According to the above 1999 travel survey, westbound congestion begins at Vasco Road and extends westerly to near the Airway Boulevard interchange. Travel speeds drop to the 0 to 25 mph range in this freeway segment with the worst conditions near First Street where speeds fluctuate around 10 mph. Based on an observation of the speed profiles and field conditions, it appears that the Portola Avenue westbound on-ramp is a bottleneck source. West of Airway Boulevard the speeds increase, but drop to 20 mph near El Charro Road, probably due to entering westbound gravel trucks. West of El Charro Road, speeds increase to about 50 mph at Tassajara Road and at locations further to the west.

In the PM peak period, congestion occurs in the eastbound direction, with the eastbound on-ramps from Santa Rita Road and Tassajara Road serving as the bottleneck sources. On both the Pleasanton and the Dublin sides of the freeway, the parallel arterials, which provide relief to the freeway, only extend easterly to the Santa Rita/Tassajara Roads corridor, requiring all I-580 corridor traffic to use the freeway itself. Overall, the congestion extends from west of I-680 to east of Santa Rita/Tassajara Roads. In this area, travel speeds fluctuate between 0 and 20 miles per hour. This is LOS F. Since the 1999 Caltrans travel survey, I-580 eastbound volumes have increased and the congestion now extends further to the west and over a longer duration of time. Other studies have shown that the westbound throughput is dramatically reduced during congestion periods.

The comment may refer to Response 3.2 for a discussion on freeway-related improvements and mitigation measures. Furthermore, the next phase of the I-580 Smart Corridor project will include the development of an agreement among local agencies and Caltrans to implement traffic responsive ramp metering along the I-580 corridor. Ramp metering will play an important role in improving mainline freeway traffic conditions.

Although no specific delay information is available, in 1999 the average eastbound travel time in the PM peak hour for the 5.5 miles between I-680 and Airway Boulevard was 14 minutes during the worst time period, compared with free flow travel time of 5.1 minutes. During this congested period, there are an estimated 6,500 eastbound vehicles. This results in total one-hour delay of about 965 vehicle-hours, or roughly 2,500 vehicle-hours of delay in the total afternoon commute. No projections of future delay are available.

On I-680, significant delay occurs on the southbound lanes in the AM peak period on the Sunol Grade. This congestion generally occurs between SR 84 near Sunol and Scott Creek Road in Fremont. A current construction project will add a southbound HOV lane between SR 84 and Calaveras Boulevard (SR 237) in Milpitas. This project is scheduled to be completed by the end of 2002. An earlier project constructed an auxiliary lane between Auto Mall Parkway and Mission Boulevard (southbound); a future project will add southbound ramp metering between Pleasanton and Milpitas. These projects are expected to reduce the period of congestion from over four hours per day to less than one hour. No significant congestion occurs on the northbound section of I-680 in the Sunol Grade area; there is some congestion south of Mission Boulevard (northbound) in the PM peak period. A northbound HOV project is planned and funded and should eliminate this northbound congestion.

In the Tri-Valley area, there is little northbound congestion on I-680 between SR 84 and Alcosta Boulevard at the Contra Costa/Alameda County line. Some congestion occurs on Friday evenings on the right lanes of the northbound approach to I-580, although this was not observed in the 1999 Caltrans travel survey. This congestion is caused by the bottleneck at the I-580 interchange itself as well as the eastbound I-580 bottleneck at Santa Rita Road during the PM peak period, as described above. The current construction project upgrading the I-580/I-680 interchange is partially completed and has reduced the northbound congestion somewhat. The 1999 Caltrans travel survey noted northbound speeds as low as 20 mph near Alcosta Boulevard appearing to be caused by traffic entering the freeway from the northbound Alcosta Boulevard on-ramp. The Alcosta Boulevard interchange is scheduled to be upgraded in the near future; plans for the improvements are now being prepared.

In the PM peak period, freeway conditions on the northbound lanes of I-680 are free flowing through I-580 until the vicinity of the Bollinger Canyon Road interchange, where speeds drop to the 20 to 30 mph range. This congestion is caused by traffic entering from the employment areas near the Bollinger Canyon Road and Crow Canyon Road interchanges. This is the location where auxiliary lanes are planned for the both directions of the freeway between Bollinger Canyon Road and Diablo Road.

In the southbound directions of I-680, the only congestion in the section north of SR 84 occurs on the southbound approach to I-580, where substantial congestion has been noted in the rightmost lanes. This congestion prompted the construction of the I-580/I-680 flyover project, which constructed a southbound to eastbound direct connection ramp. The ramp opened in early 2002 and has eliminated this congestion. New ramps connecting with Dublin Boulevard from I-680 are also being constructed with this project. Currently, the northbound on-ramp and the southbound off-ramp are open to traffic; the southbound on-ramp will be open later in 2002. No projections of future delay on I-680 are available.

Based on the above discussion, the traffic impact conclusions and mitigation measures set forth in the Revised DSEIR remain the same.

Response 3.2: The comment requests a response to Caltrans' letter dated November 6, 2001 which was submitted as a follow-up to the Response to Comments on the previous DSEIR. The comment indicated in the above letter that the previous DSEIR did not analyze the impact of additional Project trips to I-580 on/off ramps, and requested that delay be used for freeway LOS analysis. The comment also cited specific traffic increases to I-580 (in a non-peak direction) and noted that these increases represented a significant Project impact.

The Revised DSEIR contains a new section entitled **Supplemental Information to Clarify Issues of Concern with Previous DSEIR** (see pages 3.6-27 to 3.6-32), which does include a discussion in response to Caltrans' comments listed in the November 6, 2001 letter. The comment should specifically refer to the fourth paragraph under the subsection entitled *Freeway Segment Operational Analysis* (pages 3.6-28 and 3.6-29), and the third and fourth paragraphs under the subsection entitled *Project impacts on I-580 On- and Off-Ramps* (pages 3.6-29 and 3.6-30) of the Revised DSEIR.

As explained on page 3.6-29 of the Revised DSEIR, the proposed Project tends to result in increased traffic in the off-peak directions of I-580 and have minimal impacts in the peak directions. The comment indicated in the November 6, 2001 letter that the proposed Project would increase eastbound freeway volumes during the AM peak hour by 11% from Hacienda Drive to Tassajara Road and by 13% from Tassajara Road to Fallon Road, and made the incorrect conclusion that this "represents a significant impact to I-580." These projected increases in traffic volumes would occur in the non-peak direction of I-580 where freeway lanes are relatively uncongested and service capacity is available. Such traffic increases represent a traffic impact to I-580, but not a significant impact, as shown in Tables 3.6-8 and 3.6-9 and outlined in the **Significance Criteria** section of the Revised DSEIR (pages 3.6-6 to 3.6-8).

The Caltrans letter of November 6, 2001 urged the City of Dublin to examine project impacts more closely and to mitigate accordingly. As explained in the Revised DSEIR (pages 3.6-5 to 3.6-6 and 3.6-31 to 3.6-32), the City of Dublin has a

Fee Program in place that requires developers in Eastern Dublin to pay for transportation improvements, including those regional improvements identified in the 1993 Eastern Dublin EIR as mitigation measures. Similar to other development projects in Eastern Dublin, the proposed Project will contribute a proportionate share to the construction of improvements and mitigation measures along the I-580 corridor. Such freeway-related improvements and mitigation measures include:

- Construction of approximately 8.2 miles of HOV lanes on I-580 from Tassajara Road to Vasco Road. After addition of these HOV lanes, this segment of I-580 will have a total of four mixed lanes and one HOV lane in each direction. \$8.0 million in Tri-Valley Transportation Development (TVTDD) Fee funds, to which the proposed Project will contribute a proportionate share, has been allocated to this project. The Project Study Report has been completed and approved by Caltrans. Caltrans is now proceeding with environmental studies of three design alternatives, and the environmental work should be completed in 2003. These HOV lanes will help provide relief to traffic congestion on I-580.
- Construction of auxiliary lanes on I-580 between Tassajara Road and Airway Boulevard, and east of Airway Boulevard, as part of Mitigation Measures 3.3/3.0 and 3.3/5.0 of the Eastern Dublin EIR, respectively. The proposed Project will contribute a proportionate share to the construction of these auxiliary lanes by paying a regional fee, which the City of Dublin has implemented through the Eastern Dublin Traffic Impact Fee (see **Fee Program** discussion on pages 3.6-5 and 3.6-6 of the Revised SDEIR). The auxiliary lanes in the vicinity of the Project (i.e., between Tassajara Road and Fallon Road) will be constructed as part of the interchange improvement projects at Fallon Road/El Charro Road (currently finalizing the updated PSR) and at Santa Rita Road/Tassajara Road (recently awarded for construction). Both of these projects are sponsored and administered by the City of Dublin. The proposed auxiliary lanes are not intended to increase mainline freeway capacity per se, but will mitigate operational problems caused by merging and diverging vehicles at the interchanges, thereby reducing traffic congestion on I-580.
- The six-lane Dublin Boulevard extension to connect existing Dublin Boulevard with North Canyons Parkway in Livermore (see page 3.6-1 to 3.6-2 of Revised DSEIR) will carry substantial volumes of I-580 corridor traffic, providing relief to the freeway itself. A major portion of this roadway is located within the proposed Project which will contribute dedication of property and construction of frontage improvements as part of the Project development. The Eastern Dublin Traffic Impact Fee, to which the Project will contribute a proportionate share, will fund the extension of Dublin Boulevard to North Canyons Parkway in Livermore.

The comment may refer to Response 3.1 for delay information on I-580. Based on the above discussion, the traffic impact conclusions set forth in the Revised DSEIR remain the same and no further analysis is required.

DEPARTMENT OF FISH AND GAME

POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94589
(707) 844-5500

March 1, 2002

Letter 4



RECEIVED
MAR 05 2002
DUBLIN PLANNING

Mr. Andy Bye
City of Dublin
Planning Department
100 Civic Plaza
Dublin, California 94568
Via fax (925) 833-6628

Dear Mr. Bye:

East Dublin Properties
Revised Draft Supplemental Environmental Impact Report (EIR)
January 2002, Alameda County

Department of Fish and Game personnel have reviewed the above-named document. The proposed project is approximately 1,120 acres and lies within the City of Dublin's General Planning Area and Sphere of Influence and partially within the City of Dublin's Eastern Dublin Specific Plan Area. This project is proposed in an unincorporated area of Alameda County bounded by Interstate 580 to the south and Fallon Road to the west. The land use designations in the planning area were based on information known at the time when the program-level EIR and the Final EIR were adopted (1992 and 1993 respectively). Since that time, more accurate and comprehensive information and new designations concerning sensitive species in the planning area such as California red-legged frog (*Rana aurora draytonii*) and California tiger salamander (*Ambystoma californiense*), have made it clear that avoidance and mitigation measures proposed for species in those documents are inadequate. This supplemental document was produced in part to address these impacts.

4.1

The Department supports large scale ecosystem planning efforts which protect unique habitats and special status species in large preserves of high quality habitat and allow development to occur in marginal habitats. This approach allows for both the potential long-term sustainability of functioning ecosystems and necessary economic development. To effectively mitigate impacts of the magnitude associated with the development proposed in the planning area, the Department encourages the City to participate in a regional Habitat Conservation Plan. The resource agencies have been working with the City of Livermore to develop a plan to

4.2

Mr. Andy Bye
March 1, 2002
Page 2

achieve this goal of species and habitat preservation in the Tri-Valley Area. In addition, tracts of land preserved as mitigation in the Daugherty Valley and at Camp Parks contribute to regional conservation goals. The City of Dublin should focus on preserving valuable habitat with adequate buffers in coordination with other regional conservation plans. The area north of I-580 supports a large number of special status species and habitat types which can only remain viable through preservation and management of large tracts of suitable land. The impact area identified in the document is substantial, and mitigation within that area should focus on avoidance and minimization and be proportional to impacts.

4.2
(cont.)

General Comments

Appropriate measures to prevent further degradation and loss of native species and habitat types should be developed and implemented as conditions of approval for projects within the Plan area as follows:

4.3

As stated in Biological Resources discussion, loss of plant and animal habitat will occur within the planning area. The local permitting agency should require consultation with and approval from the resource agencies as a condition of project approval.

4.4

Mitigation required to offset unavoidable impacts should reflect any new information and changes in species status.

4.5

Impacts which are unavoidable should be evaluated and mitigation measures proposed which reduce significant impacts to all wildlife species and habitats. Potential short- and long-term (cumulative) impacts to these wildlife species and to their required habitats should be fully discussed. Impacts to wide-ranging species should include the loss of breeding and foraging habitat over the entire planning area, habitat fragmentation, and cumulative impacts.

4.6

Biological Resources

As proposed, the open space and wetland areas have insufficient buffers to sustain wetland values and populations of sensitive species known to occur in the area. Recommended buffers around breeding sites of these species are inadequate.

4.7

Mr. Andy Byde
March 1, 2002
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The land use plan appears to have been designed for the convenience of development and does not preserve habitat and wetland features as a mosaic in the landscape. Connection between a variety of water features is critical for amphibian species to survive local extinctions, a common phenomenon in populations of these species. The land use plan should establish the framework to guide specific mitigation measures for individual projects to meet these conservation goals.

4.8

As proposed, the open space areas of the configuration and landscape position indicated on the East Dublin Properties site plan are of limited value to local populations of wildlife. The Department recommends reducing the scope of impact by reconfiguring the land uses within the planning area to provide for larger tracts of open space with a connection to biologically sensitive areas beyond the planning boundary.

4.9

In addition, due to the scope of impacts anticipated based on land use designations in the plan area, additional measures should be required by the City. Since impacted areas are identified well in advance, the City should work with the resource agencies to implement multiple year studies of local species populations and establish permanent conservation areas as appropriate. These efforts should be designed to provide information necessary to reduce impacts to species in the plan area through more effective avoidance, preservation, and salvage programs.

4.10

Biological Resources

BIO 1, Direct and Indirect Habitat Loss: The Resource Management Plan (RMP) should be submitted to the resource agencies for review and approval. The western pond turtle should be included.

4.11

BIO 2, Loss of Special Status Plant Species: Any unavoidable loss of areas known to currently or historically support listed plant species should require preservation, restoration, and salvage of seeds with replanting or seed banking as appropriate and with written approval by the resource agencies.

4.12

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BIO 3, Loss and Degradation of Sensitive Habitats: Any unavoidable impacts to wetlands, intermittent streams, and other waters should be measured by linear feet and acreage. Unique and sensitive habitats typically require a minimum replacement ratio of 3:1. Reports should be submitted to the resources agencies for written approval.

4.13

BIO 4, San Joaquin Kit Fox: The planning area is in the western range of the San Joaquin kit fox (*Vulpes macrotis mutica*), and suitable habitat exists in the planning area. Again, the open space areas should be configured to preserve the most biologically valuable habitat in the planning area. The Department recommends focusing mitigation to create a small number of larger preserves in high value habitat with interconnecting corridors for the kit fox. The RMP should be approved by the resource agencies.

4.14

BIO 5, California Red Legged Frog: The planning area supports dispersal, breeding, and foraging habitat of the red-legged frog. It is the opinion of the Department that development of this area as proposed will result in fragmentation of habitat and blocking of movement corridors of the California red-legged frog. Recent research has shown that red-legged frogs frequently utilize upland habitat adjacent to water features. Red-legged frogs regularly move between 200 to 300 feet from the edge of occupied creeks; however, several frogs in one study were documented moving over one and one-half miles during dispersal. The Department recommends that measures be implemented to avoid red-legged frog habitat within the project area. Open space including existing intermittent creeks and ponds should be preserved and managed to provide habitat for continued existence of this species in the planning area. Permanent preservation of upland buffer habitat suitable for foraging and dispersal corridors should be required to reduce impacts to red-legged frogs. The buffer should be measured outward from the top of each stream bank or the edge of any wetland. In the case of riparian vegetation along stream courses, the setback should be measured outward from the development side of the vegetative canopy. No roads or structures should be permitted within the buffer. Pedestrian trails should be located along the outside edge of the riparian vegetation.

4.15

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Surveys and mitigation measures for red-legged frogs should follow established U. S. Fish and Wildlife Service and Department guidelines.

4.16

BIO 7, California Tiger Salamander: California tiger salamander (CTS) (*Ambystoma californiense*) are known to occur in and around the planning area. There is documentation that CTS move long distances between breeding habitats and estivation sites. Effects of development should be considered from the perspective of fragmentation of habitat and blocking of movement corridors. Recent research conducted by Peter Trenham for completion of his doctorate requirements at U. C. Davis, document CTS movements up to 670 meters from breeding ponds. Other local studies show substantial terrestrial movements of CTS one-km and further from known breeding locations. Based on this data, the Department considers the size, configuration, and allowed land uses in designated open space areas in the planning area inadequate to minimize and mitigate impacts to local CTS populations. Open space areas should be planned to preserve large tracts of land to provide dispersal corridors and estivation habitat for CTS.

4.17

Any surveys and mitigation for unavoidable impacts to CTS should follow current Department protocol. The City should require applicants to consult with the Department.

BIO 8,9, Nesting Raptors: In addition to bird surveys during the breeding season, surveys for nests should be conducted in suitable habitat at all times of the year. If a nest is identified for a species known to have high site fidelity and there will be direct take of the nest, the Department should be contacted and mitigation measures agreed upon before any action is taken. If disturbance occurs outside of the breeding season and there is not direct take of the nest site, no further action is required. The following is a partial list of birds known to reuse nest sites.

4.18

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SPECIES	NEST HABITAT	REPEATED USE OF NEST/SITE
Burrowing owl	ground squirrel burrows	yes
Red-shouldered hawk	mature lowland forest (eucalyptus groves)	yes
Red-tailed hawk	large tall trees	yes
Ferruginous hawk	variable	yes
Golden eagle	large platform in cliffs and large trees	yes
Barn owl	ledges, tree cavities, man made structures	yes
Tri-colored blackbird	Aquatic vegetation/	yes

BIO 10, Burrowing Owl: Suitable habitat for burrowing owl (*Athene cunicularia*) occurs in the planning area. Large open space areas should be preserved to minimize and compensate for impacts to this grassland species. Surveys should be conducted according to the Department's guidelines and be started early enough to include wintering and breeding season surveys. Lands used to mitigate unavoidable impacts should be occupied by burrowing owls.

4.19

BIO 11, Nesting Passerines: See BIO 8,9

Other Concerns

The Department is opposed to the removal of trees in the planning area which provide potentially suitable nesting sites for loggerhead shrike (*Lanius ludovicianus*), white-tailed kite (*Elanus caeruleus*), and other tree-nesting raptors which are protected under the Migratory Bird Treaty Act which have been observed on the project site. Golden eagles (*Aquila chrysaetos*) are also known to breed locally. Due to the scarcity of nesting

4.20

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sites in the area, removal of such trees will result in a significant temporal loss of potential nesting habitat and permanent loss if mitigation is not provided.

4.20
(cont.)

Wetlands

The project will likely impact wetlands in the Department's jurisdiction. A Streambed Alteration Agreement (SAA) must be obtained from the Department prior to any work in a lake or stream corridor. Since the issuance of such an SAA is subject to CEQA review, disclosure and incorporation of mitigation measures requested by the Department is needed to meet the requirements of CEQA. It is the policy of this Department that a project should cause no net loss of either wetland acreage or wetland habitat value. The Department recommends a minimum 100-foot buffer be established to protect wetlands. Larger buffers are required for wetlands and waters which support sensitive species. The buffer should be measured outward from the edge of any wetland or riparian area. A recreated or preserved channel or wetland surrounded by development is not expected to fully compensate for the functions and values of an impacted wetland feature occurring in open grassland.

4.21

Department personnel are available to address our concerns in more detail. To arrange a meeting, please contact Janice Gan, Environmental Scientist, at (209) 835-6910; or Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,



for Robert W. Floerke
Regional Manager
Central Coast Region

cc: See next page

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cc: U. S. Fish and Wildlife Service
2800 Cottage Way, W2605
Sacramento, CA 95825

Regional Water Resources Control Board
1515 Clay St, Ste 1400
Oakland, CA 94612

Mr. Ed Wylie, South Section Chief
U. S. Army Corps of Engineers
333 Market Street
San Francisco, CA 94105-2197

U. S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

East Bay Regional Parks District
2950 Peralta Oaks
Oakland, CA 94605-0381

Alameda County
Community Development Department
399 Elmhurst #136
Hayward, CA 94544

City of Livermore
Community Development Department
Livermore, CA 94550

Responses to Letter 4: California Department of Fish and Game

Response 4.1: The comment describes the Project and notes that more accurate and comprehensive information is available for sensitive species, including California red-legged frog and California tiger salamander and that avoidance and mitigation measures in the previous EIR are inadequate.

The Revised DSEIR recognizes that updated information is available for some species, as further detailed in the supplemental impacts and mitigation analyses. See also Responses 4-15 and 4-16 addressing California red-legged frog, and Response 4-17 addressing California Tiger Salamander.

Response 4.2: The comment encourages the City to participate in a regional Habitat Conservation Plan.

A regional Habitat Conservation Plan ("HCP") prepared pursuant to Section 10 of the federal Endangered Species Act, 16 U.S.C. § 1539, is one method by which impacts to biological resources could be mitigated. However, the preparation of a regional HCP for the Tri-Valley Area has not begun, and is not likely to begin in the near future. Once started, the regional HCP process usually takes at least 3-5 years to complete. As a result, a regional HCP is not available with respect to this Project. Instead, this Revised DSEIR identifies specific mitigation measures which will mitigate impacts to biological resources, and require full compliance with federal and state laws relating to biological resources.

Response 4.3: The comment states that appropriate measures to prevent further degradation and loss of native species and habitat types should be developed and implemented as conditions of approval for projects within the Project Area.

Please refer to the mitigation measures contained in Chapter 3.3 of the Revised DSEIR, and in particular to Supplemental Mitigation Measures SM-BIO-1 which requires preparation of a Resource Management Plan encompassing all properties within the Project Area before any individual property within the Project Area can be developed.

Response 4.4: The comment states that the "local permitting agency," which presumably means the City of Dublin, should require consultation with and approval from the resource agencies as a condition of project approval.

As discussed in the Revised DSEIR (Page 3.3-12), future development of properties within the Project Area may, depending on the type and location of specific developments that are later proposed, require certain permits from a variety of resource agencies under various state and federal laws, such as the California Endangered Species Act, the California Porter-Cologne Water Quality Control Act, the California Fish and Game Code, the federal Endangered Species

Act and the federal Clean Water Act. The City agrees that full compliance with all applicable state and federal laws, including any obligations to consult with such agencies and comply with mitigation requirements they may impose, will be necessary in order for development to occur within the Project Area. Also, as described in Revised DSEIR Supplemental Mitigation Measure SM-BIO-1, the applicable requirements of such state and federal laws will be incorporated in the Resource Management Plan that must be prepared before any development within the Project Area can occur.

Response 4.5: The comment states that mitigation required to offset unavoidable impacts should reflect any new information and changes in species status.

The Revised DSEIR achieves that objective. See, e.g., Revised DSEIR, Page 3.3-1, and Page 3.3-5 (red-legged frog discussion).

Response 4.6: The comment states that unavoidable impacts should be mitigated to reduce significant impacts, potential short- and long-term (cumulative) impacts should be fully discussed, and impacts to wide-ranging species should include the loss of breeding and foraging habitat over the entire planning area, habitat fragmentation, and cumulative impacts.

The Revised DSEIR achieves that objective. See Revised DSEIR, Chapter 3.3.

Response 4.7: The comment states that the proposed open space and wetland areas have insufficient buffers to sustain wetland values and populations of sensitive species and that recommended buffers around breeding sites are inadequate.

The City presumes that the comment refers generally to Figure 3.3-C, which depicts proposed general land use designations and roadways in conjunction with known habitat areas. As explained in the Revised DSEIR on p. 3.3-1, these land use designations are general, given that this is a program level DSEIR and no specific development proposals have been developed for any property within the Project Area. Detailed land planning will occur in the future, on a property-by-property basis. Such planning must comply with the mitigation measures specified in the Eastern Dublin EIR and Revised DSEIR. For example, in the Revised DSEIR, Supplemental Mitigation Measure SM-BIO-13 calls for red-legged frog buffer zones of between 300 and 500 feet. The City understands, based on its experience with other projects in its jurisdiction, that the Department of Fish and Game generally recommends a 300-foot buffer for this species.

Response 4.8: The comment states that the land use plan does not preserve habitat and wetland features as a mosaic in the landscape and should establish the framework to guide specific mitigation measures for individual projects to meet conservation goals such as connections between water features.

It is not clear what the comment means with respect to preserving habitat and wetland features "as a mosaic in the landscape." With respect to establishing a framework, the Revised DSEIR achieves that by requiring preparation of a Resource Management Plan ("RMP") for the entire Project Area before any property within the Project Area may be developed. This RMP will both incorporate the specific mitigation measures set forth in the Eastern Dublin EIR and Revised DSEIR, and set forth a comprehensive and detailed plan for managing biological resources across the Project Area. This plan will be based on certain specific requirements and principles, including avoidance and preservation of resources on site to the greatest extent feasible. See Supplemental Mitigation Measure SM-BIO-1.

Response 4.9: The comment states that as proposed, the open space areas are of limited value to wildlife, and recommends that the land use plan be reconfigured to provide for larger tracts of open space with connection to biologically sensitive areas beyond the planning boundary.

Maintaining substantial open space systems and biologically sensitive areas was a primary objective of the 1993 Eastern Dublin project. (Eastern Dublin EIR p. 2-5). The original GPA and Specific Plan were designed with

...open space [as] a major component of the land use concept ... Open space areas generally consist of developed parklands, open space corridors along major drainage ways, and environmentally and aesthetically sensitive foothill area designated for open space or rural residential development (one unit/100 acres). The open space concept calls for urban and open space areas to be linked through the preservation and enhancement of major drainage ways as trail corridors. (Specific Plan p. 26).

The importance of open spaces in the original GPA/SP project was further demonstrated when the Council approved a modified project alternative that nearly doubled the original open space areas planned for Eastern Dublin. The modified alternative reduced the development area by approximately 40%, eliminating the originally proposed urban land uses in Doolan Canyon. Figure 2-B in the Revised DSEIR shows the dramatic result. The City approved the 2743+ acre area labeled Future Study Area Agriculture for open space and agriculture uses rather than urban uses. The area is a continuous swath of open and agricultural lands encompassing nearly half of the entire planning area. In findings supporting the approval, the Council noted that the approved alternative would leave "Doolan Canyon in its current largely undeveloped state, thereby mitigating significant impacts involving loss of open space, and biologically sensitive habitat ..." (Resolution 53-93, p. 67).

The City agrees that maintaining connections between biologically sensitive areas preserved within the Project Area and sensitive areas beyond the Project Area boundaries is an important principle, and is consistent with the Eastern Dublin approvals and several mitigation measures in the Revised DSEIR (see, e.g., SM-BIO-14, SM-BIO-19) as well as the intent of SM-BIO-1 which requires preparation of a Resource Management Plan. To further ensure that future development implements this direction, item 4 under the comprehensive and detailed plan for managing biological resources in SM-BIO-1 is amended to read as follows:

4. To the greatest extent feasible, and consistent with applicable mitigation measures and regulatory requirements, impacts to sensitive biological resources shall be avoided, and such resources shall be preserved and managed on-site (i.e., within the Project area); in so doing, to the greatest extent feasible such resources shall be preserved in a manner that preserves connections to biologically sensitive areas beyond the Project Area boundary.

Response 4.10: The comment states that the City should work with the resource agencies to implement multiple year studies of local species populations and establish permanent conservation areas as appropriate.

As discussed in the Revised DSEIR (page 3.3-1), some property owners within the Project Area have already been conducting species surveys, and more species surveys will be performed in the future. The Resource Management Plan required by SM-BIO-1 will result in the permanent preservation of conservation areas for affected species.

Response 4.11: The comment states that the Resource Management Plan should be submitted to the Resource Agencies for review and approval, and that the western pond turtle should be included in the RMP.

The RMP is the tool the City will use to comprehensively address impacts to biological resources in a coordinated manner across the entire Project Area and prior to development proposals for individual properties within the Project Area. As noted in Response 4.4, development of individual properties within the Project Area may also require permits and approvals from state and/or federal resource agencies, in which case such agencies will implement the review and approval processes applicable to those permit and approval processes. The Revised DSEIR found that while no occurrences of the Western pond turtle have been identified within the Project Area, there is a potential for an occurrence within the Project Area. Item 4 on p. 3.3-14 of the Revised DSEIR is revised to address the Western pond turtle as follows:

4. Special Status amphibians and reptiles: California red-legged frog, California tiger salamander, and Western pond turtle.

Response 4.12: The comment states that with respect to Supplemental Impact BIO 2, any unavoidable loss of areas known to support listed plant species should require preservation, restoration and salvage of seeds with replanting or seed banking as appropriate and with written approval by the resource agencies.

Supplemental Mitigation Measures SM-BIO-2, 3 and 4 require plant surveys, avoidance on site to the extent feasible, or if avoidance is not feasible then permanent preservation of occupied or seeded areas off-site, and thus achieves the requested objectives. Any necessary resource agency approval must be obtained before the measure is implemented.

Response 4.13: The comment suggests that any loss of aquatic habitat should be measured in linear feet and acreage, and reports should be submitted to the resource agencies for written approval.

The City agrees that any loss of aquatic habitat will be measured as suggested. With respect to approval by other resource agencies, please refer to Response 4.12.

Response 4.14: The comment suggests that suitable kit fox habitat exists in the Project Area, open space and mitigation areas should preserve the most biologically valuable habitat and interconnecting corridors, and the RMP should be approved by the resource agencies.

Any kit fox impacts will be addressed through the RMP, as described in Supplemental Mitigation Measure SM-BIO-9. Please refer to Response 4.9 with respect to preserving wildlife corridors through the RMP, Response 4.11 with respect to resource agency approval of the RMP, and Response 10.15i specifically regarding the kit fox.

Response 4.15: The comment states that development within the Project Area will fragment red-legged frog (RLF) habitat and block movement corridors, and recommends that measures be implemented to avoid RLF habitat, that buffers be measured from the top of stream bank or edge of any wetland, that no roads or structures be permitted within buffers, and that pedestrian trails be located along the outside edge of riparian vegetation.

Supplemental Mitigation Measures SM-BIO-11 through SM-BIO-15 are consistent with these recommendations, in particular SM-BIO-13 which provides for buffer zones and which allows very limited development of roads or trails within the buffer and only so long as such features will have only minor impacts on the habitat. The City agrees that buffers be measured from the top of stream

bank or edge of any wetland, and that any trails be located along the outside edge of riparian vegetation.

Response 4.16: The comment states that surveys and mitigation measures for RLF should follow U.S. Fish and Wildlife Service and Department of Fish and Game guidelines.

The City believes that SM-BIO-11 through SM-BIO-15 achieve that objective.

Response 4.17: The comment suggests that effects of development on fragmentation of California tiger salamander (CTS) habitat and blocking of movement corridors be considered, in light of research showing CTS movements, and that the land use plan for the Project Area is inadequate to minimize and mitigate CTS impacts. Also, the comment recommends that CTS surveys and mitigation follow Department of Fish and Game protocol, and applicants should be required to consult with DFG.

The Revised DSEIR recognizes the value of upland habitat for CTS based on evidence of CTS movement away from aquatic breeding locations. Such habitat will be protected and enhanced through the RMP for the entire Project Area (SM-BIO-18). Individual properties within the Project Area will later develop specific development plans, which must incorporate the Eastern Dublin EIR and Revised DSEIR mitigation measures. The City agrees that CTS surveys should follow DFG protocols, consistent with SM-BIO-18 and 19. With respect to property owners consulting with DFG, please refer to Response 4.4.

Response 4.18: The comment suggests that surveys for nesting raptors should occur not just during the nesting season, but at all times of the year, and that DFG should be contacted and mitigation agreed upon if a nest is found and is identified for a species known to have high site fidelity.

Supplemental Mitigation Measures SM-BIO-20 through SM-BIO-26 deal with nesting raptors. They establish a mandatory mitigation program including, at a minimum, surveys for nesting raptors. Individual property owners may survey outside of the nesting season, which may be prudent in terms of identifying and resolving at an earlier time any mitigation issues concerning nesting raptors. The City will enforce these detailed Supplemental Mitigation Measures, the adequacy of which is not questioned by the comment.

Response 4.19: The comment states that large open space areas should be preserved for burrowing owls, that surveys should be conducted according to DFG guidelines, and that lands used to mitigate for onsite impacts should be occupied by burrowing owls.

Supplemental Mitigation Measures SM-BIO-28 through SM-BIO-37 deal with burrowing owls. As referenced in Supplemental Impact BIO 10, they reference and reflect DFG's guidelines. Onsite impacts will be mitigated through the preservation of 6.5 acres per pair or individual owl, and such acreage must be adjacent to occupied owl habitat and acceptable to DFG.

Response 4.20: The comment opposes the removal of trees which provide potentially suitable nesting sites for tree-nesting raptors which are protected under the Migratory Bird Treaty Act.

The Migratory Bird Treaty Act does not preclude the removal of trees that provide potentially suitable nesting sites. It is likely that some trees within the Project Area will be removed. Any such trees that provide actual nesting habitat for raptors are subject to the detailed Supplemental Mitigation Measures SM-BIO-20 through SM-BIO-26. These measures will reduce potential impacts to tree-nesting raptors to a less than significant level.

Response 4.21: The comment states that a Streambed Alteration Agreement must be obtained from DFG prior to any work in a lake or stream corridor, and explains DFG policies and goals with respect to wetland.

Please refer to Response 4.4 with respect to the need for permits, including Streambed Alteration Agreements under Section 1603 of the Fish and Game Code, by individual property owners within the Project Area. To the extent such requirements are triggered, the DFG will be able to implement its associated policies. The City believes that the mitigation measures in the Revised DSEIR are consistent with DFG's general policies (e.g., SM-BIO-6 and 7, which implement the no net loss concept), although in some instances the amount and type of mitigation for the loss of specific features within the Project Area pursuant to the detailed mitigation standards will vary from site to site based on site-specific habitat values (e.g., stream habitat occupied by red-legged frogs which is avoided on site must have a 300- to 500-foot buffer on each side).

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY



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DUBLIN PLANNING

AC Transit
Director
Matt Williams

February 27, 2002

Alameda County
Supervisors
Gail Steele
Scott Haggerty

Mr. Andy Bye
Planning Division
City of Dublin

City of Alameda
Mayor
Ralph Appezato

100 Civic Plaza
Dublin, CA 94568

City of Albany
Mayor
Peggy Thomsen

SUBJECT: Revised Comments on the Revised Draft Supplemental Environmental Impact Report for the East Dublin Properties in the City of Dublin

BART
Vice Chairperson
Director
Pete Snyder

Dear Mr. Bye:

City of Berkeley
Councilmember
Kris Worthington

Based on my conversation with Ray Kuzbari and closer review of the revised Draft Supplemental Environmental Impact Report (revised DSEIR) for the East Dublin Properties in the City of Dublin as well as the responses to our comments on the previous DSEIR dated July 2001, the ACCMA submits the following comments on the revised DSEIR:

City of Dublin
Councilmember
George A. Zika

City of Emeryville
Mayor
Nora Davis

City of Fremont
Mayor
Gus Morrison

- Page 3.6-7, Freeways: Much of the information in this paragraph is inaccurate. The criteria cited are for CMP routes and are used in defining the CMP system, not the MTS. There are different criteria developed by MTC for determining whether a route is on the MTS. These criteria can be found on MTC's website (www.mtc.ca.gov), but don't need to be cited in the DSEIR. The roadway and transit system required for evaluation in the CMP Land Use Analysis Program is the MTS system. Therefore, the text between "Specifically, the CMP identifies a specific system of freeways and roadways" through the fourth bullet of this section should be deleted because it is incorrect. Also, the first sentence in this section should be revised as follows: "Freeway impacts are significant if the amount of traffic is increased substantially beyond the levels anticipated in the Eastern Dublin EIR so as to exceed Alameda County Congestion Management Agency (ACCMA) standards for the LOS Monitoring Program." It should be noted however that just because a facility is operating at service level F under the LOS Monitoring Program standards, the project is not precluded from developing mitigation where feasible as part of the Land Use Analysis Program since this program monitors future conditions on the regional network.

5.1

City of Hayward
Mayor
Roberta Cooper

City of Livermore
Councilmember
Tom Vargas

City of Newark
Councilmember
Luis Freitas

City of Oakland
Councilmember
Larry Reid

City of Piedmont
Councilmember
Michael Bruck

City of Pleasanton
Chairperson
Mayor
Tom Pico

City of San Leandro
Mayor
Shelia Young

City of Union City
Mayor
Mark Green

Executive Director
Dennis R. Fay

- The revised SDEIR shows the p.m. peak hour impact to MTS freeways with and without the project for 2005 and 2025 conditions. This same information must be shown for the MTS arterials: Dublin Boulevard, Tassajara/Santa Rita Road, and Fallon/El Charro Road. The p.m. peak hour with and without project impact

5.2

Mr. Andy Byde
February 27, 2002
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to the MTS arterials must be shown for 2005 and 2025 conditions and mitigation developed if necessary.

5.2
(cont.)

Once again, thank you for the opportunity to comment on this revised Draft SEIR. Please do not hesitate to contact me at 510/836-2560 ext. 13 if you require additional information.

Sincerely,



Beth Walukas
Senior Transportation Planner

cc: Ray Kuzbari, City of Dublin
Chron
file: CMP - Environmental Review Opinions - Responses - 2002

Responses to Letter 5: Alameda County Congestion Management Agency ¹

Response 5.1: The comment requests that text changes be made to the paragraph entitled *Freeways* on page 3.6-7 of the Revised DSEIR to clarify that ACCMA LOS standards for freeways are for the LOS Monitoring Program and that the MTS system is the required system for evaluation in the CMP Land Use Analysis Program. The comment is noted. On pages 3.6-7 and 3.6-8 of the Revised DSEIR, the paragraph entitled *Freeways* is revised to read as follows.

Freeways. Freeway impacts are significant if the amount of traffic is increased substantially beyond the levels anticipated in the Eastern Dublin EIR so as to exceed Alameda County Congestion Management Agency (ACCMA) standards for the LOS Monitoring Program. ACCMA has established LOS standard of E for the Congestion Management Program (CMP) roadway network, except where F was the level of service originally measured, in which case the standard shall be F. Although the LOS E standard was established for the purpose of monitoring existing level of service conditions for the Alameda County CMP Designated Roadway System, this standard provides a standard of significance for determining potential project environmental impacts on adjacent freeway systems within Alameda County.

In the project area, ACCMA has identified I-580, I-680, SR 84, Dublin Boulevard, Tassajara Road/Santa Rita Road and Fallon Road/El Charro Road as the Metropolitan Transportation System (MTS) routes that are subject to the CMP Land Use Analysis Program requirements. Since the City's standard is LOS D for Dublin Boulevard, Tassajara Road and Fallon Road, the LOS E standard (except where F is the level of service without Project traffic, in which case the standard is F) is applicable only to freeways.

In addition to LOS roadway standards, ACCMA guidelines also specify that any proposed project generating 100 PM peak hour trips over existing conditions must conduct a traffic analysis of the project using the Countywide Transportation Model for the base years 2005 and 2020. However, the guidelines also allow for other transportation models/projections to be used and Year 2025 must be compared to the Countywide Transportation Model to ensure that the more conservative of the two

¹ The City received a letter from Alameda County Congestion Management Agency (ACCMA), dated February 21, 2002. Subsequently, the City received a second letter from ACCMA dated February 27, 2002. ACCMA sent a third letter, dated March 6, 2002, which requested the City disregard the letter dated February 21, 2002 and utilize the letter dated February 27, 2002. The letter dated February 27, 2002, has been identified as the ACCMA comments and has been responded to as such. The ACCMA letters dated February 21, 2002, and March 6, 2002, are on file with the City of Dublin and are available for public review.

traffic projections are used for CEQA purposes. Discussions with ACCMA staff in November 2000 indicate that Year 2025 analysis using the Tri-Valley Transportation Model is appropriate to use for the proposed Dublin Transit Center project (Draft EIR for Dublin Transit Center, SCH No. 20001120395 [July 2001], available at City of Dublin). Additional discussions with ACCMA staff in August 2001 confirmed that Year 2005 and 2025 analysis for the proposed Project can be done using the generally more conservative traffic volumes from models other than the Countywide Transportation Demand Model. Therefore, the use of the generally more conservative Year 2025 Tri-Valley Transportation Model to analyze impacts of the proposed Project should be appropriate. Compared to the Countywide Transportation Demand Model, the Tri-Valley Transportation Model represents a more specific and focused travel demand-forecasting tool for the Tri-Valley area of Alameda County.

Response 5.2: The comment requests that PM peak hour Project traffic impacts to Dublin Boulevard, Tassajara Road/Santa Rita Road and Fallon Road/El Charro Road be shown for 2005 and 2025 conditions and mitigation measures developed if necessary.

In response to this request, additional LOS analysis was conducted for the above listed roadways with and without Project traffic during the PM peak hour and under 2005 and 2025 conditions (see Table 5.1). As shown in Table 5.1, Dublin Boulevard, Tassajara/Santa Rita Roads, and Fallon/El Charro Roads will all operate at an acceptable LOS D or better with or without Project traffic during the PM peak hour in years 2005 and 2025. Based on these findings, no additional mitigation measures beyond those identified in the Revised DSEIR are required of the Project.

TABLE 5.1

**PM Peak Hour Mainline Arterial Levels of Service
Years 2005 and 2025**

Location	YEAR 2005									YEAR 2025								
	# of Lanes	Capacity	Without Project			With Project			# of Lanes	Capacity	Without Project			With Project				
			PM Peak Volume	V/C	LOS	PM Peak Volume	V/C	LOS			PM Peak Volume	V/C	LOS	PM Peak Volume	V/C	LOS		
Dublin Boulevard																		
Between Tassajara and Fallon																		
-Eastbound	3	3000	1,260	0.42	A	1642	0.55	A	3	3000	1767	0.59	B	1921	0.64	B		
-Westbound	3	3000	1,960	0.65	B	2344	0.78	C	3	3000	501	0.17	A	775	0.26	A		
Between Hacienda and Tassajara																		
-Eastbound	3	3000	2,384	0.79	C	2532	0.84	D	3	3000	2534	0.84	D	2665	0.89	D		
-Westbound	3	3000	1,686	0.56	A	2033	0.68	C	3	3000	1346	0.45	A	1411	0.47	A		
Between Dougherty and Hacienda																		
-Eastbound	3	3000	1,356	0.45	A	1554	0.52	B	3	3000	2179	0.73	C	2221	0.74	C		
-Westbound	3	3000	2,254	0.75	C	2448	0.82	D	3	3000	1837	0.61	B	1947	0.65	B		
Fallon Road																		
South of Dublin Boulevard																		
-Northbound	3'	3000	1,547	0.52	A	2190	0.73	C	4	4000	2879	0.72	C	3457	0.86	D		
-Southbound	3'	3000	1,506	0.50	A	1770	0.59	A	4	4000	3007	0.75	C	3489	0.87	D		
Between Dublin and Central																		
-Northbound	2 ²	2000	1,133	0.57	B	1660	0.83	D	3	3000	1165	0.39	A	1260	0.42	A		
-Southbound	2 ²	2000	729	0.36	A	1080	0.54	A	3	3000	460	0.15	A	640	0.21	A		
Tassajara Road																		
South of Dublin Boulevard																		
-Northbound	4	4000	2,629	0.66	B	2683	0.67	B	4	4000	2633	0.66	B	2678	0.67	B		
-Southbound	4	4000	3,416	0.85	D	3467	0.87	D	4	4000	2982	0.75	C	2827	0.71	C		
Between Dublin and Central																		
-Northbound	3	3000	2084	0.69	B	2104	0.70	C	3	3000	2494	0.83	D	2456	0.82	D		
-Southbound	3	3000	1285	0.43	A	1299	0.43	A	3	3000	1815	0.61	B	1766	0.59	A		
Dougherty Road																		
North of Dublin																		
-Northbound	2	2000	1681	0.84	D	1798	0.90	D	3	3000	2157	0.72	C	2037	0.68	B		
-Southbound	2	2000	1279	0.64	B	1396	0.70	C	3	3000	1560	0.52	A	1551	0.52	A		
Santa Rita Road																		
South of I-580 ramps																		
-Northbound	3	3000	2373	0.79	C	2427	0.81	D	3	3000	2087	0.70	C	2099	0.70	C		
-Southbound	3	3000	1178	0.39	A	1229	0.41	A	3	3000	1502	0.50	A	1475	0.49	A		
El Charro Road																		
South of I-580 ramps																		
-Northbound	2	2000	456	0.23	A	993	0.50	A	3	3000	1787	0.60	B	1964	0.65	B		
-Southbound	2	2000	737	0.37	A	905	0.45	A	3	3000	1501	0.50	A	1849	0.62	A		

NOTES:

- 4 lanes in "with project" scenario
- 3 lanes in "with project" scenario

LOS	A~	0.00-0.59
RANGE	B~	0.60-0.69
	C~	0.70-0.79
	D~	0.80-0.89
	E~	0.90-0.99
	F~	1.00+

102 JB 60
2/11

Letter 6



ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

5997 PARKSIDE DRIVE PLEASANTON, CALIFORNIA 94588-5127 PHONE (925) 484-2600 FAX (925) 462-3914

March 1, 2002

Mr. Eddie Peabody, Jr.
Director, Community Development
City of Dublin
P.O. Box 2340
Dublin, CA 94568

Re: Revised Draft Supplemental Environmental Impact Report (Revised Draft SEIR)
Stage 1 Development Plan and Annexation

Dear Mr. Peabody:

Zone 7 has reviewed the referenced Revised Draft SEIR and has a number of comments. The proposed project includes annexation of the project area of approximately 1,120 acres to the City of Dublin and DSRSD, and includes a Stage 1 Development Plan to include residential, retail, service, office, light industrial, parks, open spaces, roadways, and other land uses. It is our understanding that the City revised and re-circulated the Draft SEIR because of its desire to clarify significant issues raised by the commenters, and to provide the public a chance to review the City's response to these additional comments.

Within our Livermore-Amador Valley service area, Zone 7 provides wholesale treated water, untreated water for agriculture and irrigated turf, flood protection, and groundwater management. Our comments below serve as additional clarifications to the "Supplemental Information to Clarify Issues of Concern" with the previous Draft SEIR, reference pages 3.7-10 to 3.7-12. We understand this section was provided in the Revised Draft SEIR as a response to our September 14, 2001 letter regarding the Draft SEIR:

- 1. Paragraph- "Salt Loading to Main Basin", page 3.7-11

The Groundwater Demineralization Project is the recommended project to accomplish Zone 7's Salt Management Program's goal of non-degradation of our main groundwater basin from the long-term buildup of salts. Zone 7 expects to have a design-build contract for this project by 2003, with project completion expected by 2005. In this paragraph, it states that "The City will continue to work with Zone 7 and with the other agencies to resolve impacts of the problem." We appreciate the City's support of Zone 7's Groundwater Demineralization Project. The City would have to address the mitigation of any salt loading impacts of this development should, for any reason, Zone 7's proposed Groundwater Demineralization Project not be constructed and placed into operation.

6.1

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41 of 201

In the referenced paragraph, the following sentences should be corrected to accurately reflect Zone 7's assessment of the salt loading from this project to the Main Basin and in conformance with Zone 7's Salt Management Plan.

- The second sentence, i.e. "Salt loading to Main Basin from this project development ...", should be revised to read as follows: "Salt loading to the Main Basin for over 80% of the project area is considered by Zone 7 to be minimal or no impact." Note that the remaining portion of the project area is considered by Zone 7 to have a more moderate impact of salt loading to the Main Basin.
- The sentence, "The plan includes demineralizing shallow groundwater with high salt content and reinjecting it into the groundwater basin." should be corrected to delete reference to any re-injection of demineralized water into the groundwater basin. Zone 7 plans to blend demineralized groundwater with treated surface water for use in our potable water transmission pipelines.
- In the sentence "Zone 7 has addressed the salt loading impacts to the main groundwater basin and the mitigations needed ..." delete "in a joint ACWD-DERWA study" and replace with "in its Salt Management Plan".
- Revise the sentence "Based on this study Zone 7 has included the construction of brine processing facilities ..." to "Based on this study, Zone 7 has included construction of demineralization and brine export facilities..."

6.2

2. Paragraph "Zone Channels and Fees," page 3.7-12

The sentence "Zone 7 is in the process of establishing new fees pursuant to this report" should be revised to the following: "Zone 7 has implemented a new Special Drainage Area 7-1 fee structure, which went into effect on December 10, 2001. Mitigation for impacts from increases in flows from the proposed project onto flood control facilities downstream is handled through the collection of appropriate drainage fees for the Special Drainage Area 7-1 program."

6.3

This section does not address nor do the original mitigations MM 3.5/51 and MM 3.5/52 for the 1993 Eastern Dublin EIR specify, current Alameda County Clean Water Program non-point source water pollution mitigations. These mitigation measures may be intended for incorporation, but are not spelled out, such as water quality detention basin design or incorporation of grassy swale designs. Additionally, there does not appear to be any mention of mitigating the loss of flood plain storage resulting from channelizing flows into the proposed culvert.

6.4

6.5

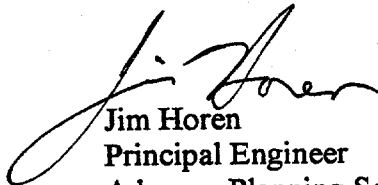
This section also does not address construction activity best management practices (BMP) to reduce sediments and other contaminants from entering the flood control system during the construction process.

6.6

Mr. Eddie Peabody, Jr.
March 1, 2002
Page 3

We appreciate the opportunity to comment on this document. Please feel free to call me at (925) 484-2600, ext. 400, or Jack Fong at ext. 245, if you have any questions.

Very truly yours,



Jim Horen
Principal Engineer
Advance Planning Section

JH:JF

- Cc: Dave Requa, DSRSD
Eric Cartwright, ACWD
Ed Cummings, Zone 7
John Mahoney, Zone 7
Dave Lunn, Zone 7
Diana Gaines, Zone 7
Matt Katen, Zone 7
Jack Fong, Zone 7

Responses to Letter 6: Alameda County Flood Control and Water Conservation District Zone 7

Response 6.1: The Comment states the should address the mitigation of salt loading in the event the proposed Groundwater Demineralization Project is not constructed.

The San Francisco Bay Regional Water Quality Control Board issued Order No. 93-159, the "Master Water Recycling Permit," to Zone 7, Livermore and DSRSD in December of 1993. The Master Permit specifies requirements to be met prior to implementation of additional recycled water irrigation or groundwater recharge projects in the Valley. A key permit requirement is the development and implementation of a Salt Management Program (SMP). The SMP is to fully offset the current salt loading, as well as future salt loading associated with recycled water use (*Zone 7 Salt Management Program, 1999*). The Zone 7 Board adopted the Salt Management Plan in August of 1999; Zone 7 has been collecting monies to fund the plan through connection fees and higher water rates. The Demineralization Project has been identified in the 2002-2003 fiscal year budget with 6.1 million identified for a design/build project. It is anticipated that the Demineralization Project would begin construction in 2003-2004. The City of Dublin has no reason to expect that the Groundwater Demineralization Project would not commence due to the fact that it is an adopted plan with adequate funding. Additionally, the San Francisco Bay Regional Water Quality Control Board, which has the authority to permit the use of recycled water, has required has required the Salt Management Program as part of the Master Water Recycling Permit.

Response 6.2: Comment acknowledged and changes incorporated.

Response 6.3: Comment acknowledged and changes incorporated.

Response 6.4: The comment states that the original mitigations from the 1993 Eastern Dublin EIR and the Revised DSEIR do not make reference to the current Alameda County Clean Water Program non-point source water pollution mitigations.

Contrary to the comment, the 1993 Eastern Dublin EIR does make reference to the Alameda County Clean Water Program. Mitigation measure 3.5/55.0 states: "Require all developments meet the requirements of the Alameda County Urban Runoff Water Program".

Response 6.5: The comment states there is no mention of mitigating the loss of flood plain storage, resulting from channelizing flows into the proposed culvert.

The City of Dublin's storm water design intent is to provide a system, which allows storm water to quickly move through the storm water system, in order to avoid the peak storm water flows. The bottleneck of the Tri-Valley storm water system (see comment 10.21) is the Arroyo de la Laguna at Bernal Avenue in Pleasanton. As a rainstorm moves through the Tri-Valley, it is the design intent of the Dublin system to move the storm water through the system, before the peak of the event occurs and system is overloaded. This has been analyzed as part of the "Dublin Ranch Drainage Master Plan" that includes the drainage area of the project. This report was completed by MacKay and Soms Infrastructure Group in August 2001. This document describes the needed improvements to the G-3 flood control channels down stream of the annexation project in order adequately to serve development in accordance with Zone 7 flood control criteria. Downstream mitigations within the Dublin Ranch development are currently under design and part of the master development agreement between the Lins and City of Dublin for the Dublin Ranch Development. The mitigations for the loss of flood plain storage, which result from channelizing flows into the proposed culvert have been designed into the system, and therefore no additional mitigation are necessary.

Response 6.6: The comment states the Utilities section does not address construction activity best management practices (BMPs) to reduce sediments from storm water from entering the flood control system.

Contrary to the comment, the 1993 Eastern Dublin EIR does contain a mitigation measure to require compliance with BMPs. Mitigation measure 3.5/54.0 states: "Require all developments meet the requirements of the City of Dublin's Best Management Practices to mitigate storm water pollution."

DUBLIN
SAN RAMON
SERVICES
DISTRICT



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925 828 0515

February 19, 2002

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DUBLIN PLANNING

Andy Byde, Senior Planner
City of Dublin
Planning Department
100 Civic Plaza
Dublin, CA 94568

**Subject: Revised Draft Supplemental EIR for East Dublin Properties,
Stage 1 Development Plan and Annexation**

Dear Mr. Byde:

Thank you for the opportunity to review and comment on the Revised Draft Supplemental Environmental Impact Report for the East Dublin Properties Stage 1 Development Plan and Annexation. Dublin San Ramon Services District (DSRSD) has identified no impacts or necessary mitigations beyond those identified in the Revised Draft Supplemental EIR. Our comments on the specific areas of our service to the community in the area of the East Dublin Properties Annexation are detailed below:

Potable Water Supply and Service

As you state in the Revised Draft Supplemental EIR, DSRSD (as part of an agreement to settle a lawsuit with Citizens for Balanced Growth (CBG) and the City of Livermore) was obligated upon receipt of a Notice of Preparation of the subject EIR, to prepare and submit to the City a "Programmatic Water Service Analysis" (PWSA) and "Preliminary Impact Analysis." The purpose of the analyses was to analyze the water-related impacts of the proposed project. In accordance with the November 1999 settlement agreement, DSRSD completed the PWSA in June 2001, and submitted the document to the City. As you point out in your report, DSRSD's PWSA demonstrated that Zone 7 has already secured sufficient supplies to serve the 5,620 AF demands of all of eastern Dublin. Furthermore, the facilities currently planned by DSRSD for this area will be of sufficient capacity to meet the increased demand at full build out of this project; and this demand will be mitigated somewhat by the extension of recycled water pipelines through the project area and adherence to Dublin's standard water conservation measures.

7.1

After issuance of the PWSA, CBG and Livermore challenged the adequacy of the PWSA under the terms of the Settlement Agreement. As required by the Settlement Agreement, the parties engaged in a dispute-resolution process concerning the adequacy of the PWSA. The dispute resolution process concluded with a decision of the mediator, and DSRSD issued a Final Revised Water Service analysis, indicating that there are no supplemental significant impacts due to the aforementioned water supply litigation. Therefore, no additional mitigation is necessary for obtaining additional water supply for this project.

Recycled Water Supply and Service

As you note in the Revised Draft Supplemental EIR, when available DSRSD will provide recycled water to the proposed project for irrigation of large landscaped areas. The facilities will be installed in accordance with DSRSD's Water Master Plan. Therefore, no additional mitigation is necessary for obtaining additional recycled water supply for this project.

7.2

Wastewater Services and Wastewater Effluent Disposal

The Revised Draft Supplemental EIR notes that the 1994 eastern Dublin EIR identified mitigation measures for the wastewater collection, treatment and disposal. The mitigation measures were DSRSD's inclusion of eastern Dublin in its long-range wastewater planning to ensure that limited treatment plant capacity is not a new significant impact. Since DSRSD has included this wastewater demand in the planned capacity expansions of DSRSD's Wastewater Treatment Plant and LAVWMA's planned increase in volume of wastewater effluent disposal facilities, no further mitigation appears to be necessary.

7.3

As noted above, DSRSD does not deem any mitigation beyond those specified in the Revised Draft Supplemental EIR for the areas of our Potable Water, Recycled Water, or Wastewater Collection and Disposal services to the community. We feel that the joint planning effort done between the City of Dublin and DSRSD has successfully identified those areas of concern and planned reasonable solutions to those areas. Please note that DSRSD will require all properties within the project area to obtain pre-development approvals through a Public Facility Agreement, Services Planning Agreement and/or an Area-Wide Facility Agreement.

Sincerely,



DAVID K. BEHRENS, P.E.
Principal Engineer

DB:jg

Cc: Bert Michalczyk, DSRSD
Dave Requa, DSRSD

Responses to Letter 7: Dublin San Ramon Services District

Response 7.1: The comment that there are no significant supplemental impacts on potable water supply and no mitigation measures are required is acknowledged. No additional analysis is therefore required on this topic.

Response 7.2: The comment that DSRSD will provide recycled water to serve the Project when this becomes available and no mitigation measures are required is acknowledged. The City will require installation of infrastructure for recycled water service.

Response 7.3: The comment by DSRSD that long term planning is underway to include the Project area into DSRSD's planned capacity extensions is acknowledged and no mitigation measures will be required. The City also acknowledges that DSRSD will require a Public Facility Agreement, Service Planning Agreement and/or an Area-Wide Facility Agreement at later stages of Project entitlement.

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Livermore Area
Recreation & Park District
An independent special district

71 Trevarno Road, Livermore, CA 94550-2277
(925) 373-5700, Fax (925) 447-2754, www.larpd.dst.ca.us

General Manager
Douglas A. Bell

March 1, 2002

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MAR 01 2002

DUBLIN PLANNING

Mr. Eddie Peabody
Community Development Director
City of Dublin
100 Civic Plaza
Dublin, CA 94583

RE: Revised Draft Supplemental Environmental Impact Report, East Dublin Properties,
Stage 1 Development Plan and Annexation

Dear Mr. Peabody:

On January 16, 2002, we received the Notice of Public Review of the Revised Draft Supplemental Environmental Impact Report (RDSEIR) referenced above.

We continue to believe that the proposed Stage 1 Development Plan and Annexation has the potential to have significant impacts on the District that you now have had three opportunities to address in a way consistent with CEQA requirements. We have twice before presented the details of our concerns and the inadequacy of your environmental review in our letters of June 26, 2001 and September 14, 2001, copies of which are included for your convenience.

8.1

To date, you have consistently ignored our pleas to address our concerns in a substantive fashion. This is evidenced, as discussed below, by the non-responsive nature of the comments in the Revised Draft Supplemental Environmental Impact Report (RDSEIR) as well as your failure as an agency to discuss our concerns in a good faith and professional manner. One meeting, not at the request of the City of Dublin but at the request of Alameda County's Administrative Analyst, Charlotte Martinelli (with the unannounced attendance of your legal counsel), does not constitute a good faith professional approach to understanding and resolving issues.

LARPD Comments on the City's Preparation of a Supplemental EIR

8.2

LARPD is disappointed with Dublin's approach to assessing the potential for environmental impacts of this project by utilizing a Supplemental EIR process with the basis of analysis a 1993 EIR. We also made note of this issue in our Response to NOP comments. We believe your continued reliance on the base information of the 1993 EIR

Mr. Eddie Peabody
March 1, 2002
Page 2 of 6

(information gathered in 1992) fails to meet the spirit or intent of CEQA for a project of this size and significance. We reiterate that so much has changed since the 1993 EIR was undertaken, coupled with the document's failure to adequately cover park and recreation issues and their potential to impact LARPD's existing and future facilities and programs, that this project requires a new complete and comprehensive review and analysis of the proposed project; anything less does not meet the requirements of CEQA to fully assess environmental impacts using currently available information for evaluation and consideration. See, for example, Berkeley Keep Jets Over the Bay v. Board of Commissioners (2001) 91 Cal. App 4th 1344, 1344-67 (rejecting use of 1991 toxic air containment analysis in 1996 EIR as "outdated")

8.2
(cont.)

We strongly disagree with the RDSEIR's statement (page 5) that "only minor additions or changes are necessary to make the Eastern Dublin EIR adequate". In light of significantly changed circumstances since 1992/1993 and failure of the base information in the 1993 EIR to address local and regional park and recreation issues, this RDSEIR fails miserably to meet basic statutory CEQA requirements. In essence, the RDSEIR is analyzing impacts the currently proposed Development Plan and Annexation would have on parks and other resources in relation to an environment that no longer exist, i.e., conditions in the area a decade ago. Development in the past decade has substantially changed those conditions. To be legally adequate, an EIR must focus its analysis on the proposed project's impacts to the existing physical environment at the time the project is under consideration. Environmental Planning and Information Council v. County of El Dorado (1982) 131 Cal.App.3d 350,352, Save our Peninsula Comm. V. Monterey County Board of Supervisors (2001) 87 Cal. App. 4th 99, 119-20 (EIR must provide detailed information on project's impacts on "the physical conditions that exist within the area"); CEQA Guidelines 15125(a) (the baseline for a project's impacts must be "the physical environment conditions in the vicinity of the project, as they exist at the time the notice of preparation is published"). Without a new EIR to establish new relevant base information, a supplemental analysis which relies on selectively updating old information inherently falls far short of what is necessary to adequately assess the potential for significant environmental impacts.

This RDSEIR has concluded without support that park and recreation related issues do not need any analysis as a result of changed circumstances (although unstated you also conclude the same about the failure of the original 1993 to address these matters in the first place).

In order to qualify and quantify our position on the failure of this environmental assessment to properly analyze these issues, LARPD has undertaken a detailed analysis of the potential for this project to impact LARPD and its facilities and programs. These studies undertaken by the firm of Diaz, Diaz and Boyd clearly show the impacts that will occur, based on very conservative estimates, on LARPD. At a minimum, this information must be objectively analyzed, evaluated, and considered in this environmental review

8.3

Mr. Eddie Peabody
March 1, 2002
Page 3 of 6

process. These studies are provided as attachments for your information. Studies of this sort must be undertaken for this project.

Project Description- Proposed Re-organization (annexation and detachment)

8.4

Page 5 of the Initial Study states that, because the City's General Plan and Specific Plan contemplate the expansion of park services, then annexation of this area (and de-annexation of LARPD) is the next logical step. We absolutely disagree. What this fails to address is that the City's General Plan and Specific Plan processes have not considered the LARPD and our existing legal jurisdiction over this area. The City of Dublin's General Plan can contemplate annexing North Livermore, for example, if it wishes. However, that does not mean that it is either appropriate or logical. The reasoning for annexing County property for purposes of expanding a City's municipal boundaries is not applicable to addressing the park and recreation needs which have previously been determined to be provided by another agency.

Recreation

Environmental Setting - The City notes on page 52 that the 50-acre Emerald Glen Park is a regional park. As we have noted in previous comments, and incorporated as attachments, this hardly constitutes a regional park facility. It is this very type of failure on the part of the City of Dublin to provide for adequate park and recreation facilities for its population that will result in residents going to LARPD parks seeking services to meet their needs. Currently park ratios for the City of Dublin are 2.9 acres of developed park per 1000 population, well below the 5.9 acres of developed parks or 16 acres with regional parks (excluding Brushy Peak) provided by the LARPD for the City of Livermore. This environmental document ignores this issue completely as well as the migratory impact it will have on the LARPD's facilities.

8.5

Project Impacts and Mitigation Measures-Item a) notes that the increase in population resulting from the project will increase demand for park facilities. It further notes that the City's policies and mitigation measures of *encouraging* the expansion of parks will mitigate the potential significant impacts. The report then notes that no further analysis is necessary because of the mitigation measures proposed in the 1993 EIR, which purportedly reduce impacts to a level of insignificance. However, upon review, these mitigations only pertain to the provision of new park and recreation facilities for the residences of the proposed project and do not consider that:

8.6

- Dublin is currently providing significantly fewer park and recreation services per 1000 population than surrounding communities;
- The project provides parks consistent with a more accepted standard of 5 acres per 1000 population but does not address the existing deficit in the city;



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Mr. Eddie Peabody
March 1, 2002
Page 4 of 6

- The project's failure and the City's failure to address the adequate level of park and recreation facilities will result in residents seeking services in the most convenient nearby areas of service, including LARPD.

8.6
(cont.)

Item b) notes the inclusion of open space and parks consistent with the General Plan and states that the 1993 EIR identified the construction of park facilities and the cost of those facilities as impacts, mitigated by the developers' provision of a fair share of parks and development of a Parks Implementation Plan. Unfortunately, without critical analysis of the cost of land acquisition and construction, the impacts cannot even be identified; therefore, a determination of adequate mitigation cannot be made.

8.7

LARPD's financial analysis of the East Dublin Properties plan indicates that the project will not provide adequate financial resources to acquire or develop the park properties proposed in the plan. Current deficit to build out of the plan is \$3 million. This failure to analyze these issues renders the RDSEIR wholly inadequate and your comments to these issues completely non-responsive to the issues.

8.8

Appendix 1: Response to previous comments from LARPD

Response 6.2: In response to our statement that our concerns were not adequately addressed in the previous RDSEIR, you note that the City of Dublin has no record that LARPD submitted comments during the 45 day public review period for the 1993 East Dublin EIR regarding inadequacies in the analysis of recreation [and park facilities].

8.9

The District's failure to respond to the 1993 EIR has little, if any relevance to CEQA's requirement that the environmental review process for the currently proposed Stage 1 Development Plan and Annexation adequately address park and recreation issues and the current project's potential for significant impacts on the park resources. It is precisely for this reason that a new EIR is required regarding the current proposal; the 1993 EIR failed completely to address the issues noted above. The City has an obligation under CEQA to address these matters now, regardless of your failure to address them in 1993. If you had failed to address traffic issues in 1993, would this mean that you would have no obligation to analyze the current proposal's traffic impacts now and mitigate for them properly? CEQA requires that all potentially significant impacts of the project under review, the current Development and Annexation, be identified and analyzed with reference to the area's environment as it exists today.

Response 6.3: Regarding our comment on the City's failure to consult with us on the preparation of the RDSEIR, you note that because you determined there were no impacts you didn't feel the need to consult with the agency that has legal jurisdiction over the property. This response belies the very concept of a participatory process that elicits inputs from all agencies and persons in order to hear and understand their perspective on a project proposal. With this attitude, why have a public hearing process in the first place since it appears your determinations are the only thing that matters?

8.10

Mr. Eddie Peabody
March 1, 2002
Page 5 of 6

Response 6.5 a,b: Your justification for determining that impacts to LARPD facilities and programs is less than significant is non-responsive. Your basis for this determination is a reference to the City of Dublin's plan to supply local and community parks in a manner consistent with the City of Dublin Master Plan, as well as the inconvenience due to distance of LARPD facilities. The reason this is non-responsive is that you fail to analyze the City's plan to determine if it adequately would provide park and recreation facilities. As it turns out, our studies confirm that the City's Master Plan has failed to provide an acceptable level of park and recreation facilities, and the project will do little to curb this inadequacy. Therefore, migratory impacts of Dublin residents to the LARPD's facilities are certain.

8.11

Response 6.6: Your response that the provision of new regional parkland by LARPD in Sycamore Grove Park (370 acres) and Brushy Peak (507 acres) is not a substantial change or significant new information and that it is too far (you note 10-12 miles) from the project site to be used is not accurate or an accepted standard for determining the need to evaluate a change in circumstances. You note the likelihood of the use of the Iron Horse Trail and Shadow Cliffs Recreation Area instead.

8.12

With the addition of Isabel Parkway interchange, Sycamore Grove Park will be within direct driving (or bicycling) access and is only 6.5 miles away, not 10-12. Brushy Peak staging area is within 8 miles. This range is well within commuting distances of those seeking regional facilities. Sycamore Grove Park and Brushy Peak are regional open space facilities that are not completed nor substituted for the Iron Horse Trail or Shadow Cliffs Recreation Area. They cannot even be reasonably compared.

8.13

Response 6.13: Your response to our request to analyze detachment issues continues to rely on inaccurate information. Your determination that no significant environmental impacts would result because future residents would use City facilities not LARPD facilities as a result of the distance is completely inaccurate. It also does not address future potential facilities in North Livermore, which would be even closer than City of Dublin facilities. Furthermore, as noted above, your statement that the City of Dublin provides a level and range of parks and recreation services similar to those provided by LARPD is unsubstantiated and unsupported and therefore is nothing more than conjecture and is non-responsive.

8.14

Finally, in regards to child care facilities, the City of Dublin's lack of child care services and its reliance on the private sector market to provide the whole of these services has the potential to significantly impact LARPD's child care program, and you have failed to analyze this. With the City of Livermore as a major employment center, it is very likely that future Dublin residents commuting to Livermore for work will need or want to use local childcare services because of their convenience and location to the work environment.

8.15

Mr. Eddie Peabody
March 1, 2002
Page 6 of 6

The LARPD urges the City of Dublin Planning Commission and City Council to reject this RDSEIR on the basis of its inadequate handling of the parks and recreation issues, its non-responsiveness to the issues raised in our letters of June 26, 2001 and September 14, 2001, and the project's potential for significant impacts on LARPD parks and recreation facilities and programs. We urge you to correct these inadequacies by establishing proper base data through undertaking a new and comprehensive EIR that evaluates all the issues that we have raised in our correspondence to your agency on this project. A legally adequate EIR would forthrightly recognize the significant impacts this proposal poses to existing park and recreational facilities in the surrounding area and would present both mitigation measures and feasible alternatives that would avoid those impacts or lessen them to levels of insignificance.

Sincerely,



Kenneth H. Craig
Superintendent of Planning and Parks

KHC/sk

Attachments: Letter of June 26, 2001
Letter of September 14, 2001
Summary Report of a Financial Impact Study, September, 2001
Summary Report of a Cost of Service Analysis, January, 2002

C: LARPD Board of Directors
Mayor Kamena and Livermore City Council
Adolph Martinelli, County of Alameda
Brian Swift, City of Pleasanton
Marc Roberts, City of Livermore
Larry Tong, EBRPD
Michael Kyle, LARPD Legal Counsel



Livermore Area
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General Manager
Douglas A. Bell

54 of 211

September 14, 2001

Mr. Eddie Peabody, Jr.
Director of Community Development
City of Dublin
100 Civic Plaza
Dublin, CA 94583

RE: Draft Supplemental Environmental Impact Report (DSEIR), East Dublin Properties

Dear Mr. Peabody:

The Livermore Area Recreation and Park District appreciates the opportunity to comment on the DSEIR.

I was disappointed to find upon my return from vacation that the City chose not to consider a ten-day extension request by LARPD for the review of this regionally significant project. This extension request was based on LARPD's failure to be notified or to receive the DSEIR for review and comment. This was communicated to your staff based on my personal visit as well as by a letter from District Legal Counsel Michael Kyle (dated August 24, 2001). We simply did not receive the notice of the release of the DSEIR nor the complimentary copy of the DSEIR provided to other interested parties and agencies. As a result, we have been significantly delayed and not afforded the same time to review and respond to this document as provided to other agencies and interested parties. To date, we have received no indication from the City that the mailing took place as stated. We have only received a list of agencies that were supposed to have been sent notifications and/or DSEIR documents. This list, of course, only exhibits your intent to notify, not any proof of your required action to notify affected parties.

The District was also disappointed to discover that the City did not consider the comments that LARPD provided in its letter dated June 26, 2001 in response to the Notice of Preparation for this DSEIR (letter enclosed). We continue to believe that the proposed project has the potential to have significant impacts on the District that must be adequately addressed and that the issues have not been properly considered and analyzed as either a part of this Supplemental EIR or the original 1993 Program EIR.

As well, we find particularly disconcerting that under *Section 6. References. Other Agencies and Organizations Consulted*, the DSEIR notes no consultation with LARPD, yet appropriately lists most other agencies and organizations one might expect to be consulted on this type of project. It is in fact an accurate portrayal of the lack of consultation with the District by the City on this project. To not have the professional courtesy to contact and discuss these matters with District

Board of Directors
Maryalice Faltings

Scott Kamena

Alice Quinn

Ernie Rodrigues

Dale Turner

Mr. Eddie Peabody, Jr.
City of Dublin
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representatives is most disappointing. The lack of interest or concern for the impacts on this District are reflected by this apparent failure to discuss the City's desires or intentions with District staff and is evidenced by its omission in this Section.

Preparation of a Supplemental EIR

LARPD continues to be surprised and disappointed with Dublin's approach for assessing the potential environmental impacts of this project by utilizing a Supplemental EIR process. We made note of this concern in our Response to NOP comments.

LARPD has reviewed the City of Livermore's detailed comments on the DSEIR and we support their position and reasoning on these matters. As a result, we will not duplicate these clear but important points except to reiterate that circumstances have dramatically changed since the 1993 EIR was undertaken. In addition, the document fails to adequately cover issues such as impacts on LARPD and its existing and future facilities and programs. Anything less than a new complete and comprehensive review and analysis of the proposed project does not meet the requirements of CEQA to fully assess environmental impacts using currently available information for evaluation and consideration. Regretfully, it is apparent that Dublin's approach is a risk-based avoidance strategy instead of one intended to provide the environmental disclosures and mitigation required by CEQA.

Parks and Recreation

1. As noted in our June 26, 2001 letter, LARPD is very concerned about the proposed impacts of this project on existing and future District parks and programs. The 1993 EIR and DSEIR have ignored the impacts of the proposed project on LARPD facilities. Whereas the documents note the requirements to provide parks and recreation facilities consistent with the City's 1992 Parks Master Plan, it fails to analyze the requirements of the City's Master Plan in the EIR or DSEIR vis-à-vis the project's proposal and the timing of the provision of these parks and service facilities to meet expected demand. This is particularly important in understanding the potential for the project to cause impacts to LARPD or to other City parks and recreation programs. The EIR and DSEIR simply state that parks will be provided consistent with the Parks Master Plan. Given the size and significance of the proposed project, it is essential that the EIR and DSEIR evaluate how the City is meeting its recreation requirements relative to its planning goals. The EIR and DSEIR also fail to evaluate the proximity of the proposed development to LARPD's core service area and its potential to increase demands on our parks, services and programs. To do so requires that a more comprehensive evaluation of these issues be undertaken.
2. The 1993 EIR and DSEIR fail to consider several important changes in the provision of regional parklands in the Tri-Valley. Specifically, in 1998, 370 acres of regional

Mr. Eddie Peabody, Jr.
City of Dublin
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parklands were added to LARPD's Sycamore Grove Regional Park, essentially doubling its size. Additionally in 1994, LARPD purchased 507 acres containing Brushy Peak (consistent with our Master Plan Goals) north of I-580. These 507 acres have now become the nucleus from which East Bay Regional Park District (EBRPD) and LARPD have created over 2,000 acres of regional parkland in the Brushy Peak area. This is not even mentioned in the environmental documents. The proposed project and its placement of 2,526 units or approximately 7,400 people (2,526 times 2.94 persons per household) in close proximity to these parks will have impacts on these regional park facilities. This too has not been considered by the EIR or DSEIR. Any environmental review must evaluate the impacts of such a large project on these regional parkland facilities.

3. The 1993 EIR notes that Dublin's ratio of developed parkland to population is below 5-acres/1000-population, a common standard for determining provision of adequate park facilities. The DSEIR simply states that it will meet a 5-acre/1000-population requirement of the 1992 Parks Master Plan (page 2-8). Any lack of park facilities below this standard could have a significant impact on LARPD as the District provides parkland in excess of 16-acres/1000-population. Given the proximity of the proposed residential development to LARPD's existing and potential future (N. Livermore and Vasco/Laughlin Planning Areas) facilities, Dublin residents unable to meet their recreational needs within Dublin's city limits will seek use of the closer LARPD facilities. They will also seek use of the more convenient and broader services that meet their needs. This could have significant impacts on our ability to provide adequate services and programs to our existing and future residents. This impact was not addressed under the previous EIR nor is it addressed in the DSEIR.

For example, LARPD is currently in the process of developing a \$20 million Community Center that will contain a large variety of services, activities and opportunities for the Livermore community. The District is very concerned that the proposed project will impact the demand for services at this facility. Given the proximity of the project to Livermore, the EIR must comprehensively evaluate the existing and proposed services provided by Dublin and Livermore and assess the potential impacts this project will have on services and programs in Livermore. This must cover the full range of services and programs provided by LARPD including, but not limited to, childcare services; teen and senior care services and programs; adult recreational programs; outdoor recreational and environmental programs as well as others. This was not addressed under the previous EIR. The DSEIR reference to the provision of similar facilities (page 2-8) funded by Public Facilities Fees does not address the potential for impacts as it fails to evaluate the type of facilities, the level of services and the timing by which these facilities will or can be provided.

4. Neither the DSEIR nor 1993 EIR, which noted (Impact 3.4/K and Mitigation Measures) the plan's requirement to provide sufficient parkland to satisfy the City's 1992 Park and

Mr. Eddie Peabody, Jr.
City of Dublin
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Recreational Master Plan, addresses how the plan would meet LARPD's Master Plan requirements for parkland and recreation should LAFCO not agree to de-annex this property from LARPD's jurisdiction. Both the EIR and Supplemental DEIR failed to address the existing jurisdictional authority of LARPD for the provision of park and recreation services in this area and to provide the required analysis.

- 5. The DSEIR (page 2-8) notes discussion of the overlapping jurisdiction of EBRPD and LARPD in terms of providing regional parks and trails. Unfortunately, no detailed discussion was included either in the 1993 EIR nor the DSEIR and therefore, its potential significant environmental impacts have not been ascertained or evaluated. Analysis of overlapping jurisdictional issues must be discussed as they relate to the impacts of the project on the provision of services by either LARPD or the City of Dublin.

This section further notes that the City's Public Facilities Fee, which is applicable to the project, requires payment of fees for "community and neighborhood park land and improvements, as well as community facilities such as a second community center, a recreation center, a community theater, a second aquatic center, a senior center and a new library." No discussion or mention of fees for provision of regional parks is noted. It is apparently assumed by this that the City of Dublin is relying upon LARPD (and EBRPD) to provide regional park facilities and services to its residents. While future residents will be paying taxes to the EBRPD to support regional park facilities, LARPD would lose these residents from our tax roles yet have to carry the burden of increase in demand for services and impacts of the proposed project on our existing and future facilities. The District cannot be expected to simply absorb the cost of these impacts. These issues have not even been discussed or evaluated in the EIR or DSEIR.

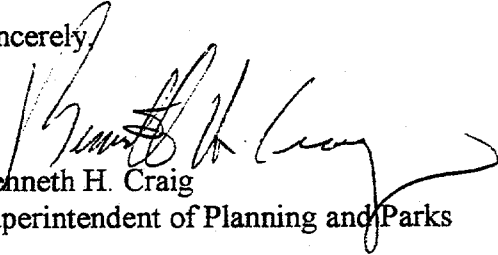
LARPD is concerned that the 1993 EIR and DSEIR have not addressed the impact of the proposed project on these regional parks. Although the project is proposing passive open space, this kind of resource is not a viable substitute for the unique recreational opportunities afforded by a regional park containing significant regional views, trails, cultural/ biological resources, and environmental/educational programs and services. The lack of regional parkland provided by the East Dublin SP/GPA and the supplemental planning area will have impacts on LARPD regional parkland that must be comprehensively evaluated and mitigated.

- 6. The DSEIR includes de-annexation of the area within LARPD's jurisdictional boundaries as one of the actions in the project description. However, the EIR or DSEIR failed to analyze the impacts of de-annexation from LARPD. Furthermore, it fails to evaluate those impacts vis-à-vis the impacts of the proposed project on existing and future LARPD regional parks, community parks, facilities and programs including, but not limited to, childcare programs provided by the District.

Mr. Eddie Peabody, Jr.
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Thank you for the opportunity to provide these comments. LARPD looks forward to discussing these very important matters with you. We would appreciate being informed of all matters related to this proposal including meetings, hearings, written communications, etc. We respectfully request that all future correspondence on these and related matters be sent by certified mail or other delivery method that requires a signed receipt. If you have any questions or comments, I can be reached at (925) 373-5729.

Sincerely,



Kenneth H. Craig
Superintendent of Planning and Parks

KHC:sk

Enclosure

- C: LARPD Board of Directors
- Mayor Brown and Livermore City Council
- Adolph Martinelli, County of Alameda
- Brian Swift, City of Pleasanton
- Marc Roberts, City of Livermore
- Larry Tong, EBRPD
- Michael Kyle, LARPD Legal Counsel
- Mark Weinberger, Attorney for City of Livermore



71 Trevarno Road, Livermore, CA 94550-2277
(925) 373-5700, Fax (925) 447-2754, www.larpd.dst.ca.us

General Manager
Douglas A. Bell

June 26, 2001

COPY

Anne Kinney
City of Dublin Planning Department
100 Civic Plaza
Dublin, CA 94583

RE: Notice of Preparation of a Draft Supplemental Environmental Impact Report for the East Dublin Properties (PA #00-025)

Dear Ms. Kinney:

Thank you for referring the Notice of Preparation (NOP) of a Draft Supplemental Environmental Impact Report (DSEIR) for the proposed East Dublin Properties Project to the Livermore Area Recreation and Park District for review and comment. Please accept the following comments regarding the NOP for the DSEIR:

1. LARPD is very concerned about the proposed de-annexation of the area within our jurisdictional boundaries and the resultant loss of property tax base. And of equal concern is the proximity of the proposed development to our core service area and its potential to increase demands on our parks, services and programs if comparable parks, services and programs are not available or are not being provided in the area of these new residences and businesses.

The 1993 EIR notes that Dublin's ratio of developed parkland to population is below 5-acres/1000 population, a common standard for determining provision of adequate park facilities. Any lack of park facilities could have a significant impact on LARPD. This is particularly true of larger community park facilities that provide facilities to meet the demands for organized recreational park activities. Given the proximity of the proposed residential development to LARPD's existing and future (N. Livermore and Vasco/Lauglin Planning Areas) facilities, Dublin residents unable to meet their recreational needs will seek use of the closest LARPD facilities. This could have significant impacts on our ability to provide adequate services and programs to residents. This was not addressed under the previous EIR and is a potentially significant impact on this District. For example, LARPD is currently in the process of developing a \$20 million Community Center that will contain a large variety of services, activities and opportunities for the Livermore Community. The District is very concerned that

Board of Directors

Larry Faltings

Maryalice Faltings

Alice Quinn

Ernie Rodrigues

Dale Turner

the proposed project will impact the demand for services at this facility. Given the proximity of the project to Livermore, the EIR needs to look comprehensively at the existing and proposed services provided by Dublin and Livermore and assess the potential impacts this project will have on services and programs in Livermore. This must include the full range of services and programs provided by LARPD including but not limited to childcare services, teen and senior care services and programs, adult recreational programs, outdoor recreational and environmental programs and well as others. This was not addressed under the previous EIR and must be evaluated in a subsequent EIR.

2. Section 3.4-14 of the East Dublin SP/GPA EIR incorrectly states that "All regional parkland in the Tri-Valley is owned and operated by the East Bay Regional Park District (EBRPD)." In fact, Sycamore Grove Regional Park has been owned and operated by LARPD since 1978. In 1998, the park doubled in size to more than 760 acres. In 1994 LARPD purchased 507 acres of Brushy Peak which has become core parkland area that has now been expanded through the addition of approximately 1,500 acres including mitigation property owned and managed by EBRPD.

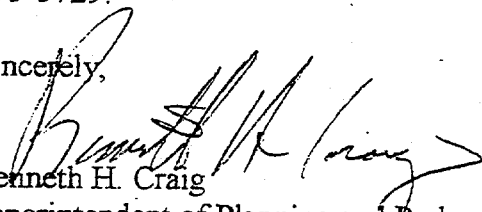
LARPD is concerned that the East Dublin SP/GPA EIR has not addressed the impact of the proposed project on these regional parks. Although the project is proposing passive open space (to address hillside development issues and visual resource impacts?) this kind of resource is not a viable substitute for the unique recreational opportunities afforded by a regional park containing significant regional views, and cultural and biological resources. The lack of regional parkland provided by the East Dublin SP/GPA and the supplemental planning area will have impacts on LARPD regional parkland that must be comprehensively evaluated.

3. LARPD is surprised and disappointed with Dublin's proposal to assess the potential for environmental impacts of this project by utilizing a Supplemental EIR. As you know, a supplemental EIR is used when minor revisions are anticipated or required. A subsequent EIR is prepared if the previous EIR requires major revisions resulting in significant impacts on the environment. LARPD agrees with the City of Livermore's comments noting the substantial changes that have taken place since 1993 in the Tri-Valley in such areas as biological resources, land use, hydrology, agricultural resources, air quality, traffic/transportation, and affordable housing. These factors, among others, unequivocally point to the need to re-evaluate the project with a subsequent EIR that looks at these and other issues (including more comprehensively regional and community park, program and services issues). Anything less does not meet the spirit or intent of CEQA.

4. LARPD is concerned with the inclusion of the 637 acres into this supplemental EIR. As we understand it, 472 acres is currently within the Eastern Dublin Specific Planning Area and 637 acres outside the Eastern Dublin Specific Planning Area. If this EIR is supplemental to the 1993 City of Dublin General Plan and Eastern Dublin Specific Plan, then no Specific Plan has been required for the 637 acres (though we understand that your General Plan specifically requires a Specific Plan to be done). This suggests that you are using a General Plan level supplemental environmental evaluation to satisfy future project level environmental review ("Stage 2 PD for site-specific zoning and development plan approval") that will be take place without the benefit of Specific Planning. LARPD is very concerned with this approach and we would like the City of Dublin to make very clear that this supplemental EIR will not substitute for a more rigorous project level analysis and evaluation. We also want the City to implement its General Plan policy to undertake the Specific Plan for this area as is required.

Thank you for the opportunity to provide these comments. LARPD looks forward to discussing these very important matters with you. We would appreciate being informed of all matters related to this proposal including meetings, hearings, written communications, etc. If you have any questions or comments, I can be reached at (925) 373-5729.

Sincerely,


Kenneth H. Craig
Superintendent of Planning and Parks

- C: LARPD Board of Directors
Mayor Brown and Livermore City Council
Adolph Martinelli, County of Alameda
Brian Swift, City of Pleasanton
Marc Roberts, City of Livermore
Larry Tong, EBRPD

**SUMMARY REPORT OF A
FINANCIAL IMPACT STUDY**

**THE EFFECT OF DE-ANNEXING THE
EAST DUBLIN PROPERTIES PARCEL
(SITUATED NORTHEAST OF I-580 & FALLON ROAD)
FROM THE LIVERMORE AREA
RECREATION & PARK DISTRICT
LIVERMORE, ALAMEDA COUNTY, CALIFORNIA**

**PREPARED FOR:
LIVERMORE AREA RECREATION & PARK DISTRICT
DEPARTMENT OF PLANNING & PARKS**

SEPTEMBER 2001

DIAZ, DIAZ & BOYD, INC.
Real Property Valuation and Consultation





DIAZ, DIAZ & BOYD, INC.
Real Property Valuation and Consultation

63 of 211

JOYCE L. DIAZ, MAI
BENJAMIN R. DIAZ
KAREN M. BOYD, MAI
WAYNE G. COUTO, MSA

September 26, 2001

Mr. Kenneth H. Craig
Superintendent of Planning & Parks
Livermore Area Recreation and Park District
71 Trevarno Road
Livermore, California 94550

RE: A Financial Impact Analysis of the de-annexation of the proposed East Dublin Properties project upon the Livermore Area Recreation and Park District, Livermore, Alameda County, California

Dear Mr. Craig:

At your request, we have completed a Financial Impact Study as referenced above. We now present this summary report on our methods, analyses, and conclusions. The East Dublin Properties (EDP) project is located immediately north of Interstate Highway 580 and immediately east of Fallon Road in the unincorporated area between Dublin and Livermore. This project contains 1,109.3 acres and is proposed for development of 2,526 residential units and 1.5 million square feet of commercial and industrial space.

This assignment involved a multi-faceted examination of the proposed development's impact upon the recreational facilities and financial resources of the Livermore Area Recreation and Park District (LARPD), which currently services the entire property. A group, representing the owner's of the EDP parcel and several developers, have requested annexation and pre-zoning approval as the first step toward eventual development of this parcel at the eastern edge of the City of Dublin.

The City of Dublin has issued a Draft Supplemental Environmental Impact Report that identifies this property as contained within the City's Sphere of Influence and partially within

Mr. Kenneth H. Craig, LARPD

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September 26, 2001

the boundary of the Eastern Dublin Specific Plan. The LARPD anticipates that Dublin will request "de-annexation" from the LARPD service area. This analysis attempts to demonstrate the various ways in which the de-annexation would financially impact LARPD. There are several potential impacts. The following sections discuss the methodology utilized to evaluate these impacts, the analyses employed to estimate the magnitude of the impacts, and conclusions that resulted from the study.

It is our opinion that the proposed de-annexation of the EDP parcel from the LARPD service area would have a significant financial impact upon the District. Our analysis indicates that the net financial loss to the LARPD, as of September 14, 2001, and subject to the limiting conditions and assumptions contained herein, is:

SEVENTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS
\$17,500,000

CERTIFICATION:

We, the undersigned, hereby certify that to the best of our knowledge and belief:

The statements of fact contained in this report are true and correct;

The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, unbiased professional analyses, opinions, and conclusions;

We have no present or prospective interest in the EDP properties and we have no personal interest with respect to the parties involved;

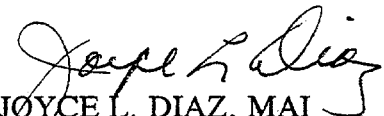
We have no bias with respect to the EDP properties or to the parties involved with this assignment;

Our compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this report.

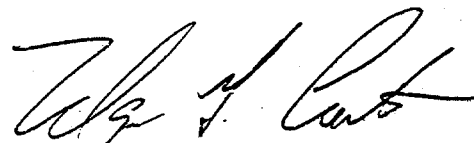
No one provided significant professional assistance to the persons signing this report;

As of the date of this report, Joyce L. Diaz, MAI has completed the requirements of the continuing education program of the Appraisal Institute. In addition, both Joyce L. Diaz, MAI and Wayne G. Couto, MSA have completed the continuing education requirements of the State of California's Office of Real Estate Appraisers.

We are pleased to have had this opportunity to be of service.



JOYCE L. DIAZ, MAI
California Certificate #AG 001887
(Expires 12/9/2002)



WAYNE G. COUTO, MSA
California Certificate #AG027839
(Expires 10/3/2002)

1. INTRODUCTION

This Financial Impact Study represents a six-week effort to define, describe, analyze, and report the fiscal impacts resulting from the proposed de-annexation of the "East Dublin Properties" (EDP) parcel from the Livermore Area Recreation and Parks District's (LARPD) service area. The authors of this report were authorized to proceed with the analysis on August 14, 2001.

2. BACKGROUND

The EDP parcel is located immediately north of Interstate Highway 580 and immediately east of Fallon Road in the unincorporated Alameda County area between Dublin and Livermore. This parcel contains 1,109.3 acres and is currently located within the LARPD service area, as well as the Livermore Valley Joint Unified School District.

This property is situated immediately east of the Dublin Ranch development, which is currently under-construction with 5,479 residential units and 2.5 million square feet of commercial and industrial space. There are two other development properties located just west of the Dublin Ranch development that are expected to add 4,048 residential units and 4.1 million square feet of commercial and industrial space in the near future. The EDP parcel is currently anticipated to add 2,526 residential units and 1.5 million square feet of commercial and industrial space. Taken altogether, the East Dublin developments are anticipated to increase the population base by approximately 31,700 persons, with the EDP parcel contributing approximately 7,142 persons to that total.

In July 2001, the City of Dublin released a Draft Supplemental Environmental Impact Report for the East Dublin Properties (Stage 1 Development Plan and Annexation). This document clearly defines the desire of the property owners and developers to construct a large, master-planned community within this parcel. The document also demonstrates the intention of the City of Dublin to de-annex this property from the LARPD's service area.

3. INTENT

This report summarizes the research and analysis that supports the conclusion, as stated in the executive summary and at the end of this document, that the successful de-annexation of this parcel from the LARPD service area will have a \$17,500,000 negative impact to LARPD.

4. AREA DEVELOPMENT RESEARCH

The first step in this examination was to investigate all of the proposed and approved development plans within the Tri-Valley area. This included the various plans for East Dublin, including Dublin Ranch, the former Alameda County parcels, the proposed developments along Tassajara Road, and the EDP parcel. It also involved the Gale Ranch and Windemere developments located within San Ramon's Dougherty Valley, the former San Francisco Water District's property in Pleasanton, the various parcels identified within the South Livermore Valley Specific Plan, and the proposed North Livermore Specific Plan.

Each development plan was scrutinized to evaluate the approximate time period before construction could begin, the proposed community's physical configuration, and the development's composition with particular attention paid to the number of single-family and multi-family units, commercial square footage, public facilities, and acres of open space and improved parkland. Numerous interviews were conducted with city officials, developers' representatives, and other knowledgeable parties. Finally, an estimate of the residential population that would be generated from each of these proposed developments was calculated. This was based on an "established base population" of 3.2 persons per single-family unit and 2.0 persons per multi-family unit as utilized by the various planning documents examined. This estimated population base was then compared to the number of improved parkland acres anticipated within each development project to generate a "parkland-to-population ratio." These Development Summary sheets are contained within the Addenda, Pages 1 - 7.

The final step in this portion of the research was to create a matrix of the potential Tri-Valley Development, utilizing all of the information summarized on the Development Summary sheets, but projecting the likely development schedule, approximate absorption rate, and the resulting annual population generation impacting the Tri-Valley. This matrix is contained in the Addenda, Page 8.

5. FINANCIAL IMPACT RESEARCH

This process involved a review of several financial documents associated with the LARPD and City of Livermore operations. Historical and projected budgets were analyzed. Various data concerning the LARPD Special Assessment fee and In-Lieu Park fees that are currently charged to developers was also examined. Interviews were conducted with LARPD and City officials to investigate budgeting issues, facility utilization, construction schedule for capital improvements, and demographic considerations. Research was then conducted to determine current property values for

vacant and improved agricultural properties consistent with the area of the EDP parcel.

The final step in this portion of the research was to identify the current Special Assessment Fees charged to the properties within the EDP parcel and calculate the estimated Special Assessment Fees in future years based on a compounded two percent inflation factor. A schedule showing the Financial Impact of the LARPD Special Assessment within the EDP Parcel as Agricultural Land was created. This schedule demonstrates the loss of Special Assessment revenues occurring from this property as the proposed development progresses and eliminates this revenue stream completely by 2012. The schedule is contained in the Addenda, Page 9.

6. TAX REVENUE RESEARCH

This research involved investigating the current real property values utilized by the Alameda County Assessor's Office for numerous property types that are consistent with the proposed EDP development. The next step was to select a reasonable long-term inflation factor of 5 percent. A fixed factor was utilized given the inaccuracy of predicting point-specific, long-range inflation rates. A review of recent budgetary documents revealed that Alameda County passes approximately 6 percent of the current real property taxes on to LARPD. This amount is prior to any diversion into the State of California's Education Revenue Augmentation Fund.

Following all of the tax revenue research, the current real property taxes for the 13 properties within the EDP parcel were inflated at the projected rate until 2007, the date when the EDP parcel is anticipated to be master-planned, approved and annexed into the City of Dublin. The estimated real property taxes were then reduced to the 6 percent typically received by LARPD and projected into the future. It is estimated that the current agricultural/unimproved tax base will remain until these parcels begin developing and convert to improved residential or commercial properties. All land parcels are anticipated to convert by 2012. The property tax schedule is contained in the Addenda, Page 10.

7. IN-LIEU PARK REVENUE RESEARCH

The first step in this process was to consider the effect of the Eastern Dublin Specific Plan (EDSP) upon the EDP parcel. The bulk of the EDP parcel's proposed development lies within the southeastern most corner of the EDSP. The next step was to examine the impact on the development's timing and potential revenue collections due to four EDP properties being covered by Williamson Act contracts. This information was considered and combined with the current development patterns

occurring at the east, scheduled development plans for the potential supply competition, and projected demand for residential and commercial properties within the Tri-Valley. The overall development concept anticipates that the village core (located at the northeast corner of Fallon Road and Central Parkway) will develop first with the simultaneous absorption of the commercial parcel immediately east of the Fallon Road Interchange on I-580. The development will then slowly radiate outward from these finished areas to first involve that portion currently contained within the EDSP and then finally those areas identified as Phase 2 or currently under Williamson Act restrictions.

This information generated the most likely development schedule for the EDP parcel, which begins in 2008 and is completed by 2020. This program anticipates the development of 150 single-family homes per year, the staggered development of the 1.5 million square feet of commercial space between 2008 and 2016, and the start of the multi-family development in 2010 and its completion in 2016. This schedule then allowed for the creation of the Financial Impact of the loss of In-Lieu Park Fees from the EDP Parcel. The calculations anticipate the loss of revenue based on current in-lieu park fees charged by the City of Dublin and inflated at a rate of two percent annually. The schedule of these calculations is contained in the Addenda, Page 11.

8. IMPROVED PROPERTY TAX REVENUE

The aforementioned development schedule anticipated for the EDP Parcel was then utilized to determine the timing and collection of real property taxes. The property tax matrix incorporates this schedule and utilizes the current property values for various property types within East Dublin, as reported by the Alameda County's Assessor's Office, to project future real property values, tax collections, and the financial impact upon LARPD. These calculations assume that real property values will increase at a flat 5 percent annually until 2020, the property taxes will increase by 2 percent annually (or the maximum allowed under Proposition 13), and LARPD will continue to receive 6 percent of the real property taxes.

The matrix defining the Property Tax Impact of the Development Land demonstrates that revenue from the improved property begins in 2008. Revenues are generated from the new residential units, the new commercial space, and the vacant land that has changed status from agricultural to transitional land. The land uses that are typically exempt (schools, parks, open space, etc.) have not been taxed under this impact schedule. The matrix of these calculations is contained in the Addenda, Pages 12A - 12F.

9. SPECIAL ASSESSMENT REVENUE

Utilizing the aforementioned development schedule permits the necessary calculations for the timing and collection of Special Assessment Fees currently collected by LARPD for maintenance of recreation facilities. This fee is currently \$24.60 per "Equivalent Dwelling Unit" and limited to a 2 percent annual increase. This fee was then applied against the cumulative residential units anticipated to be developed within the EDP Parcel. The schedule of these calculations is contained in the Addenda, Page 13.

10. RECREATIONAL FACILITY INVENTORY

The first step in this portion of the study was to conduct an inventory of all the current and future parkland and facilities within the Tri-Valley area. While this process examined all parkland, both improved and unimproved, the resulting matrix defines only those facilities that contain more than 10 acres and are designated as "parkland," not open space. An inspection of these facilities was performed to gauge quantity, quality, and capacity. Interviews were conducted with various city and recreation officials to determine participation rates and facility load factors. The resulting inventory sheet correlates this information in a summarized format and is contained in the Addenda, Page 14. It should be noted that participation rates are fluid since most neighborhood and community facilities enjoy unrestricted access.

The next step was to evaluate current and projected budgets and capital improvement programs for the Tri-Valley communities to determine the projected level of spending and development on park and recreation facilities. Then the current population levels were researched based on the 2000 Census and future growth rates were projected based upon ABAG Projections 2020. These population numbers were then compared to the total improved parkland acreage contained within each Tri-Valley community. This calculation permitted the comparison of the "parkland-to-population ratio" of each community and revealed that Dublin and San Ramon have a much lower parkland ratio than the communities of Pleasanton and Livermore. It is important to note that this difference would be even greater if regional parkland acreage were included. The resulting summary sheet is contained in the Addenda, Page 15.

A comparison of these parkland ratios, information culled from the many interviews, and anecdotal survey data was then utilized to estimate the potential long-term migration trend of parkland utilizers within the Tri-Valley area. This research concluded that while the migration of City of Dublin residents to LARPD facilities is currently quite modest (1 percent in 2001), it is expected to grow to approximately 20 percent by 2020 (13,320 persons) as the City's population rapidly shifts eastward and

LARPD facilities become "closer" and increasingly more attractive to the residents within the EDP parcel. The financial impact of this migration was then calculated based upon the current and projected population of Dublin, the projected growth of the migrating Dublin residents, and the current per capita cost of LARPD's service. The schedule of these calculations is contained in the Addenda, Page 16.

11. CONCLUSION

The final step in this Financial Impact Study is to compile each of the various revenue losses into a single schedule so that the annual and cumulative effect can be summarized. These revenue losses include:

- Loss of Special Assessment Fees - Current Agricultural Status
- Loss of Property Taxes - Current Agricultural Status
- Loss of In-Lieu Park Fees - New EDP Development
- Loss of Property Taxes - New EDP Development
- Loss of Special Assessment Fees -New EDP Development
- Cost of "Out-of-Service Area" Migration

The annual total of these revenue losses was then discounted to adjust the "future" dollars to current value in order to recognize the effect of time and risk on potential revenue streams. An evaluation of investment opportunities provided a range of discount or yield rates that reflects the relative amount of uncertainty or risk associated with each opportunity. Given the high degree of risk involved in the development of the EDP parcel and the concomitant (sp) loss in revenue to LARPD, it is appropriate to select the upper end of the range, or 15 percent. The summary of these calculations is contained in the Addenda, Page 17.

The result of this discounting indicates that the net present value of the projected financial impact of de-annexing the EDP parcel from the LARPD service area is \$17,482,461, rounded to **\$17,500,000**.

DOCUMENTS REVIEWED

- Parks, Recreation and Open Space - A Twenty-First Century Agenda, Alexander Garvin, American Planning Association, December 2000
- Park Planning Guidelines, George E. Fogg, National Recreation & Park Association, 3rd Edition, 2000
- 1996 Community Survey, LARPD
- 1998-2000 Annual Reports, LARPD
- 2001-2002 Preliminary Budget, LARPD
- Summer & Fall 2001 Classes & Program Guide, LARPD
- Website, LARPD
- 2000 State of the City Report, City of Livermore
- FY 2000-2001 Financial Plan Update, City of Livermore
- 2002 Housing Implementation Plan, City of Livermore
- General Plan, City of Livermore
- North Livermore Specific Plan & EIR, April 2000, City of Livermore
- South Livermore Valley Specific Plan Update, City of Livermore
- Website, City of Livermore
- FY 2001-2002 Preliminary Budget & Financial Plan, City of Dublin
- FY 2001-2002 Update, Proposed 5-Year Capital Improvement Program 2000-2005, City of Dublin
- Fall 2001 Activity Guide, City of Dublin
- General Plan, City of Dublin
- Eastern Dublin Specific Plan, June 1998, City of Dublin
- Eastern Dublin General Plan Amendment, January 1994, City of Dublin
- East Dublin Properties Development Plan & Annexation, Vols. 1 & 2, City of Dublin
- Website, City of Dublin
- Resolution 2000-81, Establishing Fees & Charges, City of San Ramon
- January-March & April-June 2001, Current Development Status Sheets, City of San Ramon
- Fall 2001 Activities Guide, City of San Ramon
- FY 2000-2001 Program of Services (Budget), City of San Ramon
- San Ramon 2020, Draft General Plan, City of San Ramon
- Dougherty Valley Specific Plan, Contra Costa County
- Website, City of San Ramon
- 2000 Growth Management Report, City of Pleasanton
- Program Status Reports, Summer 2000 - Summer 2001, City of Pleasanton
- Fall 2001 Activities Guide, City of Pleasanton
- Website, City of Pleasanton
- Master Plan 1997, East Bay Regional Park District
- Quantifying Our Quality Of Life, East Bay Regional Park District

- Adopted Budget 2001, East Bay Regional Park District
- Land Use Plan (Draft), Brushy Peak Preserve, East Bay Regional Park District
- Website, East Bay Regional Park District
- 2000 Business Resource Guide, The East Bay, EDAB
- Projections 2020, Association of Bay Area Governments
- Website, Alameda County
- Website, Contra Costa County
- State Bill 66477, Quimby Act, California Codes
- The Planner's Guide to Specific Plans, State of California
- Website, State of California

PERSONS CONTACTED OR INTERVIEWED

- Doug Bell, General Manager, LARPD
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- Char Young, Park & Recreation Dept., City of Dublin
- Nancy Wenninger, Land Acquisition Manager, East Bay Regional Park District
- Nancy Shliegh, Recreation Supervisor, East Bay Regional Park District
- Linda Almazna, Assistant Recreation Supervisor, City of Pleasanton
- Eileen Moorley, Assistant Director of Recreation, City of Pleasanton
- Laura Gilpin, Pleasanton Chamber of Commerce
- Mike Porto, Consultant to City of Dublin
- Connie Golddad, Land Planner (Dublin Ranch)
- David Voss, BSA Architects
- Lou Gigliati, Recreation Supervisor, East Bay Regional Park District
- Jack Rauwolf, California Association of Park & Recreation Insurers
- Jeff Eorio, General Manager, City of San Ramon Park & Recreation
- Ester Lucas, Assistant General Manager, City of San Ramon Park & Recreation
- Jane Adams, Executive Director, California Park & Recreation Society
- Leslie Fritz, Communication Director, California Park & Recreation Society
- Donna Bero, President, Friends of Recreation & Parks
- Aruna Bhat, Planner, Contra Costa County
- Jim Wolf, General Manager, City of Pleasanton Park & Recreation
- Monica Potter, Finance Director, City of Livermore

DUBLIN RANCH DEVELOPMENT

		Residential Units					Commercial Space				Public Use	Clubh. & Rec. Center	Schools			Neighborhood Square	Parks		Open Space & G. Course	
		High Density	Med-High Density	Medium Density	Low Density	Rural Resid.	Neighborhood	General	Campus Office	Indust. Park			Elem.	Middle	High		Neighborhood	Community		
Phase 1 (Nearly Complete)	Units Acres Sq. Ft.			277 35.7	570 109.8												5.0		59.5	
Area A (UC)	Units Acres Sq. Ft.				573 135.0							2.0	4.3						221.7	
Area B (PD Approved)	Units Acres Sq. Ft.	744 23.6	172 8.6	958 91.8											2.0			52.0	32.4	
Area C (PD Approved)	Units Acres Sq. Ft.						41.2 448,700	44.6 680,000												
Area D (PD Approved)	Units Acres Sq. Ft.					1 99.2												32.8		
Area E (PD Approved)	Units Acres Sq. Ft.												4.4	20.0						
Area F (PD Approved)	Units Acres Sq. Ft.			689 67	91 22.7							3.9	10	30.8		2	5.6		3	
Area G (Being Graded)	Units Acres Sq. Ft.	878 25.0	528 28.0				22.0 230,000									3.0	7.0		1.0	
Area H (PD Approved)	Units Acres Sq. Ft.						28.9 880,500	43.9 292,900												
Land Use Totals:	Units Acres Sq. Ft.	1,620 48.6	700 34.6	1,924 194.5	1,234 267.5	1 99.2	22.0 230,022	68.1 1,309,288	88.5 972,989	0.0 0		6.9	2.0	18.7	50.8	0.0	7.0	17.6	84.8	317.6

Development Totals:	MF Units (1): 4,244	SF Units (1): 1,235	Comm. Sq. Ft. (2): 2,512,279	Public Uses (3): 78.2	Improved Parks (4): 109.4	Open Space & G.C.: 317.6	Total Acs: 1328.2
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- Notes**
- 1 MF Units includes High, Med-High & Medium densities; SF Units includes Low & Rural Residential densities.
 - 2 Commercial Sq. Ft. includes Neighborhood, General, Campus Office & Industrial Park occupancies.
 - 3 Public Uses include Clubhouses, Recreation Centers & Schools.
 - 4 Improved Parks include Neighborhood Squares, Neighborhood & Community Parks.
 - 5 Based on the Eastern Dublin Specific Plan, Table 4.2. & City of Dublin General Plan, Table 2.1.
 - 6 Utilizes the Improved Parks acres divided by the projected population, after it has been divided by 1,000 persons.

SF Units	1,235	x 3.2	Person/unit	=	3,952
MF Units	4,244	x 2.0	Person/unit	=	8,488
Total:	5,479	Units			12,440 Persons

All Improved Parks	109.4	Acres	=	8.8 Acres per 1,000 people
All Open Space	317.6	Acres		

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ALAMEDA COUNTY PARCEL

	Units Acres	Residential Units				Rural Resid.	Neigh- borhood	Commercial Space			Public Use	Clubs, & Rec. Center	Schools			Neigh- borhood Square	Parks		Open Space & G. Course
		High Density	Med-High Density	Medium Density	Low Density			General	Campus Office	Indust. Park			Elem.	Middle	High		Neigh- borhood	Comm- unity	
Site 1 Tassajara Meadows (76% complete)	Units Acres			148 14.8														58.3	
Site 2 Emerald Glen Park (Ph. 1 complete)	Acres																		
Site 3 Village Center (Under construction)	Units Acres Sq. Ft.		390 8.2					10.5 133,100											
Site 4 Toll Emerald Glen (Nearly complete)	Units Acres			339 33.9															
Site 5A	Acres							17.0											
Site 5B GM (Complete)	Sq. Ft.							185,130											
Site 6B	Acres							35.1											
Site 6C Kohl (50% complete)	Sq. Ft.							552,449											
Site 6D	Acres							26.9											
Site 6E AutoNation (75% complete)	Sq. Ft.							264,368											
Site 7	Acres							58.8											
Site 7A Hacienda Crossing (90% complete)	Sq. Ft.							530,536											
Site 8	Units			277															
Site 8A California Creekside (90% complete)	Acres			35.7															
Site 9	Units		324																
Site 9A Villas (Complete)	Acres		18.2																
Site 10	Acres												11.0						
Site 10A School (Complete)	Acres																		
Site 11A	Units		325																
Site 11B JPI (Complete)	Acres		18.5																
Site 11C	Units				328														
Site 11D Summer Glen (Complete)	Acres				69.2														
Site 12	Acres										88.5								
Site 12A Public/Semi-Public (80% Complete)	Sq. Ft.										983,765								
Site 13	Acres									29.7									
Site 13A Creekside Bus. Park (Complete)	Sq. Ft.									478,881									
Site 14	Acres									35.3									
Site 14A Emerald Pointe (75% complete)	Sq. Ft.									568,937									
Site 15A	Units	821																	
Site 15B Untitled (Vacant)	Acres	15.8																	
Site 16B	Acres							19.0											
Site 17B SyBase (70% complete)	Sq. Ft.							420,000											
Site 18	Acres							63.0											
Site 18A Commarc One/CISCO (Plan review)	Sq. Ft.							1,542,378											
Land Use Totals:	Units Acres Sq. Ft.	821 15.6	1,039 42.9	764 84.4	328 69.2	0 0.0	0.0 0	148.3 1,663,581	72.0 1,962,378	85.0 1,047,618	88.5 983,765	0.0 0	11.0 0	0.0 0	0.0 0	0.0 0	0.0 0	58.3 58.3	0.0 0.0

Development Totals:	MF Units (1):	2,624	SF Units (1):	328	Comm. Sq. Ft. (2):	4,675,577	Public Uses (3):	69.5	Improved Parks (4):	58.3	Open Space & G.C.:	0.0	Total Acrs:	653.2
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Projected Population (5)			
SF Units	328	x 3.2	Person/unit = 1,050
MF Units	2,624	x 2.0	Person/unit = 5,248
Total:	2,952	Units	6,298 Persons

Projected Parks & Ratios (6)			
All Improved Parks	58.3	Acres	= 8.9 Acres per 1,000 people
All Open Space	0.0	Acres	

Notes
 1 MF Units includes High, Med-High & Medium densities; SF Units includes Low & Rural Residential densities.
 2 Commercial Sq. Ft. includes Neighborhood, General, Campus Office & Industrial Park occupancies.
 3 Public Uses include Clubhouses, Recreation Centers & Schools.
 4 Improved Parks include Neighborhood Squares, Neighborhood & Community Parks.
 5 Based on the Eastern Dublin Specific Plan, Table 4.2, & City of Dublin General Plan, Table 2.1.
 6 Utilizes the Improved Parks acres divided by the projected population, after it has been divided by 1,000 persons.

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1ST DUBLIN PROPERTIES PROJECT (East of Fallon Road)

	Residential Units					Commercial Space				Public Use	Clubhs. & Rec. Center	Schools			Neighborhood Squares	Parks		Open Space & G. Course
	High Density	Med-High Density	Medium Density	Low Density	Rural Resid.	Neighborhood	General	Campus Office	Indust. Park			Elem.	Middle	High		Neighborhood	Community	
side the E. Dublin Specific Plan Boundary		696 34.8	94 9.4	812 153.1	2 82.2	10.3 134,600	51.4 559,746		68.9 840,360			17.3 14.8		2.7	5.0	14.1	55.7	
side the E. Dublin Specific Plan Boundary				1,122 280.4	2 269.1										19.0		21.2	
Use Totals:	0 0.0	696 34.8	94 9.4	1,734 433.5	4 351.3	10.3 134,600	51.4 559,746	0.0 0	68.9 840,360	0.0	0.0	17.3 14.8	0.0	2.7	24.0	14.1	76.9	
Development Totals:	MF Units (1): 790	SF Units (1): 1,738	Comm. Sq. Ft. (2): 1,534,706	Public Uses (3): 31.9	Improved Parks (4): 40.8	Open Space & G.C.: 76.9	Total Acs: 1109.2											

DEFINITIONS:
 MF Units includes High, Med-High & Medium densities; SF Units includes Low & Rural Residential densities.
 Commercial Sq. Ft. includes Neighborhood, General, Campus Office & Industrial Park occupancies.
 Public Uses include Clubhouses, Recreation Centers & Schools.
 Improved Parks include Neighborhood Squares, Neighborhood & Community Parks.
 based on the Eastern Dublin Specific Plan, Table 4.2. & City of Dublin General Plan, Table 2.1.
 Utilizes the Improved Parks acres divided by the projected population, after it has been divided by 1,000 persons.

Projected Population (5)			
SF Units	1,738	x 3.2	Person/unit = 5,562
MF Units	790	x 2.0	Person/unit = 1,580
Total:	2,528	Units	7,142 Persons

Projected Parkland & Ratios (6)			
All Improved Parks	40.8	Acres	= 5.7 Acres per 1,000 people
All Open Space	76.9	Acres	

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EAST DUBLIN DEVELOPMENT SUMMARY

<u>Development Area</u>	<u>Size (Acres)</u>	<u>S. Family Units</u>	<u>M. Family Units</u>	<u>Comm. Sq. Ft.</u>	<u>Public Use (Acres)</u>	<u>Imp. Parks (Acres)</u>	<u>Open Space (Acres)</u>
Dublin Ranch:	1,328.2	1,235	4,244	2,512,279	78.2	109.4	317.8
Alameda County Parcel:	653.2	328	2,624	4,675,577	99.5	58.3	0.0
E. Dublin Spec. Plan:	842.5	283	2,445	1,239,081	55.4	26.3	45.6
E. Dublin Properties:	1,109.2	1,738	790	1,534,706	31.9	40.8	76.9
Totals:	3,933.1	3,594	10,103	9,961,623	265.0	232.8	440.1

<u>Projected Population (5)</u>					
SF Units	3,594	x 3.2	Person/unit	=	11,501
MF Units	10,103	x 2.0	Person/unit	=	20,206
Total:	13,697	Units			31,707 Persons

<u>Projected Parkland & Ratios (6)</u>				
All Improved Parks	232.8	Acres	=	7.3 Acres per 1,000 people
All Open Space	440.1	Acres		

SAN RAMON DEVELOPMENT (Dougherty Valley)

		Residential Units				Commercial Space				Public Use	Clubs. & Rec. Center	Schools			Neighborhood Squares	Parks		Open Space & G. Course	
		High Density	Med-High Density	Medium Density	Low Density	Rural Resid.	Neighborhood	General	Campus Office			Indus. Park	Elem.	Middle		High	Neighborhood		Community
Gale Ranch																			
Phase 1 (66% Complete)	Units Acres Sq. Ft.	232 8.0		131 15.9	853 169.9					2.6		8.0				7.4		332.9	
Phase 2 (PD Approved)	Units Acres Sq. Ft.		232 12.9	239 30.0	1,354 197.3					0.4		10.0	17.0	3.0		57.0		450.0	
Phase 3	Units Acres Sq. Ft.			2,514 403.2	75 265.8		200 19.0											601.1	
Windemere Ranch																			
Phase 1 (U/C)	Units Acres Sq. Ft.	590 19.8	422 21.9	272 18.3	940 145.8	1.3	16.7			1.0		12.0				21.6		52.0	
Phase 2	Units Acres Sq. Ft.				601 207.0								13.0	50.0	3.0	18.0	15.0	350.0	
Phase 3	Units Acres Sq. Ft.				473 163.0							10.0				8.0		350.0	
Phase 4	Units Acres Sq. Ft.				506 174.2											9.0		384.0	
Phase 6	Units Acres Sq. Ft.		273 38.3	1,093 202.7															
Land Use Totals:	Units Acres Sq. Ft.	822 27.8	927 73.1	4,249 670.1	4,802 1,323.0	12.3	35.7	200		4.0		40.0	30.0	50.0	6.0	62.0	72.0	2,520.0	
Development Totals:		MF Units (1): 5,998	SF Units (1): 4,802	Comm. Acres (2): 48.0	Public Uses (3): 124.0	Improved Parks (4): 140.0	Open Space & G.C.: 2,520.0	Total Acs: 4926.0											

Notes:

- 1 MF Units includes High, Med-High & Medium densities; SF Units includes Low & Rural Residential densities.
- 2 Commercial Acres includes Neighborhood, General, Campus Office & Industrial Park occupancies.
- 3 Public Uses include Clubhouses, Recreation Centers & Schools.
- 4 Improved Parks include Neighborhood Squares, Neighborhood & Community Parks.
- 5 Based on the Dougherty Valley Specific Plan
- 6 Utilizes the Improved Parks acres divided by the projected population, after it has been divided by 1,000 persons.

Projected Population (5)				
SF Units	4,802	x 3.2	Person/unit	= 15,366
MF Units	5,998	x 2.0	Person/unit	= 11,996
Total:	10,800	Units		27,362 Persons

Projected Parkland & Ratios (6)				
All Improved Parks	140.0	Acres	=	6.1 Acres per 1,000 people
All Open Space	2,520.0	Acres		

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PLEASANTON DEVELOPMENT

Bernal Property

Units
Acres
Sq. Ft.

Residential Units					Commercial Space				Public Use	Clubhs. & Rec. Center	Schools			Neighborhood Square	Parks		Open Space & G. Course
High Density	Med-High Density	Medium Density	Low Density	Rural Resid.	Neighborhood	General	Campus Office	Indust. Park			Elem.	Middle	High		Neighborhood	Community	
		100 4.9	481 195.4		1.0 5,000		39.5 745,000		25.0	10.0	10.0		2.0	15.0	40.0	193.2	
MF Units (1): 100					SF Units (1): 481				Comm. Sq. Ft (2): 750,000		Public Uses (3): 45.0		Improved Parks (4): 57.0		Open Space & G.C.: 193.2		Total Acs: 535.0

Development Totals:

Notes:

MF Units includes High, Med-High & Medium densities; SF Units includes Low & Rural Residential densities.
 Commercial Sq. Ft. includes Neighborhood, General, Campus Office & Industrial Park occupancies.
 Public Uses include Clubhouses, Recreation Centers & Schools.
 Improved Parks include Neighborhood Squares, Neighborhood & Community Parks.
 Based on the SFWD/Bernal Property Specific Plan
 Utilizes the Improved Parks acres divided by the projected population, after it has been divided by 1,000 persons.

Projected Population (5)				
SF Units	481	x 3.2	Person/unit	= 1,539
MF Units	100	x 2.0	Person/unit	= 200
Total:	581	Units		1,739 Persons

Projected Parkland & Ratios (6)			
All Improved Parks	57.0	Acres	= 32.8 Acres per 1,000 people
All Open Space	193.2	Acres	

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TRI-VALLEY POTENTIAL DEVELOPMENT SCHEDULE

	2002	2003	2004	2005	2010	2015	2020
<u>Dublin (1)</u>							
Dublin Ranch - SF Units:	200	430	91				
Dublin Ranch - MF Units:	28	351	702	1040	1874		
Alameda County - SF Units:							
Alameda County MF Units:	489	411	410				
E. Dublin - S. Plan - SF Units:				223	70		
E. Dublin - S. Plan - MF Units:	346	346	346	345	266	796	
E. Dublin Props. - SF Units:					450	750	536
E. Dublin Props. - MF Units:					102	554	134
Total SF Units:	200	430	91	223	520	750	536
Total MF Units:	863	1,108	1,458	1,385	2,242	1,350	134
<u>San Ramon (2)</u>							
Gale Ranch - SF Units:	299		339	339	676	75	
Gale Ranch - MF Units:	127		118	118	235	1257	
Windemere - SF Units:	235	470	235	150	924	506	
Windemere - MF Units:	321	642	321			342	1024
Total SF Units:	534	470	574	489	1,600	581	0
Total MF Units:	448	642	439	118	235	1,599	1,024
<u>Pleasanton (3)</u>							
Bernal Property - SF Units:	175	175	131				
Bernal Property - MF Units:	100						
Total SF Units:	175	175	131				
Total MF Units:	100						
<u>Grand Totals</u>							
SF Units:	909	1,075	796	712	2,120	1,331	536
MF Units:	1,411	1,750	1,897	1,503	2,477	2,949	1,158
Proj. Population in SF units (4):	2,909	3,440	2,547	2,278	6,784	4,259	1,715
Proj. Population in MF units (4):	2,822	3,500	3,794	3,006	4,954	5,898	2,316
Total Projected Population:	5,731	6,940	6,341	5,284	11,738	10,157	4,031

- 1 Based on the Eastern Dublin Specific Plan; East Dublin Properties Development Plan; Misc. Planning Documents; & site inspections.
- 2 Based on the San Ramon 2020 General Plan; Dougherty Valley Specific Plan; Misc. Planning Documents; & site inspections.
- 3 Based on the Pleasanton General Plan; SFWD Bernal Property Specific Plan; Misc. Planning Documents; & site inspections.
- 4 Based on the Eastern Dublin Specific Plan, Table 4.2; City of Dublin General Plan, Table 2.1; San Ramon 2020 General Plan

FINANCIAL IMPACT OF THE LARPD SPECIAL ASSESSMENT WITHIN THE EAST DUBLIN PROPERTIES PARCEL AS AGRICULTURAL LAND

Ownership	Assessor's Parcel No.	Size (Acres)	Williamson Act Expiration	Inside E. Dublin Sp. Plan	Tax Use Code	Current Property Tax	(1) Special Assessment for LARPD	Est. Date of Zoning Change	Special Fee 2003	Special Fee 2004	Special Fee 2005	Special Fee 2006	Special Fee 2007	Special Fee (2) 2008	Special Fee 2009	Special Fee 2010	Special Fee 2011	Special Fee 2012
Chen	085-0008-004	135.62	N/A	Yes	5800	\$113,023.78	\$24.60	01-Jan-08	\$25.09	\$25.59	\$26.11	\$26.63	\$27.16	N/A	N/A	N/A	N/A	N/A
EBJ Partners, LP	085-0008-008-02	0.81	N/A	Yes	5600	\$1,288.88	\$24.60	01-Jan-09	\$25.09	\$25.59	\$26.11	\$26.63	\$27.16	\$27.70	N/A	N/A	N/A	N/A
Anderson 2nd Family, LP	005-0001-006-03	48.90	N/A	Yes	5600	\$12,859.20	\$24.60	01-Jan-10	\$25.09	\$25.59	\$26.11	\$26.63	\$27.16	\$27.70	\$28.26	N/A	N/A	N/A
Pleasanton Ranch Inv.	085-0008-006-03	0.19	N/A	Yes	3000	\$1.78	\$14.02	01-Jan-09	\$14.30	\$14.59	\$14.88	\$15.18	\$15.48	\$15.78	N/A	N/A	N/A	N/A
Righetti Partners	005-0001-005-02	48.76	N/A	Yes	5500	\$3,394.00	\$0.00	01-Jan-11	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	N/A
Campbell	005-0001-004-03	8.81	N/A	Yes	5500	\$4,499.74	\$0.00	01-Jan-12	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	N/A
Branough	005-0001-004-04	39.80	N/A	Yes	5500	\$17,159.20	\$0.00	01-Jan-12	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	N/A	N/A	N/A	N/A	N/A
First American Title	085-0008-010	173.32	N/A	Yes	5500	\$5,388.98	\$0.00	01-Jan-08	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	N/A	N/A	N/A	N/A
First American Title	085-0008-009	15.80	N/A	Yes	5500	\$408.70	\$0.00	01-Jan-09	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	N/A
Croak	005-0002-001-01	38.77	01-Jan-10	No	5850	\$130.78	\$0.00	01-Jan-12	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	N/A
Croak	005-0002-002	124.23	01-Jan-10	No	5850	\$285.78	\$7.38	01-Jan-12	\$7.53	\$7.68	\$7.83	\$7.99	\$8.15	\$8.31	\$8.48	\$8.65	\$8.82	N/A
Fallon Enterprises	085-0007-002-14	313.75	01-Jan-08	No	5850	\$3,960.80	\$24.60	01-Jan-10	\$25.09	\$25.59	\$26.11	\$26.63	\$27.16	\$27.70	\$28.26	N/A	N/A	N/A
Braddock & Logan Group	005-0002-003	160.80	01-Jan-09	No	5800	\$42,105.80	\$24.60	01-Jan-12	\$25.09	\$25.59	\$26.11	\$26.63	\$27.16	\$27.70	\$28.26	\$28.82	\$29.40	N/A
Totals		1,109.88				\$204,315.10	\$144.40		\$147.29	\$150.23	\$153.24	\$156.30	\$159.43	\$134.91	\$93.25	\$37.47	\$38.22	\$0.00

1 Assumes the Special Assessment that LARPD receives will continue until 2020 & increase from the current \$24.60 per dwelling unit at the estimated 2% inflation rate.
 2 Assumes the Special Assessment that LARPD receives for this agricultural land will end once the land becomes developed with the PUD.

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FINANCIAL IMPACT OF AGRICULTURAL LAND PROPERTY TAXES WITHIN THE EAST DUBLIN PROPERTIES PARCEL

Ownership	Assessor's Parcel No.	Size (Acres)	Williamson Act Expiration	Tax Use Code	Estimated Date of Zoning Change	Current Property Tax	Property Tax in 2007 (2)	LARPD 2007 Taxes (3)	LARPD 2008 Taxes (4)	LARPD 2009 Taxes	LARPD 2010 Taxes	LARPD 2011 Taxes	LARPD 2012 Taxes
Chen	985-0006-004	135.62	N/A	5600	01-Jan-09	\$113,024	\$124,787	\$9,359	N/A	N/A	N/A	N/A	N/A
EBJ Ptnrs.	985-0006-008-02	0.81	N/A	5600	01-Jan-09	\$1,299	\$1,434	\$108	\$110	N/A	N/A	N/A	N/A
Anderson	905-0001-006-03	48.90	N/A	5600	01-Jan-09	\$12,659	\$13,977	\$1,048	\$1,069	\$1,091	N/A	N/A	N/A
P-ton Ranch	985-0006-006-03	0.19	N/A	3000	01-Jan-09	\$2	\$2	\$0	\$0	N/A	N/A	N/A	N/A
Righetti Ptnrs	905-0001-005-02	48.78	N/A	5500	01-Jan-09	\$3,384	\$3,747	\$281	\$287	\$292	\$307	N/A	N/A
Campbell	905-0001-004-03	8.81	N/A	5500	01-Jan-09	\$4,500	\$4,968	\$373	\$380	\$388	\$407	\$427	N/A
Branaugh	905-0001-004-04	39.80	N/A	5500	01-Jan-09	\$17,159	\$18,945	\$1,421	\$1,449	\$1,478	\$1,552	\$1,630	N/A
1st Amer.	985-0006-010	173.32	N/A	5500	01-Jan-09	\$5,987	\$5,948	\$448	N/A	N/A	N/A	N/A	N/A
1st Amer.	885-0006-009	15.80	N/A	5500	01-Jan-09	\$409	\$451	\$34	\$35	N/A	N/A	N/A	N/A
Croak (5)	905-0002-001-01	38.77	01-Jan-10	5850	01-Jan-10	\$131	\$144	\$11	\$11	\$11	\$2,552	\$2,680	N/A
Croak (5)	905-0002-002	124.23	01-Jan-10	5950	01-Jan-10	\$288	\$316	\$24	\$24	\$25	\$8,183	\$8,571	N/A
Fallon Entprs (5)	985-0007-002-14	313.75	01-Jan-06	5850	01-Jan-09	\$3,961	\$280,943	\$18,571	\$19,962	\$20,361	N/A	N/A	N/A
Brad & Logan (5)	905-0002-003	180.90	01-Jan-09	5600	01-Jan-10	\$42,106	\$46,488	\$3,487	\$3,556	\$10,805	\$11,135	\$11,692	N/A
Totals:		1,109.88				\$204,316	\$482,150	\$36,161	\$28,883	\$34,251	\$24,117	\$25,000	\$0

1 This analysis assumes that EDP Parcel remains in Alameda County until 2007, then annexed into Dublin instead of Livermore.
 2 Utilizes the existing property tax & assumes, except where noted, an annual, compounded 2% inflation rate based on Prop. 13 limits.
 3 Assumes that LARPD will continue to receive 6% of the annual property taxes for annexed EDP properties. These numbers reflect taxes prior to diversion into the Education Revenue Augmentation Fund (EDAF).
 4 Assumes that the agricultural property taxes will continue until the EDP parcel is annexed & development begins.
 5 Assumes that these properties will experience a significant rise in the land value, and therefore property tax, when the Williamson Act exemption expires.

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FINANCIAL IMPACT OF THE IN-LIEU PARK FEES ASSOCIATED WITH THE EAST DUBLIN PROPERTIES PARCEL

Ownership	Assessor's Parcel No.	Size (Acres)	Permit Categories	2008 Units	2009 Units	2010 Units	2011 Units	2012 Units	2013 Units	2014 Units	2015 Units	2016 Units	2017 Units	2018 Units	2019 Units	
Chen	985-0006-004	135.62	MF Units Comm. Space Ind. Space	448,490	225,551							134 119,790				
EBJ Ptns.	985-0006-006-02	0.81	Ind. Space		9,822											
Anderson	905-0001-006-03	48.90	SF Units Ind. Space			234,040				30						
P-ton Ranch	985-0006-006-03	0.19	Ind. Space		2,304											
Righthill Ptnrs	905-0001-005-02	48.78	SF Units Ind. Space				190,385			45						
Campbell	905-0001-004-03	8.81	SF Units Ind. Space					88,523								
Branagh	905-0001-004-04	39.80	SF Units Ind. Space					89,735		45						
1st Amer.	985-0006-009 & 010	189.12	SF Units MF Units Comm. Space	150	150	102	94	140 134,600		280	40					
Croak	905-0002-001-01& 002	163.00	SF Units					100		29	150		150			
Fallon Entprs	985-0007-002-14	313.75	SF Units			150	150	40	75			150				
Brad. & Logan	905-0002-003	160.90	SF Units					10	75					120	116	
Totals:				150	150	150	150	150	150	150	150	150	150	120	116	
			SF Units	150	150	150	150	150	150	150	150	150	150	120	116	1,736
			MF Units	0	0	102	94	140	0	280	40	134	0	0	0	790
			Comm. Space	448,490	0	0	0	134,600	0	0	0	119,790	0	0	0	700,880
			Ind. Space	0	237,677	234,040	190,385	178,258	0	0	0	0	0	0	0	840,360
			In-Lieu Park Fee for SF Units (2):	\$14,641	\$14,934	\$15,233	\$15,537	\$15,848	\$16,165	\$16,488	\$16,818	\$17,155	\$17,498	\$17,848	\$18,205	
			In-Lieu Park Fee for MF Units (3):	\$9,151	\$9,334	\$9,521	\$9,711	\$9,906	\$10,104	\$10,306	\$10,512	\$10,722	\$10,937	\$11,155	\$11,378	
			In-Lieu Park Fee for Comm. Space (4):	\$1,287	\$1,313	\$1,339	\$1,366	\$1,393	\$1,421	\$1,450	\$1,479	\$1,508	\$1,538	\$1,569	\$1,600	
			In-Lieu Park Fee for Indus. Space (5):	\$1,103	\$1,125	\$1,147	\$1,170	\$1,193	\$1,217	\$1,242	\$1,266	\$1,292	\$1,318	\$1,344	\$1,371	
			Total In-Lieu Park Fee Due:	\$2,770,909	\$2,807,392	\$3,524,500	\$3,486,224	\$4,164,271	\$2,424,766	\$5,358,867	\$2,943,201	\$4,190,604	\$2,624,645	\$2,141,710	\$2,111,728	

- 1 Assumes that the development within the EDP parcel will occur as defined on the Dev. Land Tax sheet.
- 2 Utilizes the current Dublin In-Lieu Park fee for SF units (\$13,001 per unit) & assumes an annual, compounded inflation rate of 2%.
- 3 Utilizes the current Dublin In-Lieu Park fee for MF units (\$8,126 per unit) & assumes an annual, compounded inflation rate of 2%.
- 4 Utilizes the current Dublin In-Lieu Park fee for Commercial Space (\$1,143 per 1,000 Sq. Ft.) & assumes an annual, compounded inflation rate of 2%.
- 5 Utilizes the current Dublin In-Lieu Park fee for Industrial Space (\$979 per 1,000 Sq. Ft.) & assumes an annual, compounded inflation rate of 2%.

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EAST DUBLIN PROPERTIES PROPERTY TAX IMPACT OF THE DEVELOPMENT LAND

Ownership	Assessor's Parcel No.	Size (Acres)	Anticipated Development in 2008			Anticipated Development in 2009			Anticipated Development in 2010		
			Category	Units	Tax (3)	Category	Units	Tax	Category	Units	Tax
Chen	985-0006-004	135.6	Comm. Space New Acres Vacant Land	446,490 41.0 94.6	\$172,896 \$62,796	Comm. Space Indust. Space New Acres Vacant Land	446,490 225,551 17.8 76.8	\$176,354 \$40,352 \$26,766	Comm. Space Indust. Space New Acres Vacant Land	446,490 225,551 76.8	\$179,881 \$41,159 \$27,301
EBJ Partners	985-0006-006-02	0.8	N/A	N/A	N/A	Indust. Space: New Acres Vacant Land	9,822 0.8 0.0	\$1,757 \$0	Indust. Space: New Acres Vacant Land	9,822 0.0	\$1,792 \$0
Anderson	905-0001-006-03	48.9	N/A	N/A	N/A	N/A	N/A	N/A	Indust. Space: New Acres Vacant Land	234,040 19.5 29.4	\$43,964 \$10,759
Pleasant Ranch	985-0006-008-03	0.2	N/A	N/A	N/A	Indust. Space: New Acres Vacant Land	2,304 0.2 0.0	\$412 \$0	Indust. Space: New Acres Vacant Land	2,304 0.0	\$420 \$0
Righetti Ptnrs	905-0001-005-02	48.8	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Campbell	905-0001-004-03	8.8	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Branough	905-0001-004-04	39.8	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1st American	985-0006-009 985-0006-009 Total	173.3 15.8 189.1	SF Units New Acres Vacant Land	150 62.9 126.2	\$116,170 \$41,888	SF Units New Acres Vacant Land	300 68.9 56.3	\$243,957 \$19,621	SF Units MF Units New Acres Vacant Land	300 102 5.1 51.2	\$248,837 \$31,105 \$18,736
Croak	905-0002-001-01 905-0002-002 Total	38.8 125.2 164.0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Falcon Entprs	985-0007-002-14	313.8	N/A	N/A	N/A	N/A	N/A	N/A	SF Units New Acres Vacant Land	150 56.4 257.4	\$128,078 \$94,192
Bradd. & Logan	905-0002-003	159.5	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Totals:		1,109.3			\$393,762			\$509,219			\$826,222
Development Summary:			SF Low Dens:	150		SF Low Dens:	300		SF Low Dens:	450	
			MF Med. Dens:			MF Med. Dens:			MF Med. Dens:		
			MF M/H. Dens:			MF M/H. Dens:			MF M/H. Dens:	102	
			Comm. Space:	446,490		Comm. Space:	446,490		Comm. Space:	446,490	
			Indust. Space:			Indust. Space:	237,877		Indust. Space:	471,717	
			Vacant:			Vacant:			Vacant:		

1 Assumes that the RRA (future study area) will be approved in 2014 & allow 1 low density SF unit on the Campbell property
 2 Assumes that the RRA unit within the B&L property will wait until 2019 & be situated along the southern boundary
 3 Assumes that LARPD continues to receive 6% of the property taxes
 4 New Acres refers to new acres of development & may include public uses, parks & open space.

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EAST DUBLIN PROPERTIES PROPERTY TAX IMPACT OF THE DEVELOPMENT LAND

Ownership	Anticipated Development in 2011			Anticipated Development in 2012			Anticipated Development in 2013		
	Category	Units	Tax	Category	Units	Tax	Category	Units	Tax
Chen	Comm. Space	446,490	\$183,479	Comm. Space	446,490	\$187,148	Comm. Space	446,490	\$190,891
	Indust. Space	225,551	\$41,982	Indust. Space	225,551	\$42,821	Indust. Space	225,551	\$43,678
	New Acres			New Acres			New Acres		
	Vacant Land	76.8	\$27,847	Vacant Land	76.8	\$28,404	Vacant Land	76.8	\$28,972
EBJ Partners	Indust. Space	9,822	\$1,828	Indust. Space	9,822	\$1,865	Indust. Space	9,822	\$1,902
	New Acres			New Acres			New Acres		
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0
Anderson	Indust. Space	234,040	\$44,843	Indust. Space	234,040	\$45,740	Indust. Space	234,040	\$46,655
	New Acres			New Acres			New Acres		
	Vacant Land	29.4	\$10,974	Vacant Land	29.4	\$11,193	Vacant Land	29.4	\$11,417
Pleasant Ranch	Indust. Space	2,304	\$429	Indust. Space	2,304	\$437	Indust. Space	2,304	\$446
	New Acres			New Acres			New Acres		
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0
Righetti Ptnrs	Indust. Space	190,385	\$37,551	Indust. Space	190,385	\$38,302	Indust. Space	190,385	\$39,059
	New Acres	15.7		New Acres			New Acres		
	Vacant Land	33.1	\$12,718	Vacant Land	33.1	\$12,972	Vacant Land	33.1	\$13,232
Campbell	N/A	N/A	N/A	Indust. Space	88,523	\$18,333	Indust. Space	88,523	\$18,700
				New Acres	7.3		New Acres		
				Vacant Land	1.5	\$605	Vacant Land	1.5	\$617
Branagh	N/A	N/A	N/A	Indust. Space	89,735	\$18,584	Indust. Space	89,735	\$18,956
				New Acres	7.4		New Acres		
				Vacant Land	32.4	\$13,072	Vacant Land	32.4	\$13,333
1st American	SF Units	300	\$253,813	SF Units	300	\$268,890	SF Units	300	\$264,067
	MF Units	196	\$104,896	MF Units	336	\$154,062	MF Units	336	\$157,143
	New Acres	9.4		Comm. Space	134,600	\$63,354	Comm. Space	134,600	\$64,621
	Vacant Land	41.8	\$16,061	New Acres	15		New Acres		
Croak	N/A	N/A	N/A	Vacant Land	25.8	\$11,921	Vacant Land	26.8	\$12,159
				SF Units	100	\$94,137	SF Units	250	\$247,110
				New Acres	33.4		New Acres	55.5	
Falcon Entors	N/A	N/A	N/A	Vacant Land	130.6	\$52,690	Vacant Land	75.1	\$31,814
	SF Units	300	\$268,963	SF Units	340	\$320,068	SF Units	340	\$326,467
	New Acres	35.7		New Acres	35.6		New Acres	5	
Bradd. & Logan	Vacant Land	221.7	\$85,184	Vacant Land	186.1	\$75,061	Vacant Land	181.1	\$76,583
	N/A	N/A	N/A	SF Units	10	\$9,414	SF Units	10	\$9,602
				New Acres	8.8		New Acres	150.7	\$62,015
Totals:			\$1,090,568			\$1,519,891		\$1,579,449	
SF Low Dens:			600	SF Low Dens:	750	SF Low Dens:	900		
MF Med. Dens:			94	MF Med. Dens:	94	MF Med. Dens:	94		
MF M/H. Dens:			102	MF M/H. Dens:	242	MF M/H. Dens:	242		
Comm. Space:			446,490	Comm. Space:	581,090	Comm. Space:	581,090		
Indust. Space:			662,102	Indust. Space:	840,360	Indust. Space:	840,360		
Vacant:				Vacant:	667.4	Vacant:	606.9		

- 1 Assumes that the RRA (future study area) will be approved in 2014 & allow 1 low density SF unit on the Campbell property
- 2 Assumes that the RRA unit within the BSL property will wait until 2019 & be situated along the southern boundary
- 3 Assumes that LARPD continues to receive 6% of the property taxes
- 4 New Acres refers to new acres of development & may include public uses, parks & open space

EAST DUBLIN PROPERTIES PROPERTY TAX IMPACT OF THE DEVELOPMENT LAND

Ownership	Anticipated Development in 2014			Anticipated Development in 2015			Anticipated Development in 2016				
	Category	Units	Tax	Category	Units	Tax	Category	Units	Tax		
Chen	Comm. Space	446,490	\$184,708	Comm. Space	446,490	\$198,803	Comm. Space	566,280	\$323,981		
	Indust. Space:	225,551	\$44,551	Indust. Space:	225,551	\$45,442	Indust. Space:	225,551	\$46,351		
	New Acres	54.8		New Acres	4.8		MF Units	134	\$54,760		
	Vacant Land	22.0	\$9,786	Vacant Land	17.2	\$8,033	New Acres	17.2			
						Vacant Land	0.0	\$0			
EBJ Partners	Indust. Space:	9,822	\$1,940	Indust. Space:	9,822	\$1,979	Indust. Space:	9,822	\$2,018		
	New Acres			New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Anderson	Indust. Space:	234,040	\$47,588	Indust. Space:	234,040	\$48,540	Indust. Space:	234,040	\$48,510		
	SF Units	30	\$31,136	SF Units	30	\$31,759	SF Units	30	\$32,394		
	New Acres	29.4		New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Pleasant Ranch	Indust. Space:	2,304	\$455	Indust. Space:	2,304	\$464	Indust. Space:	2,304	\$473		
	New Acres			New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Righetti Ptnrs	Indust. Space:	190,385	\$39,850	Indust. Space:	190,385	\$40,647	Indust. Space:	190,385	\$41,460		
	SF Units	45	\$46,704	SF Units	45	\$47,638	SF Units	45	\$48,591		
	New Acres	33.1		New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Campbell	Indust. Space:	88,523	\$18,074	Indust. Space:	88,523	\$19,455	Indust. Space:	88,523	\$19,845		
	SF Units (1)	1	\$1,038	SF Units (1)	1	\$1,059	SF Units (1)	1	\$1,080		
	New Acres	1.5		New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Braneugh	Indust. Space:	89,735	\$19,335	Indust. Space:	89,735	\$19,722	Indust. Space:	89,735	\$20,116		
	SF Units	45	\$46,704	SF Units	45	\$47,638	SF Units	45	\$48,591		
	New Acres	32.4		New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
1st American	SF Units	300	\$269,349	SF Units	300	\$274,796	SF Units	300	\$280,230		
	MF Units	616	\$264,072	MF Units	656	\$284,922	MF Units	656	\$290,620		
	Comm. Space	134,600	\$65,914	Comm. Space	134,600	\$67,232	Comm. Space	134,600	\$68,577		
	New Acres	15.0		New Acres	11.8		New Acres				
	Vacant Land	11.8	\$5,249	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Croak	SF Units	279	\$289,563	SF Units	279	\$295,355	SF Units	279	\$301,262		
	New Acres	8.3		New Acres			New Acres				
	Vacant Land	66.8	\$29,712	Vacant Land	66.8	\$30,307	Vacant Land	66.8	\$30,913		
Fallon Enprts	SF Units	340	\$332,897	SF Units	415	\$452,248	SF Units	565	\$646,497		
	New Acres			New Acres	17.4		New Acres	163.7			
	Vacant Land	181.1	\$78,114	Vacant Land	163.7	\$76,454	Vacant Land	0.0	\$0		
Bradd. & Logan	SF Units	10	\$9,794	SF Units	85	\$92,629	SF Units	85	\$94,482		
	New Acres			New Acres	19.8		New Acres				
	Vacant Land	150.7	\$63,255	Vacant Land	130.9	\$61,135	Vacant Land	130.9	\$62,358		
Totals:			\$1,810,889			\$2,145,996			\$2,484,108		
SF Low Dens:			1050	SF Low Dens:			1200	SF Low Dens:			1350
MF Med. Dens:			94	MF Med. Dens:			94	MF Med. Dens:			94
MF M/H. Dens:			522	MF M/H. Dens:			562	MF M/H. Dens:			696
Comm. Space:			581,090	Comm. Space:			581,090	Comm. Space:			700,880
Indust. Space:			840,360	Indust. Space:			840,360	Indust. Space:			840,360
Vacant:			432.4	Vacant:			376.6	Vacant:			197.7

1 Assumes that the RRA (future study area) will be approved in 2014 & allow 1 low density SF unit on the Campbell property
 2 Assumes that the RRA unit within the B&L property will wait until 2019 & be situated along the southern boundary
 3 Assumes that LARPD continues to receive 6% of the property taxes
 4 New Acres refers to new acres of development & may include public uses, parks & open space.

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EAST DUBLIN PROPERTIES PROPERTY TAX IMPACT OF THE DEVELOPMENT LAND

Ownership	Anticipated Development in 2017			Anticipated Development in 2018			Anticipated Development in 2019			Anticipated Development in 2020				
	Category	Units	Tax	Category	Units	Tax	Category	Units	Tax	Category	Units	Tax		
Chen	Comm. Space	566,280	\$330,460	Comm. Space	566,280	\$337,070	Comm. Space	566,280	\$343,811	Comm. Space	566,280	\$350,687		
	Indust. Space	225,551	\$47,278	Indust. Space	225,551	\$48,224	Indust. Space	225,551	\$49,188	Indust. Space	225,551	\$50,172		
	MF Units	134	\$57,498	MF Units	134	\$60,373	MF Units	134	\$63,382	MF Units	134	\$66,561		
	New Acres			New Acres			New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
EBJ Partners	Indust. Space	9,822	\$2,059	Indust. Space	9,822	\$2,100	Indust. Space	9,822	\$2,142	Indust. Space	9,822	\$2,185		
	New Acres			New Acres			New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Anderson	Indust. Space	234,040	\$50,501	Indust. Space	234,040	\$51,511	Indust. Space	234,040	\$52,541	Indust. Space	234,040	\$53,592		
	SF Units	30	\$33,042	SF Units	30	\$33,702	SF Units	30	\$34,376	SF Units	30	\$35,064		
	New Acres			New Acres			New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Pleasant Ranch	Indust. Space	2,304	\$483	Indust. Space	2,304	\$493	Indust. Space	2,304	\$502	Indust. Space	2,304	\$513		
	New Acres			New Acres			New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Righetti Ptnrs	Indust. Space	190,385	\$42,289	Indust. Space	190,385	\$43,135	Indust. Space	190,385	\$43,998	Indust. Space	190,385	\$44,877		
	SF Units	45	\$49,582	SF Units	45	\$50,554	SF Units	45	\$51,565	SF Units	45	\$52,596		
	New Acres			New Acres			New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Campbell	Indust. Space	88,523	\$20,241	Indust. Space	88,523	\$20,646	Indust. Space	88,523	\$21,059	Indust. Space	88,523	\$21,480		
	SF Units (1)	1	\$1,101	SF Units (1)	1	\$1,123	SF Units (1)	1	\$1,146	SF Units (1)	1	\$1,169		
	New Acres			New Acres			New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Branough	Indust. Space	89,735	\$20,519	Indust. Space	89,735	\$20,929	Indust. Space	89,735	\$21,347	Indust. Space	89,735	\$21,774		
	SF Units	45	\$49,562	SF Units	45	\$50,554	SF Units	45	\$51,565	SF Units	45	\$52,596		
	New Acres			New Acres			New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
1st American	SF Units	300	\$285,835	SF Units	300	\$291,552	SF Units	300	\$297,383	SF Units	300	\$303,330		
	MF Units	656	\$296,432	MF Units	656	\$302,361	MF Units	656	\$308,408	MF Units	656	\$314,577		
	Comm. Space	134,600	\$69,948	Comm. Space	134,600	\$71,347	Comm. Space	134,600	\$72,774	Comm. Space	134,600	\$74,230		
	New Acres			New Acres			New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Craik	SF Units	429	\$515,424	SF Units	429	\$541,195	SF Units	429	\$568,255	SF Units	429	\$596,688		
	New Acres	66.8		New Acres			New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Fallon Entprs	SF Units	565	\$678,822	SF Units	565	\$712,763	SF Units	565	\$748,401	SF Units	565	\$785,821		
	New Acres			New Acres			New Acres			New Acres				
	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0	Vacant Land	0.0	\$0		
Bradd. & Logan	SF Units	85	\$96,371	SF Units	205	\$258,613	SF Units (2)	321	\$425,188	SF Units	321	\$433,702		
	New Acres			New Acres	37.0		New Acres	93.9		New Acres	0			
	Vacant Land	130.9	\$63,605	Vacant Land	83.9	\$50,767	Vacant Land	0	\$0	Vacant Land	0	\$0		
Totals:			\$2,711,033			\$2,949,011			\$3,157,051			\$3,261,593		
SF Low Dens:		1500		SF Low Dens:		1620		SF Low Dens:		1736		SF Low Dens:		1736
MF Med. Dens:		94		MF Med. Dens:		94		MF Med. Dens:		94		MF Med. Dens:		94
MF M/H. Dens:		696		MF M/H. Dens:		696		MF M/H. Dens:		696		MF M/H. Dens:		696
Comm. Space:		700,880		Comm. Space:		700,880		Comm. Space:		700,880		Comm. Space:		700,880
Indust. Space:		840,360		Indust. Space:		840,360		Indust. Space:		840,360		Indust. Space:		840,360
Vacant:		130.9		Vacant:		93.9		Vacant:		0.0		Vacant:		0.0

1 Assumes that the RRA (future study area) will be approved in 2014 & allow 1 low density SF unit on the Campbell property
 2 Assumes that the RRA unit within the BBL property will walk until 2019 & be situated along the southern boundary
 3 Assumes that LARPD continues to receive 6% of the property taxes
 4 New Acres refers to new acres of development & may include public uses, parks & open space.

FINANCIAL IMPACT OF THE LARPD SPECIAL ASSESSMENT WITHIN EAST DUBLIN PROPERTIES PARCEL AS DEVELOPMENT OCCURS

Ownership	Assessor's Parcel No.	Size (Acres)	2008 Units	2009 Units	2010 Units	2011 Units	2012 Units	2013 Units	2014 Units	2015 Units	2016 Units	2017 Units	2018 Units	2019 Units	2020 Units
Chen	985-0006-004	135.62										134			
EBJ Ptnrs.	985-0006-006-02	0.81													
Anderson	905-0001-006-03	48.9							30						
P-ton Ranch	985-0006-006-03	0.19													
Righetti Ptnrs	905-0001-005-02	48.78							45						
Campbell	905-0001-004-03	8.81							1						
Branagh	905-0001-004-04	39.8							45						
1st Amer.	985-0006-009 & 010	189.12	150	150	102	94	140		280	40					
Croak	905-0002-001-01& 002	163.00					100	150	29	150		150			
Fallon Entprs	985-0007-002-14	313.75			150	150	40			75	150				
Brad. & Logan	905-0002-003	160.9					10			75			120	116	
Total New Dwelling Units (1):			150	150	252	244	290	150	430	340	284	150	120	116	0
Total Cumulative Dwelling Units (2):			150	300	552	796	1,086	1,236	1,666	2,006	2,290	2,440	2,560	2,676	2,676
Special Assessment Fee (3):			\$27.70	\$28.26	\$28.82	\$29.40	\$29.99	\$30.59	\$31.20	\$31.82	\$32.46	\$33.11	\$33.77	\$34.45	\$35.13
Total Special Assessment Fee Due (4):			\$4,156	\$8,477	\$16,910	\$23,402	\$32,666	\$37,806	\$51,977	\$63,836	\$74,332	\$80,784	\$86,453	\$92,177	\$94,021

- 1 Assumes that the development within the EDP parcel will occur as defined on the Dev. Land Tax sheet.
- 2 Assumes that the LARPD Special Assessment will apply to the total number of existing dwelling units within the proposed EDP.
- 3 Assumes that the LARPD Special Assessment will continue until 2020. Assumes that the current charge of \$24.60 per dwelling unit will increase annually at 2%.
- 4 Assumes that the LARPD Special Assessment is not applied to another land use within the proposed PUD.

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SUMMARY OF TRI-VALLEY RECREATIONAL FACILITIES & PARTICIPATION LEVELS

Area & Facility	Park Type	Size (Acres)	Facilities										Participation Rates				
			Turf	Picnic	Bball Court	BBQ	Play Area	Tennis Court	C. Center or R.Rm.	B or Sball Field	Vball Court	Soccer Field	Swim Pool	1998	1999	2000	
LIVERMORE																	
Brushy Peak	R	507.0															
Sycamore Grove	R	742.0		X					X								
Robertson	C	133.0	X	X					X	2			2				
Veterans	R	32.0		X		X		X	X	X			X				
Robert Livermore	C	29.8		X				X	X	X		X	X				
Independence	C	17.0		X				X	X				X				
Max Baer	C	12.0		X		X		X	X	X			X				
May Nissen	C	12.0	X	X	1	X	X	1	X	1	1			1		5,834	5,344
Camp Shelley	SU																5,501
Overall:																301,641	274,542
DUBLIN																	
Emerald Glen	C	28.0	X	X	X	X	X	X	X	X			X	X			
Sports Grounds	C	22.0	X	X		X	X	X	X	X							
Shannon	C	10.0		X		X	X	X	X								
Overall:																N/A	N/A
SAN RAMON																	
Central	C	55.0	X	X	1	X	X	4	X	4	1		4				
Athan Downs	C	20.0	X	X	3	X	X	3	X	3	X		5				
Overall:																N/A	N/A
PLEASANTON																	
Augustin Bernal	R	237.0		X					X								
Sports Park	C	103.0	X	X	2	X	X		X	14	1		11				
Amador Valley	C	23.5	X	X		X	X		X	X	1		4				
Tennis Park	C	15.0	X	X	X	X	X	X	X		X						
Kottinger	C	14.5	X	X					X	X							
Muirwood	C	13.9	X	X	X	X	X	X	X	X							
Fairlands	N	13.8	X	X													
Val Vista	N (uc)	10.7	X	X													
Overall:																584,075	572,004
EAST BAY REGIONAL PARK DISTRICT																	
Del Valle	R	3,997.0	X	X										X		282,978	318,927
Shadow Cliffs	R	298.0	X	X										X		227,937	217,649
Overall:																510,915	536,576
Overall:																	333,819

Note: This chart generally includes only those recreation facilities that are larger than 10 acres. Participation rates are considered minimums.

11/28/01

TRI-VALLEY POPULATION STATISTICS & PROJECTIONS

AREA	1990*	2000*	2005**	2010**	2015**	2020**
Livermore	56,781	73,345	87,400	94,900	98,600	101,400
Dublin	23,229	29,973	42,700	50,500	57,700	66,600
Pleasanton	50,553	63,854	75,700	79,800	81,700	87,400
San Ramon	35,303	44,722	53,900	63,600	71,600	80,500
Alameda County	1,279,182	1,443,714	1,573,200	1,615,900	1,641,700	1,671,700

TRI-VALLEY INVENTORY OF PARKLAND

AREA	Improved Parklands (Acres)	Including Regional Parks (Acres)
Livermore (1)	434.10	1,176.10
Dublin	87.75	87.75
Pleasanton	307.20	544.20
San Ramon	134.00	134.00
Alameda County	N/A	4,293.00

COMPARISON OF TRI-VALLEY PARKLAND-TO-POPULATION RATIOS

AREA	Ratio of Improved Parkland (2)	Ratio with Regional Parkland (1)	
Livermore	5.9	16.0	Acres per 1000 people
Dublin	2.9	2.9	Acres per 1000 people
Pleasanton	4.8	8.5	Acres per 1000 people
San Ramon	3.0	3.0	Acres per 1000 people
Tri-Valley Average	4.5	8.2	Acres per 1000 people

1 Does not include the 507-acre Brushy Peak Preserve
 2 Utilizes the parkland acres divided by 2000 population after it has been divided by 1,000 persons.
 (Example: Livermore - 434.1 acres / (73,345 / 1000) = 5.9)

Sources: * US Census Bureau
 ** ABAG Projection 2000

MIGRATION COST OF TRI-VALLEY OUT-OF-SERVICE AREA RESIDENTS TO LARPD FACILITIES

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Dublin Population & Growth (1):	29,973	31,194	32,464	33,786	35,162	36,595	38,085	39,636	41,250	42,930	44,679	46,499	48,392	50,363	52,415	54,549	56,771	59,083	61,489	63,994	66,600
Migration to LARPD (2):	150	312	649	1,014	1,408	1,830	2,285	2,775	3,300	3,864	4,468	5,115	5,807	6,547	7,338	8,182	9,083	10,044	11,068	12,159	13,320
Per Capita Cost to LARPD (3):	\$187	\$198	\$206	\$217	\$227	\$239	\$251	\$263	\$276	\$290	\$305	\$320	\$336	\$353	\$370	\$389	\$408	\$429	\$450	\$473	\$496
Annual Cost of Migration:	\$28,028	\$61,266	\$133,876	\$219,443	\$319,733	\$438,741	\$672,706	\$730,136	\$911,660	\$1,120,991	\$1,361,088	\$1,636,084	\$1,960,366	\$2,308,922	\$2,717,193	\$3,181,341	\$3,708,220	\$4,305,474	\$4,981,628	\$5,748,174	\$6,609,699

1 Source: US Census Bureau & ABAG Projections 2020

2 Assumes a migration rate to LARPD starting at 0.5% in 2000 & growing to 20% in 2020.

3 Based on the 2000-2001 LARPD budget of \$14,371,640. This amount is divided by population served, or 73,345 people in the City of Livermore in 2000 plus approximately 3,500 people in the unincorporated area.

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FINANCIAL IMPACT STUDY OF THE EAST DUBLIN PROPERTIES PROJECT ON LARPD

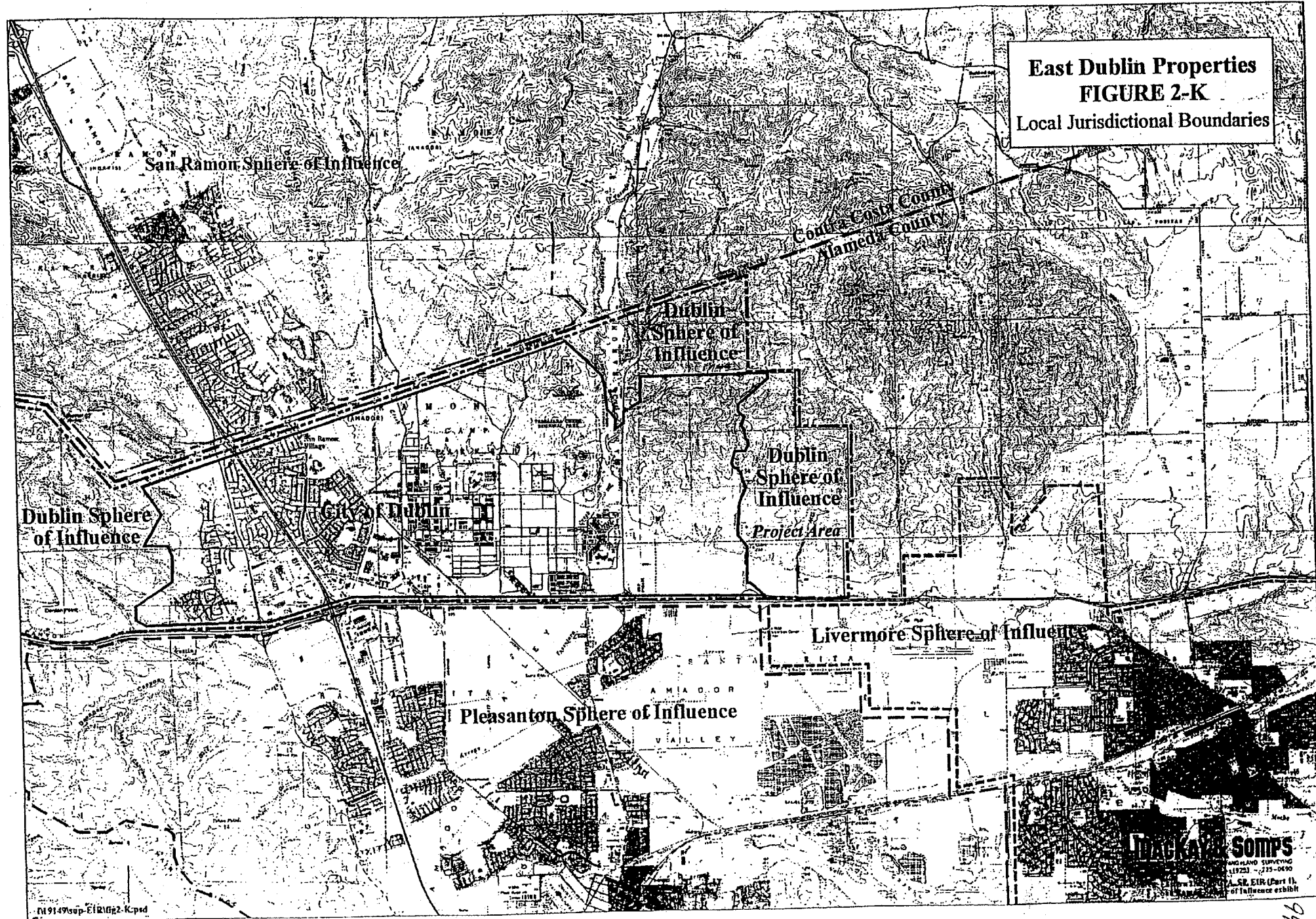
Cost Factors	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Loss of Special Assessment Fees - Current Agricultural Status (1)	\$144	\$147	\$150	\$153	\$156	\$159	\$135	\$93	\$37	\$38	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Loss of Property Taxes - Current Agricultural Status (2)	\$0	\$0	\$0	\$0	\$0	\$482,150	\$28,929	\$21,507	\$27,401	\$19,293	\$20,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Loss of In-Lieu of Park Fees - New EDP Development (2):	\$0	\$0	\$0	\$0	\$0	\$0	\$2,770,909	\$2,507,392	\$3,524,500	\$3,488,224	\$4,164,271	\$2,424,766	\$5,358,867	\$2,943,201	\$4,190,604	\$2,624,645	\$2,141,710	\$2,111,726	\$0
Loss of Property Taxes - New EDP Development (4):	\$0	\$0	\$0	\$0	\$0	\$0	\$315,002	\$407,375	\$680,978	\$872,455	\$1,215,913	\$1,343,559	\$1,528,711	\$1,716,796	\$1,971,288	\$2,188,827	\$2,359,209	\$2,525,640	\$2,609,274
Loss of Special Assessment Fees - New EDP Development (5):	\$0	\$0	\$0	\$0	\$0	\$0	\$4,156	\$8,477	\$15,910	\$23,402	\$32,568	\$37,806	\$51,977	\$63,836	\$74,332	\$80,784	\$86,453	\$92,177	\$94,021
Cost of "Out-of-Service Area" Migration on LARPD (6):	\$133,876	\$219,443	\$319,733	\$436,741	\$572,706	\$730,138	\$911,850	\$1,120,891	\$1,361,088	\$1,636,084	\$1,950,388	\$2,308,922	\$2,717,193	\$3,161,341	\$3,708,220	\$4,305,474	\$4,981,626	\$5,746,174	\$6,609,699
Totals	\$134,021	\$219,590	\$319,883	\$436,894	\$572,862	\$1,212,448	\$4,030,980	\$4,086,836	\$5,569,915	\$6,017,486	\$7,383,136	\$8,116,063	\$9,868,748	\$7,905,176	\$9,944,442	\$9,179,731	\$9,668,998	\$10,475,718	\$9,312,994
Discounted Totals (7):	\$116,540	\$166,042	\$210,328	\$249,796	\$284,814	\$524,175	\$1,515,395	\$1,329,129	\$1,589,003	\$1,487,433	\$1,586,955	\$1,142,947	\$1,589,492	\$1,117,228	\$1,222,117	\$980,990	\$889,208	\$848,492	\$654,381

- 1 Demonstrated on Page 9
- 2 Demonstrated on Page 10 & assumes the EDP Project developer does not provide parkland.
- 3 Demonstrated on Page 11
- 4 Demonstrated on Pages 12 A - 12 F
- 5 Demonstrated on Page 13
- 6 Demonstrated on Page 16
- 7 Assumes a Discount Rate of 15% & a January 1, 2002 Current Year.
- 8 Summation of all Discounted Cash Flows.

Net Present Value in 2002 (8): \$17,482,467
Rounded to: \$17,500,000

162 Jo 96
11/20/2011

East Dublin Properties
FIGURE 2-K
Local Jurisdictional Boundaries

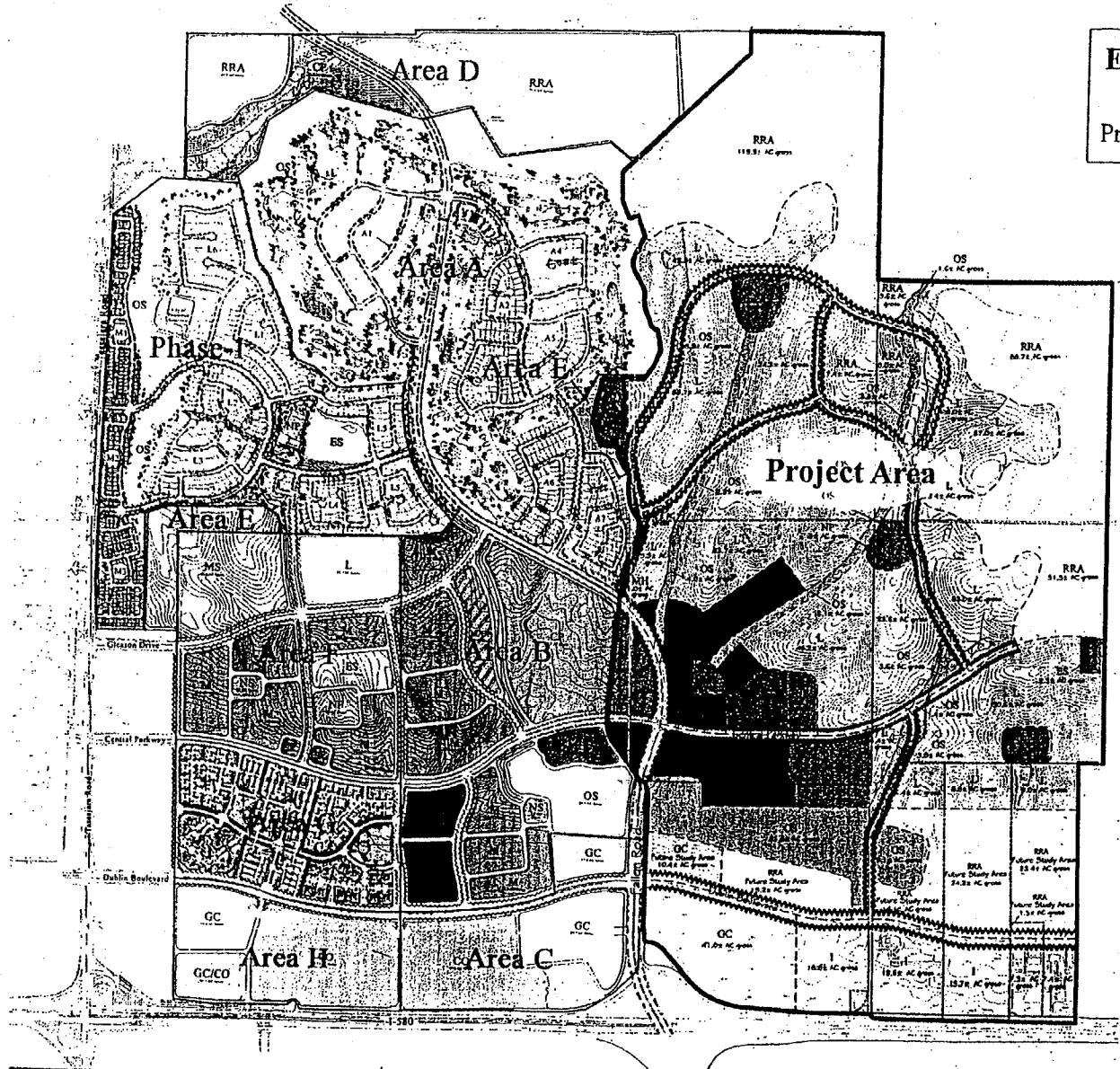


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TRUCKAY & SOMPS
LAND SURVEYING
11251 - 715-0690
A.S.E. EIR (Part 1)
of Influence exhibit

1008/16

East Dublin Properties
FIGURE 2-F
Project Site and Dublin Ranch



Legend

- High Density Residential
- Medium High Density Residential
- Medium Density Residential
- Low Density Residential
- Rural Residential/ Agriculture
- Neighborhood Commercial
- General Commercial
- Industrial
- Public/ Semi-Public
- Elementary School
- Middle School
- High School
- Community Park
- Neighborhood Park
- Neighborhood Square
- Open Space



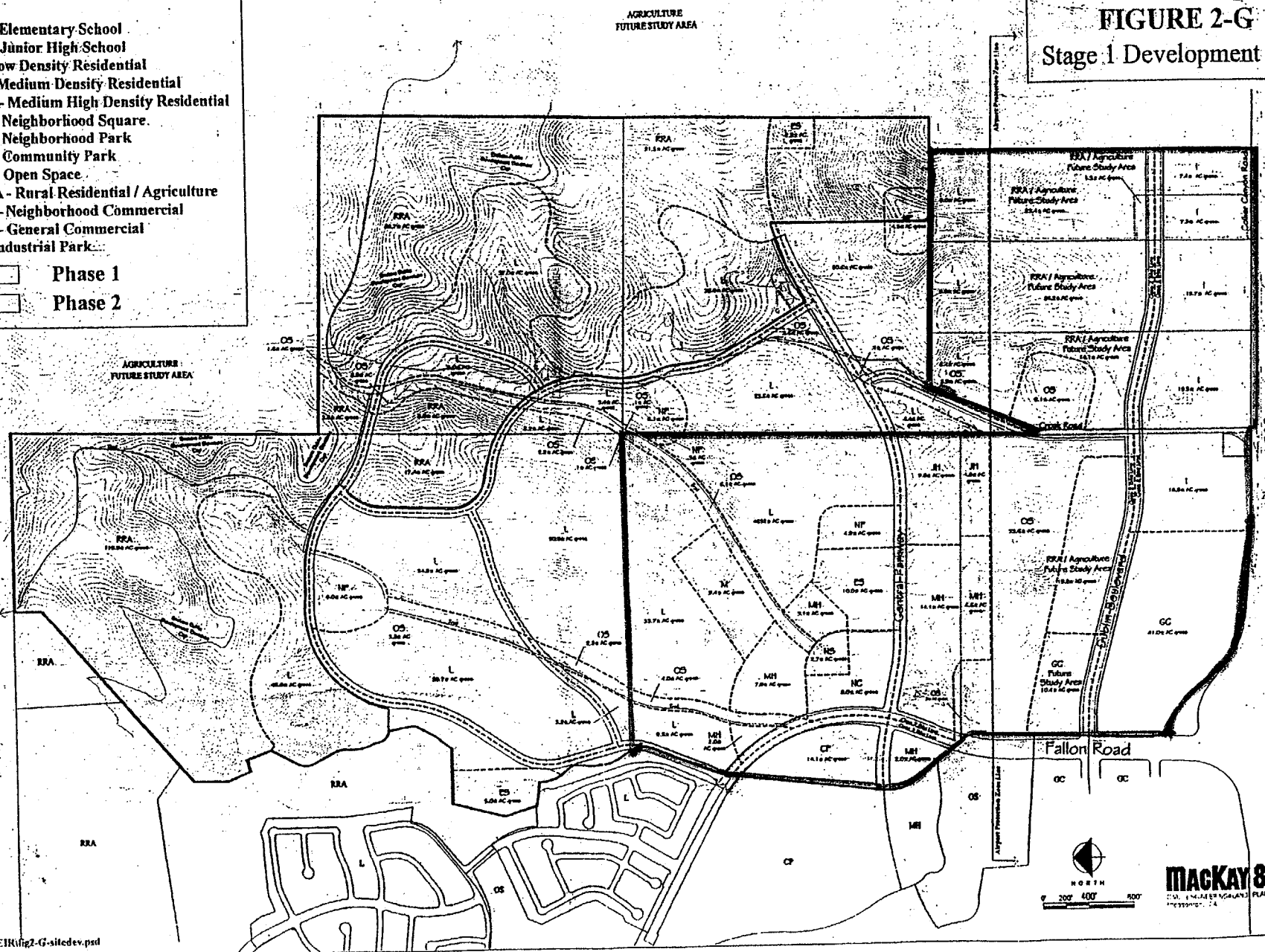
95 of 211

East Dublin Properties
FIGURE 2-G
Stage 1 Development Plan

LEGEND

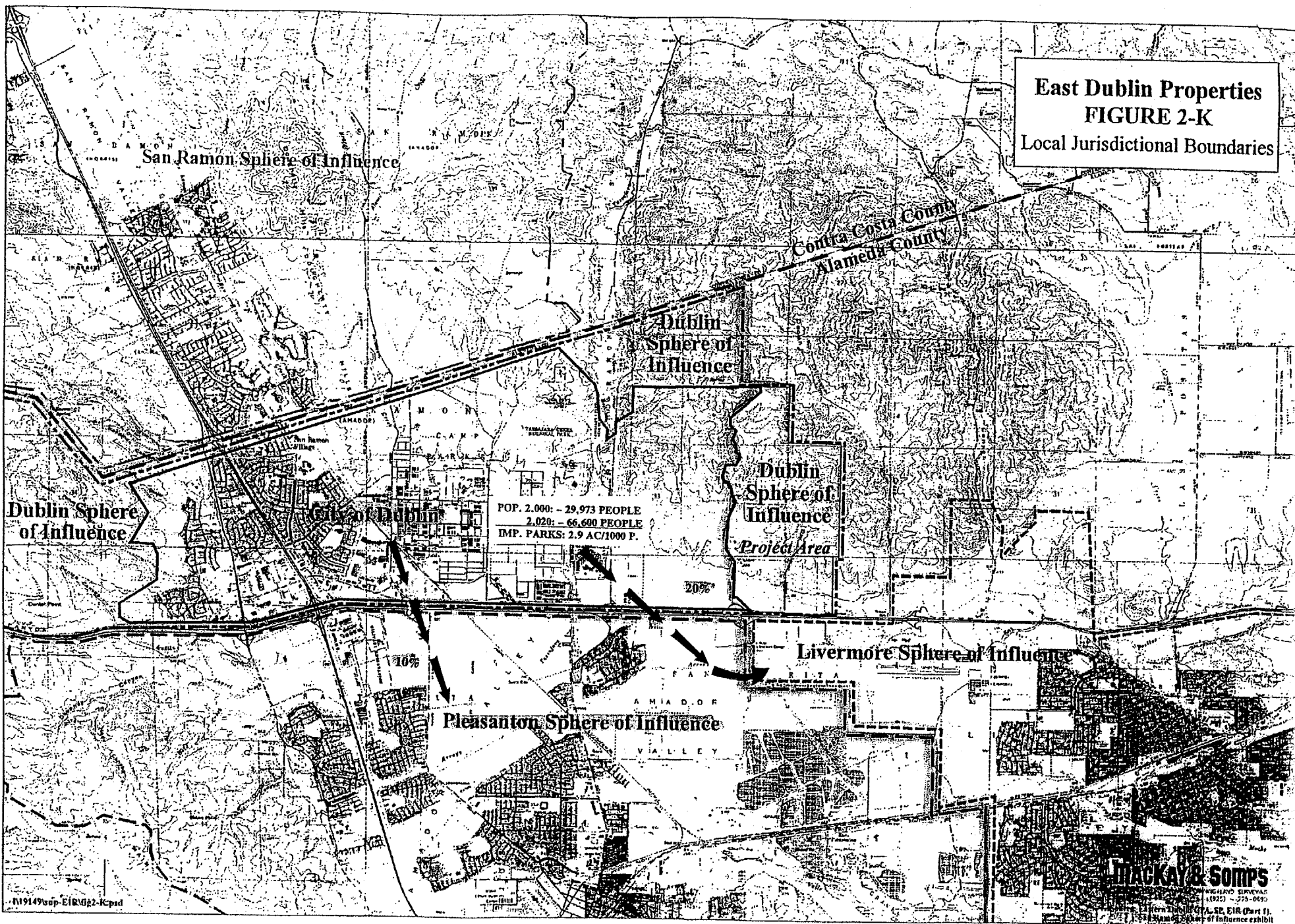
- ES - Elementary School
- JH - Junior High School
- L - Low Density Residential
- M - Medium Density Residential
- MH - Medium High Density Residential
- NS - Neighborhood Square
- NP - Neighborhood Park
- CP - Community Park
- OS - Open Space
- RRA - Rural Residential / Agriculture
- NC - Neighborhood Commercial
- GC - General Commercial
- I - Industrial Park

Phase 1
 Phase 2



96
 201

East Dublin Properties
FIGURE 2-K
Local Jurisdictional Boundaries



MACKAY & SOMPS
 ENGINEERS AND SURVEYORS
 18212 - 773-0650
 18212 - 773-0650
 18212 - 773-0650

102
 2066

**SUMMARY REPORT OF A
COST OF SERVICE ANALYSIS**

**THE FINANCIAL EFFECT UPON
THE LIVERMORE AREA RECREATION
& PARK DISTRICT OF PROVIDING
RECREATION FACILITIES AND
SERVICES TO THE EAST DUBLIN
PROPERTIES PARCEL IN
ALAMEDA COUNTY, CALIFORNIA**

**PREPARED FOR:
LIVERMORE AREA RECREATION & PARK DISTRICT
DEPARTMENT OF PLANNING & PARKS**

JANUARY 2002

DIAZ, DIAZ & BOYD, INC.
Real Property Valuation and Consultation





DIAZ, DIAZ & BOYD, INC.
Real Property Valuation and Consultation

100 of 271

JOYCE L. DIAZ, MAI
BENJAMIN R. DIAZ
KAREN M. BOYD, MAI
WAYNE G. COUTO, MSA

January 23, 2002

Mr. Kenneth H. Craig
Superintendent of Planning & Parks
Livermore Area Recreation and Park District
71 Trevarno Road
Livermore, California 94550

RE: A Cost of Service Analysis of the proposed East Dublin Properties project upon the Livermore Area Recreation and Park District, Livermore, Alameda County, California

Dear Mr. Craig:

At your request, we have completed the Cost of Service Study referenced above. We now present this summary report on our methods, analyses, and conclusions. The East Dublin Properties (EDP) project is located immediately north of Interstate Highway 580 and immediately east of Fallon Road in the unincorporated area between Dublin and Livermore. This project contains 1,109.3 acres and is proposed for the development of 2,526 residential units and 1.5 million square feet of commercial and industrial space.

This assignment involved an in-depth analysis of the various costs necessary for the Livermore Area Recreation and Park District (LARPD) to construct and maintain sufficient high-quality recreational facilities to service the proposed EDP project. A group, representing the owners of the EDP parcel and several developers, have requested annexation and pre-zoning approval as the first step toward eventual development of this parcel on the eastern edge of the City of Dublin.

The City of Dublin has just issued a Revised Draft Supplemental Environmental Impact Report that identifies this property as contained within the City's Sphere of Influence and partially

within the boundary of the Eastern Dublin Specific Plan. The LARPD anticipates that Dublin will request "de-annexation" from the LARPD service area. This analysis attempts to quantify the specific costs that LARPD would incur if they continued to service the project area. The following sections discuss the methodology utilized to calculate the cost to construct the proposed recreational facilities, the research employed to estimate the annual maintenance costs of the facilities, and conclusions that resulted from the analysis.

It is our opinion that the recreation facilities proposed for the EDP parcel would require significant development expenditures and considerable funds for the annual maintenance, which would be borne by the District. Our analysis indicates that the net cost to the LARPD, as of January 23, 2002, and subject to the limiting conditions and assumptions contained herein, is:

FOURTEEN MILLION ONE HUNDRED THOUSAND DOLLARS
\$14,100,000

102 of 271

CERTIFICATION:

We, the undersigned, hereby certify that to the best of our knowledge and belief:

The statements of fact contained in this report are true and correct;

The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are our personal, unbiased professional analyses, opinions, and conclusions;

We have no present or prospective interest in the EDP properties and we have no personal interest with respect to the parties involved;

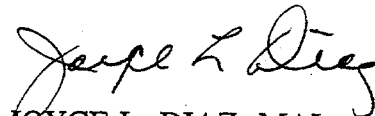
We have no bias with respect to the EDP properties or to the parties involved with this assignment;

Our compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this report.

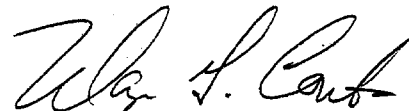
No one provided significant professional assistance to the persons signing this report;

As of the date of this report, Joyce L. Diaz, MAI has completed the requirements of the continuing education program of the Appraisal Institute. In addition, both Joyce L. Diaz, MAI and Wayne G. Couto, MSA have completed the continuing education requirements of the State of California's Office of Real Estate Appraisers.

We are pleased to have had this opportunity to be of service.



JOYCE L. DIAZ, MAI
California Certificate #AG 001887
(Expires 12/9/2002)



WAYNE G. COUTO, MSA
California Certificate #AG027839
(Expires 10/3/2002)

DIAZ, DIAZ & BOYD, INC.
Real Property Valuation and Consultation

1. INTRODUCTION

This Cost of Service Study represents a two-month-long effort to define, describe, analyze, and report the anticipated costs of providing recreational facilities and services within the "East Dublin Properties" (EDP) parcel by the Livermore Area Recreation and Parks District (LARPD) if the EDP property were to remain within the service area. The authors of this report were authorized to proceed with the analysis on October 11, 2001. Much of this project's analysis and the information contained within this report builds upon research conducted for LARPD and contained within the Financial Impact Study (FIS), completed by Diaz Diaz & Boyd, Inc. (DD&B) in September 2001.

2. BACKGROUND

The EDP parcel is located immediately north of Interstate Highway 580 and immediately east of Fallon Road in the unincorporated Alameda County area between Dublin and Livermore. This parcel contains 1,109.3 acres and is currently located within the LARPD service area, as well as the Livermore Valley Joint Unified School District.

This property is situated immediately east of the Dublin Ranch development, which is currently under-construction with 5,479 residential units and 2.5 million square feet of commercial and industrial space. There are two other development properties located just west of the Dublin Ranch development that are expected to add 4,048 residential units and 4.1 million square feet of commercial and industrial space in the near future. The proposed EDP development is currently anticipated to add 2,526 residential units and 1.5 million square feet of commercial and industrial space. Taken altogether, the East Dublin developments are anticipated to increase the population base by approximately 31,700 persons, with the EDP parcel contributing approximately 7,142 persons to that total.

In July 2001, the City of Dublin released a Draft Supplemental Environmental Impact Report (EIR) for the East Dublin Properties (Stage 1 Development Plan and Annexation). This document clearly defines the desire of the property owners and developers to construct a large, master-planned community within this parcel. The document also demonstrates the intention of the City of Dublin to de-annex this property from the LARPD's service area. In January 2002, the City of Dublin released a revised version of the EIR, which reaffirms the city's intent to move ahead with the development of the EDP property.

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3. INTENT

This report summarizes the research and analysis that supports the conclusion, as stated in the executive summary and at the end of this document, that the design, planning, construction, maintenance, and operation of proposed recreational facilities within the proposed EDP project will cost the LARPD, assuming that this area remains within the district's service area, \$14,100,000.

4. PROJECTED RECREATION COMPONENTS

The first step in this analysis was to review the development plans for the proposed EDP parcel. Specific attention was focused on the recreational facilities anticipated to satisfy the needs of the future residents within that development. The most recent design anticipates a 2.7-acre Neighborhood Square, 4 Neighborhood Parks containing between 4.5 and 8.0 acres, and a 14.1-acre Community Park, which would actually be the second phase of a larger, adjacent park. The bulk of this information was extracted from materials presented in the Eastern Dublin Specific Plan and the EDP Stage 1 Development Plan issued by MacKay & Somps, the project's site planner. Although other types of recreation facilities were evaluated, including Open Space and Trails, they were not considered appropriate for inclusion within the final analysis.

Open space is typically provided by developers at no cost to the jurisdictional city in order to satisfy the suggested or required "buffer" lands from adjacent developments. These areas are also set aside to minimize damage to sensitive ecosystems or to prevent steep, unstable hillsides from sliding and damaging nearby developed areas. With the exception of improving entry points and creating signs for primitive trails, most recreation districts are not involved in the development or maintenance of open space areas and trails.

	<u>Number</u>	<u>Total Size</u>
Neighborhood Square	1	2.7 Acres
Neighborhood Park	4	24.0 Acres
Community Park	1	14.1 Acres
Total Improved Parks:		40.8 Acres
Open Space		76.9 Acres
Trails		18.1 Acres

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5. PARKLAND AND POPULATION COMPOSITION

This part of the analysis involved examining the amount of recreational acreage within Livermore and Dublin, as well as the parkland proposed for the EDP parcel. A review of available documentation, as provided by LARPD and the City of Dublin's Parks & Recreation Department, revealed the number of improved parkland acres within both cities. The aforementioned Eastern Dublin Specific Plan and the EDP Stage 1 Development Plan suggested the amount of parkland projected to be developed within the EDP parcel. Only improved parkland was considered appropriate for examination in this analysis since the vast majority of recreational activities and visitation occurs in parks rather than in open space or regional parks.

The next step was to summarize the local population that utilizes these recreational facilities. The US Census Bureau provided the current population figures for both cities. The number of residents projected for the proposed EDP project was extracted from the Eastern Dublin Specific Plan, Table 4.2 and the City of Dublin General Plan, Table 2.1. The projected population was based on an "established base population" of 3.2 persons per single-family unit and 2.0 persons per multi-family unit.

	<u>Area Population</u>	<u>Improved Parkland</u>
Livermore:	73,345	434.10 Acres
Dublin:	29,973	87.75 Acres
EDP (Projected):	7,142	40.80 Acres

6. RECREATION EMPLOYEES AND STAFFING RATIOS

An evaluation of the number of full- and part-time recreation department employees was conducted for both Livermore and Dublin. This information was obtained through interviews with management and by scrutinizing publicly available budget and staffing documents. The employee base was initially segmented into full- and part-time groupings in order to better evaluate seasonal fluctuations and determine the actual employment base that allows these departments to operate efficiently. Based upon our examination and indications from management, it was determined that only full-time staff levels would be utilized in the calculation of ratios and final analysis.

	<u>Full-Time Employees</u>		<u>Part-Time Employees</u>
	<u>Administration, Operation & Programs</u>	<u>Maintenance</u>	
Livermore	52.5	22.5	164
Dublin	12.5	7.5	100

Next, at the request of management, the full-time employees were segmented into two groups; maintenance staff and the administration, operations, and program staff. It should be noted that the City of Dublin utilizes two sub-contractors (MCE Corporation and A-1 Sweeping) to maintain and service their park and recreation facilities. The staffing level indicated is based on the number of contract employees budgeted and utilized to perform turf care, irrigation and drainage maintenance, weed control, tree and shrub maintenance, litter pick-up, park equipment maintenance, and facility maintenance.

The final step in this portion of the evaluation was to compare the number of full-time recreation employees to the number of residents and parkland acres in each community. More specifically, the number of Livermore residents and parkland acres were divided by the number of full-time administration, operations, and program employees in LARPD. The same was done for the number of full-time maintenance employees and then for the recreation staff employed or contracted by the City of Dublin. These calculations provided a series of ratios that allowed for a comparison of the two communities and their staffing efficiency levels.

	Administration/Operations/Programs		Maintenance	
	Residents <u>Per employee</u>	Acres <u>per employee</u>	Residents <u>per employee</u>	Acres <u>per employee</u>
Livermore	1,397.0	8.3	3,259.8	19.3
Dublin	2,397.8	7.0	3,996.4	11.7

7. CONSTRUCTION OF RECREATIONAL FACILITIES

Perhaps the most important and costly item necessary to service the EDP parcel with recreational facilities is the land that will comprise these parks and adequately support the development's population. One of the preceding charts indicated that 40.8 acres of parkland is planned and the approximate cost of this land has been based on a recent analysis of residential land values in Livermore. Although it would be technically more accurate to utilize residential land values from East Dublin, we were not asked to perform such an analysis and are not aware of a recent comprehensive study from which to extract such information. The previously discussed FIS analysis utilized a land estimate of \$300,000 per acre. The recent land value analysis conducted for Livermore resulted in a value of \$370,260 per acre. Since the second value is based upon a much more comprehensive and sophisticated analysis and the two communities are geographically adjacent and similar, we have utilized a value of \$370,260 per acre for the construction cost calculations. When this per unit cost is applied to the 40.8 acres proposed for parkland, a total cost of \$15,106,608 results.

The next step in the construction cost estimate involves the designing, planning, and engineering of the proposed parkland. Discussions with building and design professionals, as well as information provided by the Marshall & Swift Valuation Service suggest that the architectural design and planning work should be approximately 15% of the overall construction cost and the engineering costs should be approximately 10%. The other major non-specific (soft) costs involve the construction overhead and administration and the project's contingency funds. Once again, the various sources suggested that these costs should be approximately 15% and 10%, respectively, of the overall construction cost.

A. Utilities

Each of the proposed park facilities will require various utility connections to provide drinking and irrigation water. As a result of discussions with officials at the Zone 7 Alameda County Flood Control and Water District and the Dublin San Ramon Services District, a full range of servicing options were explored and the various per unit charges identified.

A review of the City of Dublin's Parks & Recreation Master Plan (July 1994) revealed the suggested composition of the park facilities proposed for the EDP project. It appears that these parks will not contain any restroom facilities, but will offer drinking fountains and utilize in-ground sprinkler systems for irrigation. In addition, the Neighborhood Square is anticipated to feature a "centerpiece" fountain and sculpture at its entrance. Further research and discussions with water district and recreation department officials indicated the level of service that would be considered most appropriate and a park-specific fee structure was calculated. The phasing of the proposed park facilities has been based upon information and schedules contained in the FIS analysis.

		Potable Water	Non-Potable Water
Neighborhood Park (4.9 acres)	Phase 1	\$21,450	\$42,465
Neighborhood Square (2.7 acres)	Phase 2	\$14,365	\$13,350
Community Park (14.1 acres)	Phase 2	\$21,450	\$92,695
2 Neighborhood Parks (14.1 acres)	Phase 3	\$42,900	\$84,930
Neighborhood Park (4.5 acres)	Phase 4	\$21,450	\$42,465
Totals:		\$121,615	\$275,905
EDP Project Total (40.8 Acres):		\$397,520	

B. Site Improvements

Each of the proposed park facilities will require various site improvements in order to provide ample recreational opportunities to all types of park visitors. A review of the City of Dublin's Parks & Recreation Master Plan revealed the suggested composition of the park facilities proposed for the EDP project. It appears that the Neighborhood Square will contain a gazebo, play area, picnic area, tennis court, 1/2 basketball court, sculpture, and fountain, as well as a series of walkways.

The plan for the typical Neighborhood Park includes a tot lot, play area, picnic area, soccer field, baseball field, basketball court, either a tennis court or a volleyball court, and a parking area, as well as a series of walkways. Finally, the Community Park is anticipated to be the continuation of the larger adjacent community park that is part of the Dublin Ranch development. This portion is expected to include a picnic area, baseball field, four soccer fields, two softball fields, and a parking area, as well as a series of connecting walkways.

The costs for most of these improvements was obtained from the Marshall & Swift Valuation Service, which publishes extensive cost tables for many types of improvements and construction costs. These costs were adjusted to reflect the current cost and local cost multipliers. The cost of the tot lot and play area improvements were researched on the World Wide Web and confirmed with a recreational planner. The costs of the soccer, baseball, and softball fields, as well as the volleyball and basketball courts were taken from the City of Dublin's Parks & Recreation Master Plan and adjusted to current dollars via the Marshall & Swift District Comparative Cost Multiplier.

The costs were then grouped based on their category and function. First to be summarized was any vertical or building structures, of which only the proposed gazebo for the Neighborhood Square applied.

Structures

	<u>Gazebo</u>
Neighborhood Square	1
	\$13,514

The next group of costs involved the various types of recreational equipment necessary to complete each park. This includes picnic tables, benches, play

structures, etc. The following summary indicates the number and cost of each type of equipment for each type of park.

Equipment

	Tot Lot	Play Area	Picnic Area	Fountain	Sculpture
Neighborhood Square	NA	1 \$40,000	4 \$25,261	1 \$12,195	1 \$5,340
Neighborhood Park	4 \$60,000	4 \$160,000	32 \$202,084	NA	NA
Community Park	NA	NA	4 \$25,261	NA	NA
Totals:	\$60,000	\$200,000	\$252,605	\$12,195	\$5,340
Total Project Equipment (40.8 Acres):					\$530,140

The next group of costs involved the various sport fields necessary to complete each park according to the aforementioned master plan. In addition to the sport fields shown on the park master plan, it is indicated in the proposed park inventory that each Neighborhood Park will contain either a tennis or volleyball court.

Sport Fields

	Tennis Courts	Soccer Fields	Baseball Fields	Softball Fields	Volleyball Courts	Basketball Courts
Neigh. Square	1 \$33,619	NA	NA	NA	NA	1/2 \$34,890
Neigh. Park	2 \$67,238	4 \$930,400	4 \$1,488,640	NA	2 \$46,520	4 \$250,743
Comm. Park	NA	4 \$1,349,080	1 \$476,830	2 \$651,280	NA	NA
Totals:	\$100,857	\$2,279,480	\$1,965,470	\$651,280	\$46,520	\$285,633
Total Project Sport Fields (40.8 Acres):						\$5,329,240

The final group of costs involves the various types of paving required to provide vehicular and pedestrian access and circulation through the park and facilities. Based on the aforementioned master plan, the number of parking

spaces provided within the Neighborhood and Community Parks have been calculated, as well as the approximate amount of walkways needed.

<u>Paving</u>	Parking Spaces	Walkways (Sq. Ft.)
Neighborhood Square	NA	20,000 \$79,104
Neighborhood Park	80 \$72,248	100,000 \$395,520
Community Park	50 \$45,155	75,000 \$296,640
Totals:	\$117,404	\$771,264
Total Project Paving (40.8 Acres):		\$888,668

Following the calculations of all of the components that comprise a typical and specific recreational facility, these construction costs were placed in a summarized list to indicate what these six parks, totaling 40.8 acres, would cost. The following list includes all of the hard and soft costs typical of such facilities on a per unit and complete project basis. The total project cost represents what the entire cost of constructing these six parks would be if they were built simultaneously today.

Construction Cost Component Summary

	<u>Item Cost</u>	<u>Project Cost</u>
Land (per Acre)	\$370,260	\$15,106,608
Architectural Design/Plan	15%	\$3,955,046
Engineering	10%	\$2,636,697
Earthwork (per Acre)	\$1,582	\$64,549
Infrastructure (per Acre)	\$3,032	\$123,719
Landscaping (per Acre)	\$80,401	\$3,280,373
Irrigation (per Acre)	\$15,506	\$632,643
Tap Fees	See summary	\$397,520
Structures	See summary	\$13,514
Equipment	See summary	\$530,140
Sport Fields	See summary	\$5,329,240
Paving	See summary	\$888,668
Overhead & Administration	15%	\$3,955,046
Contingency	10%	\$2,636,697
Total:		\$39,550,461

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8. CONSTRUCTION TIMING OF EDP PROJECT

Now that the various construction costs of the recreational facilities within the proposed EDP project have been identified, it is appropriate to place them in a construction time schedule. The previously released FIS contained a development schedule that was based on the likely pattern of growth and the anticipated supply and demand for the type of real estate products to be offered within the EDP parcel. That schedule indicated that site development would begin in 2008 and be completed in 2019.

It is now estimated that the first recreational facility, a 4.9-acre Neighborhood Park, will be constructed in 2008. This will be followed during the next year by the construction of the 2.7-acre Neighborhood Square and the completion of the balance of the Community Park, containing 14.1 acres. The development of additional residential and industrial facilities is anticipated to occupy the construction schedule for next two years, or 2010 and 2011. Then in 2012, it is anticipated that two Neighborhood Parks, containing a total of 14.6 acres, will be constructed at the northeastern fringe of the core development area. Finally, in 2013, it is estimated that the last of the proposed parks, a 4.5-acre Neighborhood Park, will be built near the eastern edge of the EDP development.

A construction cost schedule for the development timeline, as shown on the following page, indicates that the bulk of the project costs occur in the second and third phases when the bulk of the land is developed. It should be reiterated that the single largest cost to construct these facilities involves the purchase of underlying land. While it is possible for LARPD to receive the land for free, most recently the majority of developers have opted to pay the alternative "park-in-lieu fees" as permitted by the Quimby Act (California Government Code, Section 66477) and let the governing municipalities acquire and develop the parkland. The previously completed FIS analysis assumed that park in lieu fees would be collected from the developers and this analysis anticipates that those fees will be utilized to purchase the necessary parklands.

<u>Cost Component</u>	<u>Phase 1 (2008)</u> Neighborhood Park	<u>Phase 2 (2009)</u> Neigh. Square & Comm. Park	<u>Phase 3 (2012)</u> 2 Neighborhood Parks	<u>Phase 4 (2013)</u> Neighborhood Park
Acres	4.9	16.8	14.6	4.5
Land	\$1,814,274	\$6,220,368	\$5,405,796	\$1,666,170
Arch. Design/Plan (15%)	\$493,364	\$1,670,874	\$1,325,691	\$465,117
Engineering (10%)	\$328,909	\$1,113,916	\$883,794	\$310,078
Earthwork	\$7,752	\$26,579	\$23,098	\$7,119
Infrastructure	\$14,858	\$50,943	\$44,272	\$13,645
Landscaping	\$393,966	\$1,350,742	\$1,173,859	\$361,806
Irrigation	\$75,979	\$260,500	\$226,387	\$69,777
Tap Fees (See summary)	\$63,915	\$141,860	\$127,830	\$63,915
Structures (See summary)	NA	\$13,514	NA	NA
Equipment (See summary)	\$105,521	\$108,056	\$211,042	\$105,521
Sport Fields (See summary)	\$695,885	\$2,545,699	\$1,391,771	\$695,885
Paving (See summary)	\$116,942	\$420,899	\$233,884	\$116,942
Overhead & Admin. (15%)	\$493,364	\$1,670,874	\$1,325,691	\$465,117
Contingency (10%)	\$328,909	\$1,113,916	\$883,794	\$310,078
Phase Totals:	\$4,933,640	\$16,708,740	\$13,256,909	\$4,651,171

9. ANNUAL OPERATIONAL COSTS

All of the preceding information related to the estimated cost of constructing the proposed recreational facilities within the EDP development. The expense of maintaining those facilities after they are completed must now be addressed since LARPD would be tasked, under the assumptions of this analysis, with operating these parks for the future enjoyment of the area's residents. A thorough review of LARPD's 2001-2002 Final Budget revealed the essential cost elements for maintaining these facilities and the numbers were tested for reasonableness with information obtained from the Cities of Livermore, Dublin, San Ramon, & Pleasanton, as well as other industry sources.

The annual operating expenses utilize the current pro-rata share of the applicable costs necessary to maintain LARPD's existing recreation facilities and applied them to the facilities proposed within the EDP parcel. The costs have been specifically tailored to reflect the type of facilities, programs, and operations likely to be present or occur in

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the EDP parklands. For example, the costs of operating specialized facilities, like the May Nissen Swim Center or the Ravenswood Historic Site, have not been utilized to estimate these annual expenses. The costs summarized below include all projected labor, materials, insurance, benefits, and contract expenses that would apply to the proposed facilities. In addition, these expenses anticipate that the EDP facilities would be geographically farther from the LARPD headquarters and maintenance facility and require 10% to 25% higher costs to reflect travel time and other factors.

<u>Operational Cost Component</u>	<u>Annual Cost</u>
Administration	\$91,211
Water & Irrigation	\$43,751
Electric	\$5,169
Maintenance & Equipment	\$299,552
Adult Sports	\$23,764
Youth Sports	\$7,415
Insurance	<u>\$26,551</u>
Total Annual Cost:	\$497,414

10. COST OF SERVICE SUMMARY

All of the preceding information identifies and explains the various costs associated with designing, planning, constructing, and operating the parkland and recreational facilities anticipated to be developed within the proposed EDP project. It is now appropriate to place these expenses into a single schedule so that the annual and cumulative effect can be summarized. These expenses have been increased by two percent annually to account for the projected long-term level of inflation. As mentioned previously, construction and the related costs are expected to begin in 2008 and the maintenance of each park begins one year later and lags the rest of the parkland development by one year.

The total of these annual costs and expenses was then discounted to adjust the "future" dollars back to current value in order to recognize the effect of time and risk on potential expense estimates. An evaluation of other marketplace investment opportunities provided a range of discount or yield rates that reflects the relative amount of uncertainty or risk associated with each investment opportunity. Given the high degree of risk involved in the full development of the proposed EDP project and the potential for unexpected construction and operating expenses, it is appropriate to

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select the upper end of the discount range, or 15 percent. The summary of these calculations is shown on the following page.

The result of this analysis indicates that the net present value of the projected cost of LARPD providing recreational service to the proposed EDP parcel, assuming that the area is not de-annexed from the service district, is \$14,069,461, rounded to **\$14,100,000.**

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COST SUMMARY OF THE COST OF SERVICE ANALYSIS

Cost Factors	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Construction Costs:	\$5,667,202	\$19,576,952	\$0	\$0	\$16,483,300	\$5,898,810	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Acres Constructed:	4.9	16.8	0	0	14.6	4.5	0	0	0	0	0	0	0
Maintenance Costs:	\$0	\$69,993	\$316,169	\$322,492	\$328,942	\$561,263	\$643,458	\$656,327	\$669,453	\$682,842	\$696,499	\$710,429	\$724,638
Total Costs:	\$5,667,202	\$19,646,945	\$316,169	\$322,492	\$16,812,242	\$6,460,073	\$643,458	\$656,327	\$669,453	\$682,842	\$696,499	\$710,429	\$724,638
Discounted Total Costs:	\$2,130,511	\$6,422,621	\$89,875	\$79,715	\$3,613,677	\$1,207,434	\$104,580	\$92,758	\$82,272	\$72,972	\$64,723	\$57,406	\$50,917

Net Present Value in 2002 Dollars: \$14,069,461
Rounded to: \$14,100,000

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- Financial Impact Study – The Effect of De-Annexing the East Dublin Properties Parcel, Diaz, Diaz & Boyd, Inc., September 2001
- Park Planning Guidelines, George E. Fogg, National Recreation & Park Association, 3rd Edition, 2000
- 1995 Master Plan, LARPD
- 1998-2000 Annual Reports, LARPD
- 2001-2002 Preliminary Budget, LARPD
- 2001-2002 Final Budget, LARPD
- www.larpd.dst.ca.us/index.html, LARPD
- 2000 State of the City Report, City of Livermore
- FY 2000-2001 Financial Plan Update, City of Livermore
- Comprehensive Annual Financial Report, June 2000, City of Livermore
- General Plan, City of Livermore
- North Livermore Specific Plan & EIR, April 2000, City of Livermore
- South Livermore Valley Specific Plan Update, City of Livermore
- North Livermore Planning Program Projections, Interoffice Memorandum, February 1997, City of Livermore
- Livermore Vision Project, Alternatives Report, November 2001, City of Livermore
- Public Park Disorder Study, JTI Consultants, June 1999, City of Livermore
- Scanning, Analysis, Response, and Assessment Report, 1999, City of Livermore Police Department & LARPD
- www.ci.livermore.ca.us, City of Livermore
- FY 2001-2002 Preliminary Budget & Financial Plan, City of Dublin
- FY 2001-2002 Update, Proposed 5-Year Capital Improvement Program 2000-2005, City of Dublin
- Eastern Dublin Specific Plan, June 1998, City of Dublin
- Eastern Dublin General Plan Amendment, January 1994, City of Dublin
- East Dublin Properties Development Plan & Annexation, Vols. 1 & 2, City of Dublin
- Parks & Recreation Master Plan, July 1994, City of Dublin
- Dublin Ranch Golf Club, Information packet, Toll Brothers - Dublin
- Discover Dublin, Information & Welcome packet, City of Dublin
- www.ci.dublin.ca.us/index, City of Dublin
- www.dsrds.com, Dublin San Ramon Services District (DSRSD)
- www.ebmud.com/derwa/index.html, DSRSD/East Bay Municipal Services District
- FY 2000-2001 Program of Services (Budget), City of San Ramon
- www.ci.san-ramon.ca.us, City of San Ramon
- 2000 Growth Management Report, City of Pleasanton
- www.ci.pleasanton.ca.us/index_full.html, City of Pleasanton
- Master Plan 1997, East Bay Regional Park District
- Adopted Budget 2001, East Bay Regional Park District

- www.ebparcs.org, East Bay Regional Park District
- [Projections 2020](#), Association of Bay Area Governments
- www.co.alameda.ca.us, Alameda County
- www.co.contra-costa.ca.us, Contra Costa County
- [State Bill 66477, Quimby Act](#), California Codes
- [The Planner's Guide to Specific Plans](#), State of California
- www.ca.gov/state/portal/myca_homepage.jsp, State of California
- www.world-playground.com, World Playground Web Directory
- www.rec-creations.com, Recreation Creations, Inc.
- www.playlsi.com, Landscape Structures, Inc.
- [Construction Cost Manual](#), Marshall & Swift Valuation Service

PERSONS CONTACTED OR INTERVIEWED

- Doug Bell, General Manager, LARPD
- Ken Craig, Superintendent of Planning & Parks, LARPD
- Felix Errilo, Assistant Planner, LARPD
- Monica Potter, Finance Director, City of Livermore
- Ron Scott, Chief of Police, City of Livermore
- Donn Neher, Law Enforcement Manager, City of Livermore
- Lisajoy Calegari, Project Manager, City of Livermore
- Tom Anderson, JTI Consultants, Consultants for the City of Livermore
- Mike Miller, Public Services Director, City of Livermore
- Stephen Riley, Planning Department, City of Livermore
- Rick Ambrose, City Manager, City of Dublin
- Diane Lowart, Director, Parks & Community Services, City of Dublin
- Andy Byde, Planner, City of Dublin
- Chris Foss, Economic Development Officer, City of Dublin
- John Bakker, Attorney, Meyers Nave, Counsel for the City of Dublin
- Mike Porto, Land Planner, Consultant to City of Dublin
- John Paynter, Assistant Vice President, Toll Brothers - Dublin
- Martin Inderbitzen, Attorney, Dublin Ranch
- Steve Delight, Assistant Engineer, Dublin San Ramon Services District
- Ken Peterson, Engineer, Dublin San Ramon Services District
- Nancy Wenninger, Land Acquisition Manager, East Bay Regional Park District
- Nancy Shliegh, Recreation Supervisor, East Bay Regional Park District
- Lou Gigliati, Recreation Supervisor, East Bay Regional Park District
- Dave Iremonger, Financial Services Manager/Treasury, City of Pleasanton
- Jim Wolf, General Manager, Park & Recreation Department, City of Pleasanton
- Eileen Moorley, Assistant Director, Park & Recreation Department, City of Pleasanton

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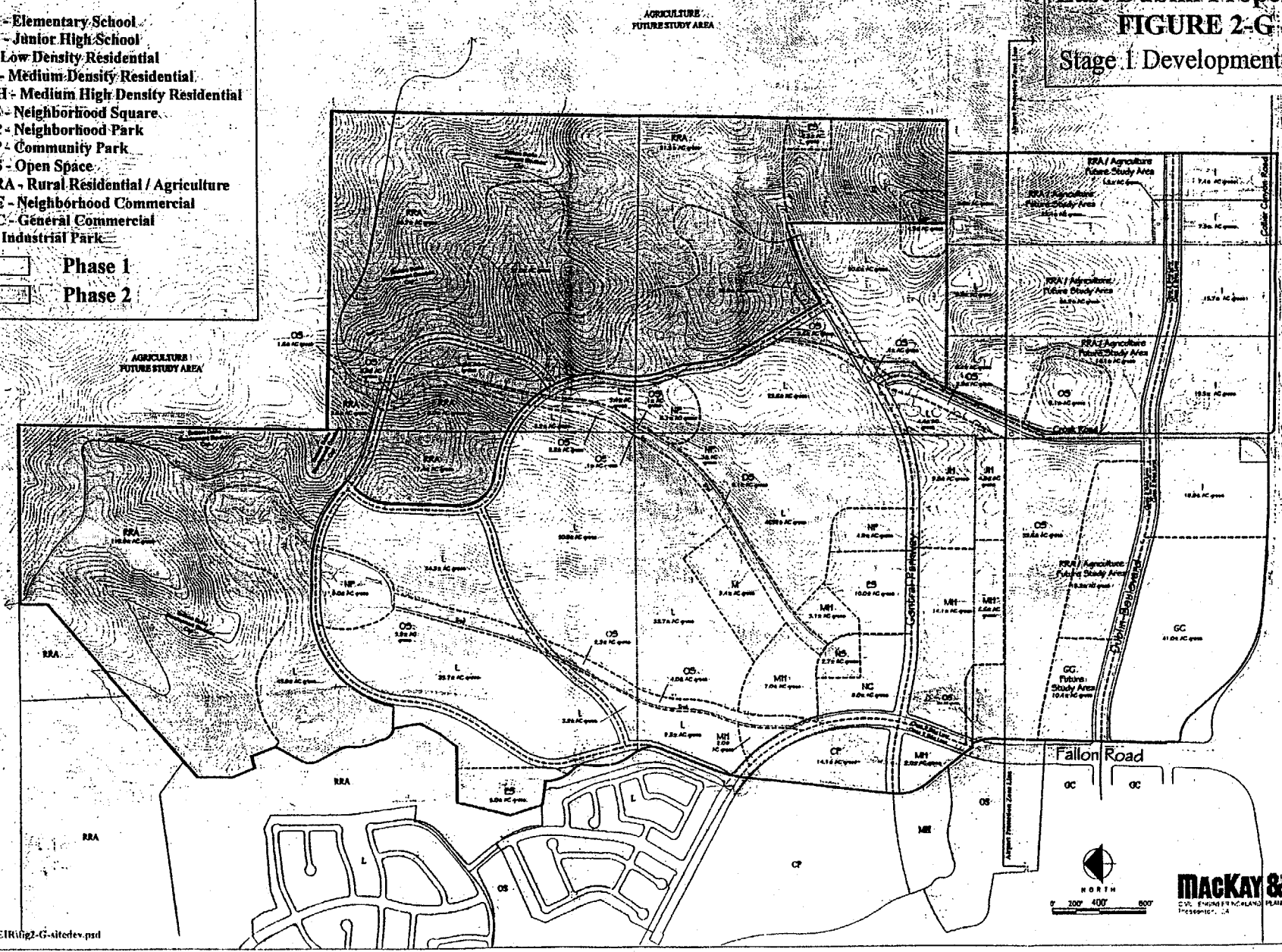
- Jeff Eorio, General Manager, Park & Recreation Department, City of San Ramon
- Ester Lucas, Assistant General Manager, Park & Recreation, City of San Ramon
- Charlotte Martinelli, Administrative Analyst, Alameda County
- Steven Ellis, Assistant Engineer, Zone 7 Alameda County Flood Control & Water Conservation District

East Dublin Properties
FIGURE 2-G
Stage 1 Development Plan

LEGEND

- ES - Elementary School
- JH - Junior High School
- L - Low Density Residential
- M - Medium Density Residential
- MH - Medium High Density Residential
- NS - Neighborhood Square
- NP - Neighborhood Park
- CP - Community Park
- OS - Open Space
- RRA - Rural Residential / Agriculture
- NG - Neighborhood Commercial
- GC - General Commercial
- I - Industrial Park

Phase 1
 Phase 2



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QUALIFICATIONS OF WAYNE G. COUTO, MSA

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PROFESSIONAL EXPERIENCE:

Senior Appraiser, DIAZ, DIAZ & BOYD, INC., Pleasanton, CA, June 2000 to present. The firm specializes in the appraisal of real property including office, industrial, R&D, and retail properties; rights-of-way including full takes, partial acquisitions, permanent and temporary easements; vacant land, lots, and acreage; special purpose properties; subdivisions; apartments; and single-family residences. Also conducts market studies, highest and best use analyses, and feasibility evaluations.

Appraiser/Founder, Integrity Property Services, March 1996 to May 2000. Specialized in the appraisal of resort and recreationally oriented properties which included ski areas, golf courses, lakes, ranches, and a variety of commercial properties (proposed and improved office, industrial, and retail developments). Assignments also included land exchanges and conservation easements for various federal and state agencies.

Senior Appraiser, Nash-Johnson Associates, November 1990 to November 1995. Appraisal assignments included electronic communication sites, mineral rights, easements, and special purpose properties (such as lakeside resorts, mining claims, hunting clubs, and historic structures), as well as mass appraisals in Colorado, South Dakota, and Wyoming.

Associate Appraiser, Bishop Appraisal Group, May 1987 to November 1990. Appraisal assignments included a variety of resort and recreational properties including condominiums, apartments, commercial centers, office buildings, luxury homes, subdivisions, industrial parks, and hotels in Colorado and Montana.

Staff Appraiser, American Savings & Loan, July 1986 to March 1987. Performed residential form appraisals on single-family properties throughout the San Francisco Bay Area.

EDUCATION:

Bachelor of Science Degree in Real Estate, Additional emphasis in Economics, California State University, Hayward 1986.

Undergraduate work at University of Rhode Island, Kingston, 1981-83.

Appraisal Courses:

Appraisal Institute: Real Estate Appraisal Principles; Basic Valuation Procedures, Capitalization Theory and Techniques; Case Studies in Real Estate Valuation; Report Writing and Valuation Analysis; Eminent Domain and Condemnation Appraising; and Standards of Professional Practice National Association of Master Appraisers: Commercial Real Estate Environmental Screening

Real Estate Related Courses:

Resort Management; Architectural Design; Geology; Cartography; and Photographic Analysis

PROFESSIONAL DESIGNATION:

MSA, Master Senior Appraiser, National Association of Master Appraisers, 1996

General Associate Member, Appraisal Institute, 1986, Continuing Education requirements complete

PROFESSIONAL CERTIFICATION:

Certified General Real Estate Appraiser, State of California, #AG027839

Certified General Real Estate Appraiser, State of Colorado, #CG01319307

PROFESSIONAL AFFILIATIONS:

International Right of Way Association

1056 Division Street, Pleasanton, CA 94566 (925) 462-6364 Fax: (925)462-9794 EMail: wgmsa@ddb-inc.com

QUALIFICATIONS OF JOYCE L. DIAZ, MAI

121 of 201

PROFESSIONAL EXPERIENCE:

DIAZ, DIAZ & BOYD, INC., Pleasanton, California, 1997, President. Formerly **JOYCE L. DIAZ & ASSOCIATES**, Pleasanton, California, founded 1988, specializing in the appraisal of real estate, including office, industrial, and retail properties; residential single family, income, and subdivisions; special purpose properties; land; and rights-of-way. Valuation of property rights includes fee simple, leased fee and leasehold interests, ground leases and easements; highest and best use; feasibility analysis and market studies for varied purposes including purchase and sale, mortgage and bond financing, right-of-way acquisition and disposition; litigation, and consultation. Clients include financial institutions and advisors, government agencies, utilities, title companies, investors, developers, attorneys, and property owners.

Real Estate Appraiser with Mills-Carneghi-Bautovich, Inc., San Jose office, 1987-1988. Appraisal assignments included proposed and existing office, retail, industrial, residential income properties, and rights-of-way. Appraisals were prepared for a variety of firms, agencies and individuals for use in mortgage lending, loan workouts, acquisition, estate settlement, and division of assets.

Assistant Vice President and Appraisal Officer with Union Bank, Oakland, 1982-1987. Appraisal assignments included proposed and existing industrial, office, retail, special purpose, residential income properties and subdivisions, and land.

Administrative Assistant to the City Attorney, City of Livermore, California, between 1975-1980. During this period responsibilities included appraising, negotiating, and preparing documents for the acquisition of real property as well as reviewing acquisitions for compliance with state and federal law.

EDUCATION:

B.S. in Business Administration, with High Honors, emphasis in Real Estate, minor in Economics, California State University, Hayward, 1982. Certificate in Real Estate, Chabot College, 1979.

Appraisal: Appraisal Institute: Principles, Capitalization Theory, Income Property Appraising, Case Studies, Valuation Analysis & Report Writing, Limited Appraisals & Reporting Options, Standards of Professional Practice, Real Estate Investment Analysis, Litigation Valuation, Highest & Best Use & Market (Feasibility) Analysis; Valuation of Detrimental Conditions. **International Right of Way Association:** Expert Witness Testimony, Partial Acquisitions, Easement Valuation, EMFs. **Sonoma Land Trust:** Conservation Easements. Workshops and seminars focusing on real estate, local markets, economics, law and related topics.

DESIGNATION: MAI, Appraisal Institute; Continuing Education requirements complete
CERTIFICATION: General Appraiser, State of California, No.AG001887, expires 12/9/2002
LICENSE: California Real Estate Broker
INSTRUCTOR: Appraisal courses, International Right of Way Association and Las Positas College
APPROVED: FDIC, CalTrans
REGISTERED: RTA: MWOB/DBE
SEMINARS: Organized and presented Condemnation Appraising and Mock Trial, IRWA, 1997; Appraising More Than Land and Buildings, IRWA, 1996; Dealing With Contaminated Properties, IRWA, 1993 and Contaminated Property Update 1998; and Commercial Construction, AIREA, 1990

PROFESSIONAL AFFILIATIONS: PRESENT/PAST COMMITTEE SERVICE/HONORS

The Appraisal Institute (American Institute of Real Estate Appraisers), Member (MAI)
Served on Board of Directors; Admissions; Chaired Education & Candidates' Committees
International Right of Way Association, Member (SR/WA Candidate); Professional of the Year 1994
Recipient 1997 Sophie Yore Service Award
Director & Chair of Appraisal Committee/Past President; International Director; Treasurer; Chaired Finance Committee
Northern California Commercial Association of Realtors & Bay East Association of Realtors
Urban Land Institute, Associate Member
Commercial Real Estate Women

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Responses to Letter 8: Livermore Area Recreation and Parks District

Response 8.1: Regarding the potential of the proposed project to impact the LARPD, the City of Dublin continues to believe that less-than-significant impacts would result to the District should the Project be approved.

The proposed detachment has long been planned by the City of Dublin, Implementing Policy I (contained in the Eastern Dublin General Plan Amendment portion of the Dublin General Plan) directs the City of Dublin to work with LARPD to revise jurisdictional lines so that the City of Dublin departments have jurisdiction over all parkland within the City of Dublin sphere of influence. To make this General Plan policy a reality, the proposed Project includes detachment from LARPD to allow parks and recreation services to be provided by the City of Dublin, co-terminus with the proposed City of Dublin municipal boundaries.

As noted in the third paragraph of the LARPD comment letter, the City of Dublin has met with District representatives to discuss environmental issues of the proposed project, so that the allegation that District concerns have not been considered by the City is not accurate.

Response 8.2: In regard to the decision by the City of Dublin to undertake a Supplemental EIR for the proposed project rather than a new EIR is clearly discussed in Section 2.3 of the RDSEIR, Update of Prior Environmental Documentation.

The commenter has not identified specific changed issues or information that would require a new, full EIR to be prepared. A future project of this "size and significance" was envisioned in the 1993 Eastern Dublin EIR and appropriate analysis undertaken and mitigation approved by the City to ensure that CEQA was satisfied. This included park and recreation impacts. Since the proposed Project has been deemed substantially in compliance with the Eastern Dublin General Plan and Specific Plan, environmental aspects of the proposal have been adequately addressed in the adopted 1993 Eastern Dublin EIR.

Section 2.3 of the RDSEIR does identify a limited number of new or changed conditions since adoption of the 1993 EIR. These new and/or changed conditions are then addressed in Section 3 of the RDSER, Environmental Setting, Impacts and Mitigation Measures. The potential for changed conditions with regard to parks or recreational impacts were not identified in the Initial Study for the proposed Project (see Volume 2; Appendices), so that the City of Dublin believes park and recreation impacts were fully addressed in the 1993 EIR and no additional analysis is required.

Response 8.3: In response to LARPD's comment that the City of Dublin must review recent studies of the impacts of the proposed project on LARPD as prepared by the firm of Diaz, Diaz and Boyd, these studies have been reviewed by the City. The City of Dublin notes that The Effect of De-Annexing the East Dublin Properties Parcel From the Livermore Area Recreation and Park District, Livermore, Alameda County, California (September 2001) and The Financial Effect Upon The Livermore Area Recreation and Park District of Providing Recreational Facilities to the East Dublin Properties Parcel in Alameda County, California (January 2002), have been prepared for the purposes of analyzing anticipated loss of tax and other revenue to the LARPD should the Project area be detached from the District and the anticipated costs of providing recreational facilities to the LARPD if the proposed Project area were to remain in the LARPD service area.

While the reports find that the anticipated service cost to the LARPD would be \$14,100,000 at full buildout of planned recreational facilities and the District would realize revenue of approximately \$17,500,000 if the Project area were to remain in the District, the City of Dublin notes that one of the major goals of the proposed Project is to detach the Project area from LARPD consistent with Dublin's General Plan. Pursuant to the proposed reorganization to include detachment of the Project area from LARPD and annexation to the City of Dublin, there would be no impacts on the District regarding construction and maintenance of parks and recreational facilities in the Project area, since all parks and recreation costs would be borne by either the City of Dublin or various Owner's Associations, as may be negotiated between the City of Dublin and the anticipated future property owners.

Similarly, following the reorganization, the District would not receive future revenues generated by the area, since the Project area would not be located within District boundaries.

With detachment of the Project area from the LARPD, the District would have no further responsibility in terms of providing service for future residents of the Project area. Thus, the information provided in the Diaz, Diaz and Boyd reports is not relevant.

The City of Dublin notes that the thrust of Comment 8.3 deals with potential economic impacts of the proposed Project to the LARPD. Section 15131 (a) of the CEQA Guidelines note that "economic or social effects of a project shall not be treated as a significant effect on the environment." Thus, further analysis of this issue is not required.

Response 8.4: The commenter disagrees with the finding of the Initial Study that the Eastern Dublin General Plan and Specific Plan call for detachment of the project area from LARPD, then the next logical action includes

annexation of the Project area to the City of Dublin. The proposed project does not address LARPD and their existing legal authority over the area.

In response, the City of Dublin notes that the RDSEIR project description section clearly identifies that the goals of the proposal includes a reorganization that includes simultaneous detachment from LARPD and annexation to the City of Dublin. This is consistent with the adopted General Plan for the Eastern Dublin area. The Project area already lies within the Dublin sphere of influence as approved by the Alameda County Local Agency Formation Commission, which recognizes that the City of Dublin is the most logical municipal agency to provide service to future urban uses in the Project area, and that future annexations to Dublin would occur. This comment therefore addresses the appropriateness of municipal and district boundaries; not the environmental impacts of the proposed Project. Therefore, no response is necessary.

Response 8.5: In regard to the comment that the City of Dublin Emerald Park is not a true regional park, the City of Dublin notes that the City's Parks Master Plan defines this facility as a Community Park. Since Emerald Park lies within the current City boundary and the City has the responsibility of providing park and recreation services, the City retains the right to develop and implement park standards and designs that best suit the needs of local residents.

The commenter also notes that the City of Dublin does not provide local park facilities consistent with the City's stated goal of 5.0 acres of developed parks per 1000 residents. The City of Dublin Parks Master Plan is not the project being reviewed as part of the RSDEIR so that comments on city-wide park ratios is not appropriate in this context. The City notes that the proposed Project, the Eastern Dublin Property Owners' project, proposes a greater acreage of parkland than required by City standard (5.7 acres per 1,000 residents). Since the Project would exceed the minimum City parkland standard, the City of Dublin does not believe this to be a significant environmental impact.

Response 8.6: The commenter notes that the City of Dublin is presently not providing the amount of park and recreation land set as a goal by the City, although the proposed project would meet minimum City parkland standard. The RSDEIR fails to address the existing deficit of parkland in the City, which would result in Dublin residents using LARPD facilities.

The City of Dublin notes that current state law prohibits cities from requiring property developers from correcting previous deficits in infrastructure and community facilities, such as parks. Since the proposed Project includes park and recreation facilities consistent with City standard so that no impact has been identified by the City in terms of parkland provision. The City of Dublin also notes that the high amount of parkland proposed in the Project would provide an alternative to use of existing LARPD facilities within the City of Livermore.

Response 8.7: The Eastern Dublin EIR noted that the cost of providing park and recreational facilities was an environmental impact, which would be mitigated by developer provision of parks and open space consistent with a Park Implementation Plan. New impacts to providing parks cannot be identified so that an adequate determination of mitigation cannot be made.

The City of Dublin notes that the basic structure of providing parks and recreational facilities has not changed since adoption of the Eastern Dublin EIR, so that there is no need for additional analysis at this time.

Response 8.8: LARPD's financial analysis of the proposed Project indicates that the project will not provide adequate financial resources to develop park properties, resulting in a deficit. Therefore the RDSEIR is not adequate.

The City of Dublin notes that the proposed project includes a reorganization to detach the Project area from the LARPD and annex the properties to the City of Dublin, consistent with a Policy in the Dublin General Plan. If this were to be done, the responsibility of providing and maintaining parks and recreational facilities would become the responsibility of the City of Dublin. The City of Dublin currently operates an extensive park network in the Eastern Dublin area without incurring a significant financial drain. The City of Dublin has determined this topic is not an environmental impact pursuant to CEQA.

Response 8.9: LARPD notes that the District's previous failure to comment on the 1993 Eastern Dublin EIR does not mean that current potential impacts are identified. The 1993 EIR failed to completely address park impacts and this must be done as part of this RSDEIR. If traffic impacts were not addressed in the 1993 EIR, would this mean the City has no obligation to address traffic impacts at this time?

The City of Dublin continues to believe that the previous EIR (the Eastern Dublin EIR) adequately addressed park and recreational facilities and no additional analysis nor mitigation is required as part of the proposed Project.

Section 3.6 of the RDSEIR does address additional traffic impacts of the proposed project.

Response 8.10: In regard to the comment that LARPD was not consulted because the City of Dublin did not believe there were significant impacts, the City of Dublin continues to believe that there would be no impacts to LARPD. This is because the Project proposes to detach the properties included in the Project site and annex the properties to the City of Dublin. With the proposed change of municipal jurisdiction, LARPD would have no responsibility for providing service to future residents since park and recreational service would then be

provided by the City of Dublin. Thus, there would be no significant impacts to LARPD or to District facilities.

Response 8.11: The commenter notes that the RSDEIR does not address the City of Dublin's plan to provide park and recreational services. The District's studies indicate that the Dublin Master Plan does not provide acceptable park and recreational facilities within the community and the proposed Stage 1 development plan would not curb this deficiency.

The City of Dublin notes that the proposed Project would exceed the minimum amount of parkland required by the City of Dublin. The proposed Stage 1 Planned Development Plan includes 40.8 gross acres of parkland, of which 14.1 acres are community parks, 24 acres are neighborhood parks and 2.7 acres are devoted to neighborhood squares. The total acreage is 5.72 acres of parks per 1,000 population at full buildout. This exceeds the minimum 5 acres of parkland per 1,000 residents as set forth in the Dublin Municipal Code Chapter 9.28 (Quimby Act Ordinance) and City of Dublin Resolution No. 60-99, that requires payment of a Public Facilities Fee to provide a ratio of 5 acres of parkland per 1,000 residents.

There would therefore be no inadequacy in the plan to provide parkland within the proposed Project area.

In terms of providing additional parkland for the remainder of the community, the City's Park Master Plan is not the proposal being reviewed as part of this RSDEIR. See Response 8.6 regarding the relationship between parks being proposed within the Project area and parkland in the remainder of Dublin.

Response 8.12: This comment notes that the addition of Isabel Parkway interchange will reduce the access distance from the Project area to Sycamore Grove Park to approximately 6.5 miles and to Brushy Peak Park to approximately 8 miles, not 10-12 miles.

Response 8.13: The City of Dublin continues to believe that even with transportation improvements coming on line, such as the Isabel Parkway interchange, LARPD facilities would not receive significant use from proposed Project residents due to the distance required to travel to District facilities and associated inconvenience. By comparison, City of Dublin park facilities are located significantly closer to the Project area and would not require freeway travel to reach. Therefore, City of Dublin park and recreational facilities would receive a much higher use than more distant and inconvenient LARPD facilities.

The City of Dublin has constructed major park facilities within 1 to 2 miles from the Project site that can be reached via surface streets, not major freeways.

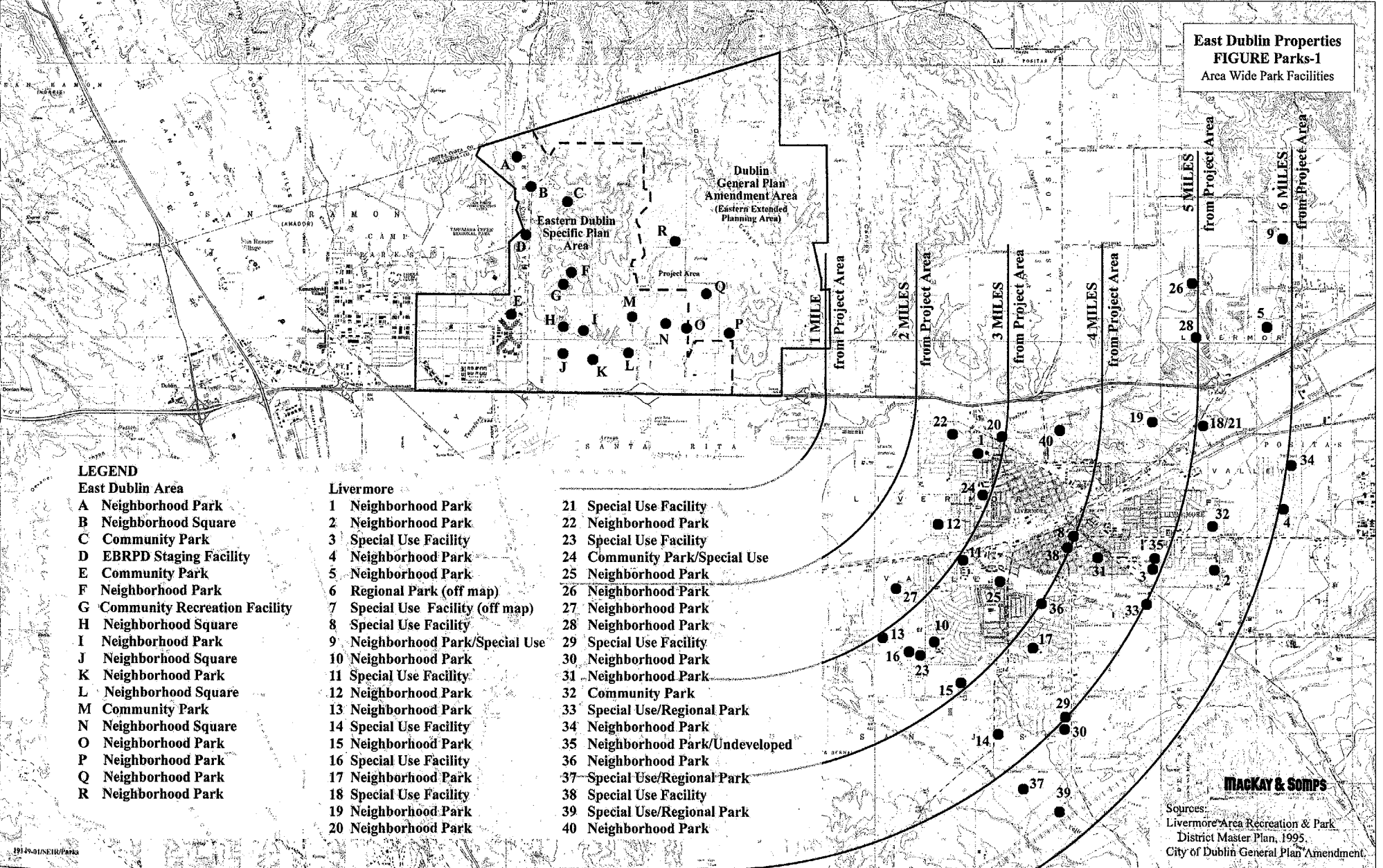
Therefore, anticipated future use of LARPD facilities by Dublin residents would be limited and not a significant impact.

Response 8.14: The comment notes that the City of Dublin's analysis that future residents of the proposed Project would not use LARPD facilities is based on inaccurate information. The statement that the City of Dublin provides a level and range of service similar to those provided by LARPD is not substantiated.

The City of Dublin continues to believe that the park facilities operated by the City of Dublin is significantly closer and more convenient than similar facilities operated by LARPD. This is based on Exhibit 1, attached. This Exhibit shows the location of existing and planned park facilities in Eastern Dublin in context with the location of the proposed Project. Comparable facilities operated by LARPD are also shown on the Exhibit. As can be seen, the majority of park and recreation facilities operated by the District are located south of the I-580 freeway and generally 2 to 3 miles southeast of the Project area. By comparison, City of Dublin park facilities are sited on the same side of the I-580 freeway within 1 to 2 miles from the Project site. Emerald Glen Park is within two miles and can be reached via surface streets. Emerald Glen Park will include all of the new community recreational facilities including Recreation Center/Gymnasium, Aquatic Center and Community Center.

Based on this information, the City of Dublin concludes that City facilities are both closer and more convenient to future residents of the Project area and park facilities operated by LARPD would receive minimal use due to further distance from the Project area.

East Dublin Properties
FIGURE Parks-1
Area Wide Park Facilities



LEGEND

- | | | |
|-------------------------|--------------------------------|----|
| East Dublin Area | | |
| A | Neighborhood Park | |
| B | Neighborhood Square | |
| C | Community Park | |
| D | EBRPD Staging Facility | |
| E | Community Park | |
| F | Neighborhood Park | |
| G | Community Recreation Facility | |
| H | Neighborhood Square | |
| I | Neighborhood Park | |
| J | Neighborhood Square | |
| K | Neighborhood Park | |
| L | Neighborhood Square | |
| M | Community Park | |
| N | Neighborhood Square | |
| O | Neighborhood Park | |
| P | Neighborhood Park | |
| Q | Neighborhood Park | |
| R | Neighborhood Park | |
| Livermore | | |
| 1 | Neighborhood Park | 21 |
| 2 | Neighborhood Park | 22 |
| 3 | Special Use Facility | 23 |
| 4 | Neighborhood Park | 24 |
| 5 | Neighborhood Park | 25 |
| 6 | Regional Park (off map) | 26 |
| 7 | Special Use Facility (off map) | 27 |
| 8 | Special Use Facility | 28 |
| 9 | Neighborhood Park/Special Use | 29 |
| 10 | Neighborhood Park | 30 |
| 11 | Special Use Facility | 31 |
| 12 | Neighborhood Park | 32 |
| 13 | Neighborhood Park | 33 |
| 14 | Special Use Facility | 34 |
| 15 | Neighborhood Park | 35 |
| 16 | Special Use Facility | 36 |
| 17 | Neighborhood Park | 37 |
| 18 | Special Use Facility | 38 |
| 19 | Neighborhood Park | 39 |
| 20 | Neighborhood Park | 40 |
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MACKAY & SOMPS

Sources:
Livermore Area Recreation & Park
District Master Plan, 1995
City of Dublin General Plan Amendment

Response 8.15: The District notes that the City of Dublin's continued reliance on private sector day care services would result in a significant impact to LARPD's day care facilities due to the proximity of major employers in Livermore and a desire of employees from the project area to place their children in day care near their place of employment.

The City of Dublin does continue to rely on private sector day care providers. To date, no impacts have been noted with local providers within the City of Dublin. The comment has not provided any evidence that approval of the proposed Project would result in a significant impact to the District. It is anticipated that any use of District day care facilities by non-District residents, such that would be the case with detachment of the Project area from the District, would be supported by fees charged by the District.



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Letter 9

CITY OF SAN RAMON

2222 CAMINO RAMON
P.O. BOX 5148
SAN RAMON, CALIFORNIA 94583
PHONE: (925) 973-2500
WEB SITE: www.sanramon.ca.gov

February 25, 2002

Andy Bye, Senior Planner
City of Dublin, Planning Department
100 Civic Plaza
Dublin, CA 94568

SUBJECT: PA 00-025 East Dublin Properties
Revised Draft Supplemental Environmental Impact Report

Dear Mr. Bye:

Thank you for the opportunity to review the subject report for PA 00-025 East Dublin Properties. We have four main concerns relative to the project's impact on San Ramon:

- 1. Traffic impacts to Dougherty Road. | 9.1
- 2. Regional trail and public transportation connections. | 9.2
- 3. Potential upstream drainage impacts at the County line. | 9.3
- 4. Design and construction of water tank at north City limits. | 9.4

Regarding the regional trail and public transportation connections, please include a figure showing the connection between the existing and proposed trails and public transit lines. Other than that, we have no additional comments at this time. During the project review process, we would appreciate our City's continued involvement to ensure that the above items are being addressed, as well as any additional items possibly impacting San Ramon. | 9.5

We look forward to receiving the next submittal. If you have further questions, please contact me at 925-973-2689.

Sincerely,

Maria Robinson
District Engineer

g:\regional review\dublin_DSEIR_East Dublin Properties_0202

Responses to Letter 9: City of San Ramon

Response 9.1: The comment expresses concerns regarding possible Project traffic impacts to Dougherty Road.

In order to address the comment's concern, additional LOS analysis was conducted on Dougherty Road during the PM peak hour when traffic congestion is at its worst level. Future traffic volumes on Dougherty Road just north of Dublin Boulevard are shown in Table 5.1 (refer to Response 5.1). This segment of Dougherty Road experiences higher volumes than near the City Limit line with the City of San Ramon to the north. As shown in Table 5.1, Dougherty Road will operate at an acceptable LOS D or better in the near-term scenario (Year 2005 with four through lanes) and LOS C or better in the long-term scenario (Year 2025 with six through lanes) with or without Project traffic.

As shown in Table 5.1, the project-related volume increases are either relatively low in magnitude or, in some cases, negative. This is because, due to the location of the Project at the far end of Eastern Dublin, Dougherty Road is not expected to serve as a primary access route to the Project in a manner similar to I-580, I-680, Dublin Boulevard and other surface streets. In the case of negative volume changes, traffic reductions are possible with the development of the proposed Project as background traffic in the Tri-Valley Transportation Model may be reassigned to other locations as new traffic is introduced to the roadway network. The reassigned background traffic may be replaced with less Project traffic resulting in overall reductions.

Based on the above analysis, the proposed Project would not have a significant traffic impact on Dougherty Road and, hence, no mitigation measures beyond those identified in the Revised DSEIR are required of the Project.

Response 9.2: The comment notes concern regarding impacts to the City of San Ramon from the project in respect to regional trail and public transportation connections.

The proposed project does not contain any regional trail and public transportation connections to the City of San Ramon. The project area is not immediately adjacent to the incorporated portions of the City of San Ramon, nor adjacent to the Sphere of Influence of San Ramon (see figure 2-f of DSEIR). Therefore there are no impacts.

Response 9.3: The comment notes concern regarding impacts to the City of San Ramon from the project in respect to potential upstream drainage impacts.

The storm water from the proposed project flows to the south and the east and not toward the incorporated portions of the City of San Ramon, nor adjacent to

the Sphere of Influence of San Ramon (see figure 2-f of DSEIR). Therefore there are no impacts to the City of San Ramon.

Response 9.4: The comment notes concern regarding impacts to the City of San Ramon from the project in respect to Design and Construction of water tank at north City Limits.

The project area is not immediately adjacent to the incorporated portions of the City of San Ramon, nor adjacent to the Sphere of Influence of San Ramon. According to Figure 2-L of the DSEIR, the proposed location of the water tank to serve the project area would be over 1 mile away from the nearest location of Sphere of Influence of San Ramon. Based on the proximity of the water tank to San Ramon, no visual or other impacts will result to San Ramon. In addition, the impacts from the placement of water tanks were analyzed by the Eastern Dublin EIR (see Figure 3.5D) and it was determined that no impacts would result from their placement.

Response 9.5: See response to comment 9.2, above.

CITY OF LIVERMORE

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*"Wine
Country
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1849"*

Letter 10

March 1, 2002

HAND DELIVERED

Eddie Peabody, Jr.
Director of Community Development
City of Dublin
100 Civic Plaza
Dublin, CA 94583

Re: Comments on Revised Draft Supplemental Environmental Impact Report
for the East Dublin Properties (PA 00-025)

Dear Mr. Peabody:

Thank you for extending the opportunity to comment on this project. Attached to this letter is the City of Livermore's comments on the Revised Draft Supplemental Environmental Impact Report (RDSEIR) issued by the City of Dublin for the East Dublin Properties project. We appreciate your recent meetings with our staff and City Council members and are pleased with Dublin's commitments to appropriately address issues that could ultimately impact residents Valley wide. We sincerely hope these meetings continue, and we believe they could lead to a project that meets all of Dublin's objectives while minimizing impacts to Livermore residents.

In addition, we appreciate Dublin's recent decision to consider removing the Future Study Area designation from Doolan Canyon. This is a very important step in providing permanence to the greenbelt area between our communities.

A project of the scale of the East Dublin Properties project has the potential to create widespread impacts. This area is within Dublin's Sphere of Influence and has been a part of Dublin's General Plan since 1994. Livermore wishes to be clear that our comments should not be interpreted as a request that the area not be developed or an attempt to dictate how the City of Dublin should develop. We strongly believe that impacts of the project can be appropriately mitigated or mitigations can be developed which will lessen impacts and help preserve the quality of life for Valley residents while allowing for appropriate urban development.

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CITY MANAGER
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CITY ATTORNEY
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CITY CLERK
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Engineering Division
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Housing Division
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Airport Division

636 Terminal Circle
73-5280 • Fax: 373-5042
olf Course Division

309 Clubhouse Drive
373-5239 • Fax: 373-5203

Maintenance Division
300 Robertson Park Rd.
73-5220 • Fax: 373-5033
Senior Resources Division

101 W. Jack London Blvd.
373-5230 • Fax: 373-5295

CITY OF LIVERMORE

Comments on the Revised Draft Supplemental Environmental Impact Report for the East Dublin Properties (SCH # 2001 052144)

February 28, 2002

Introduction

The City of Livermore (Livermore) provides these comments on the City of Dublin's (Dublin) Revised Draft Supplemental Environmental Impact Report (RDSEIR) for the proposed East Dublin Properties Stage 1 Development Plan and Annexation Project. On June 26, 2001, September 13, 2001 and October 16, 2001, respectively, Livermore provided comments on the Notice of Preparation, an earlier Draft Supplemental Environmental Impact Report (DSEIR), and a previous Final Supplemental Environmental Impact Report (FSEIR). In those previous comment letters Livermore related its concerns with the project and with the environmental review documents. Livermore provided a detailed outline of concerns, including deficiencies under the California Environmental Quality Act (CEQA) (Pub. Res. Code §§ 21000 et seq.) and the CEQA Guidelines (14 Cal Code Regs. §§ 15000 et seq.).

10.1

Specifically, in Livermore's October 16, 2001 letter, Livermore raised the point that Dublin had not adequately addressed the project's consistency with the Local Agency Formation Commission (LAFCO) factors, see October 16, 2001 Letter at 2-3; commented that several circumstances had significantly changed since the environmental documents upon which this EIR relies had been certified, see id. at 3-5; noted that Dublin had not addressed mitigation measures suggested by Livermore to combat the loss of agricultural land caused by the proposed project, see id. at 5-6; discussed the inadequacy of the FSEIR's analysis of impacts to biological resources and water supply, see id. at 6-9; and asserted that the FSEIR failed to analyze adequately the pre-annexation agreements, see id. at 9-10.

In reviewing the RDSEIR, the City of Dublin has not fully considered the comments Livermore provided in its previous letters, hereby incorporated by reference and attached. See Exhibit 1 (June 26, 2001 Letter); Exhibit 2 (September 14, 2001); Exhibit 3 (October 16, 2001 Letter). Although Dublin withdrew, revised and recirculated the document in response to comments received on the prior FSEIR, including those of Livermore. Livermore remains concerned that the RDSEIR is inadequate for several reasons, including, but not limited to:

- Lack of a full and adequate project description;
- Deferral of key studies and information generation, adequate analysis of impacts and development of mitigation measures, although the project virtually assures the conversion of the project area to development;

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Thank you for your on-going willingness to discuss these issues. Our Council would like to set up meetings between representatives of Livermore, Dublin, and LAFCo to facilitate resolution of these matters. Please contact me at (925) 373-5288 to continue our discussions on these issues.

Sincerely,



Marc Roberts
Community Development Director

c: Mayor / City Council
Linda Barton, City Manager
Adolph Martinelli, Alameda County
Brian Swift, City of Pleasanton
Dale Myers, Zone 7
Vivian Housen, LAYWMA
Bert Michalczyk, DSRSD
Ken Craig, LARPD
Brad Olson, EBRPD
Sheila Larsen, USFWS
Carl Wilcox, CDFG

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Clearly Dublin has recently implemented several very progressive transit-oriented projects that have the potential to provide both jobs and housing in a manner that minimizes local and regional impacts. However, in some circumstances, only a cooperative regional approach can effectively address certain impacts. One City's efforts, no matter how progressive, cannot effectively address certain issues that impact all Tri-Valley residents. With this in mind, the City of Livermore would like to proactively work with the City of Dublin to solve common issues of concern that do not fall neatly into jurisdictional boundaries. These issues include biological resources, habitat conservation planning efforts, regional transportation impacts, ensuring adequate water supply for all Valley residents, helping ensure agricultural viability in areas that will not be ultimately urbanized, and opportunities for the permanent preservation of a greenbelt between our communities.

Livermore believes it would be most appropriate to continue frank discussions to reach a common understanding of appropriate steps that both communities might take to help address these issues. Our discussions to date lead us to believe there may be significant areas where consensus could be developed and litigation avoided. We would prefer to continue our less formal discussions to determine appropriate solutions rather than submit formal comments at this time.

Unfortunately, the requirements of the California Environmental Quality Act (CEQA) constrain our ability to delay our formal comments. Therefore, as required by CEQA, I have attached comments that highlight our areas of concern with the Revised Draft Supplemental Environmental Impact Report.

Livermore would like to emphasize that even though we have attached formal comments on this project, we believe a cooperative approach, including commitments from both Cities, is the most effective way to address many of the impacts of large-scale projects within the Tri-Valley. We very much wish to further build the working relationship between our jurisdictions to solve these complex problems.

We are aware of Dublin's desire to complete annexation prior to completion of further detailed studies and prior to the design of final mitigation measures. The City of Livermore requests that Dublin defer action on this project until an environmental document is prepared and circulated for public comment that fully complies with CEQA and until Dublin has had a chance to determine what mitigations are feasible and most appropriate for this project.

The attached comments were prepared with the assistance of Lamphier-Gregory; Terrell Watt, Planning Consultant; Jones & Stokes (biology); Saracino-Kirby-Snow (Water Resources); and Shute, Mihaly, & Weinberger LLP, Attorneys at Law.

- *Changed circumstances*, which may invalidate portions of the RDSEIR's reliance on the 1993 EIR for East Dublin General Plan Amendment (EDGPA);
- *Inadequate impacts analysis* that does not identify potentially significant impacts, both project-related and cumulative, and the need to recommend feasible mitigation measures and alternatives capable of avoiding or reducing these impacts; and,
- *Inadequate discussion of alternatives*.

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(cont.)

The RDSEIR remains flawed under CEQA. An EIR must provide enough analysis and detail about environmental impacts to enable decision-makers to make intelligent judgments in light of the environmental consequences of their decisions. See CEQA Guidelines § 15151; Kings County Farm Bureau v. City of Hanford, 221 Cal.App.3d 692 (1990). Under the law, the lead agency must make a good faith effort to fully disclose the environmental impacts of the project. This requirement cannot be met unless the project is adequately described and existing setting information is complete. See County of Inyo v. City of Los Angeles, 71 Cal.App.3d 185, 199 (1977). Both the public and decision-makers need to fully understand the implications of the choices presented by the project, mitigation measures, and alternatives. See Laurel Heights Improvement Ass'n v. Regents of University of California (Laurel Heights I), 6 Cal.4th 1112, 1123 (1988). In this case, the RDSEIR does not provide sufficient information to enable informed decision-making by the City and participation by the public. Much important information remains omitted or deferred until a later date in violation of CEQA.

The discussion that follows more fully addresses these issues; selected points made below were contained in Livermore's earlier comment letters. The City of Livermore requests that Dublin not certify this EIR at this time. A preferred alternative would be a selected review of pertinent environmental issues and discussion with the City of Livermore on issues that are of mutual concern.

Analysis

I. The Project Site Provides an Important Buffer Between the Cities of Livermore and Dublin, As Well As Habitat and Grazing Land.

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The East Dublin Properties project proposes the annexation of approximately 1,120 acres of open space land, currently providing a buffer between the urban areas of Dublin and Livermore. The vast majority of the project site it proposed to be developed in low- and rural residential densities, with at least 2,526 units and 1,421,450 square feet of commercial and industrial uses. Approximately 1,734 single-family residential lots would range in size from 4,000 square feet to one acre, while rural residential lots would be 100 acres in size.

The site sits within the Eastern Extended Planning Area adopted by the Eastern Dublin General Plan Amendment (EDGPA) in 1994 and the City of Dublin's Sphere of Influence (SOI). The project area is bounded by Interstate 580 (I-580) to the south and the City of Dublin to

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the west. Agricultural and grazing lands lie to the north and east of the project area, and beyond them, the City of Livermore. The topography of the site is generally flat near the freeway, but rises to hills and steep slopes to the north. The land is used primarily for agriculture and grazing, and rural homes, outbuildings and a horse ranch dot the landscape. As discussed further below, the project site provides important grazing lands and habitat for special status biological resources, as well as an important open space buffer between the urban areas of Dublin and Livermore. These values are all impacted by the proposed project.

At the core of the proposed project is the annexation of the East Dublin project area to the City of Dublin. LAFCO may approve this annexation if it is consistent with LAFCO policies and the Cortese-Knox-Hertzberg Local Reorganization Act of 2000 (Act). See Gov. Code § 56000 et seq. Although the role of LAFCO and issues raised by its review of the project are discussed more fully below, see section VI, it bears noting here that LAFCO must act to further the legislative policies of responsibly planned, well-ordered, and efficient urban development patterns, preservation of open space lands. In its prior comment letters, Livermore commented that the project may not be consistent with some of these LAFCO policies. Dublin has responded that the annexation and future development of the project area was assumed by the 1993 Eastern Dublin EIR and that the area is within the City's SOI. See RDSEIR at 2-13.

The recently adopted Hertzberg amendments to the Act now require LAFCO to review SOIs every five years to determine whether they reflect the concerns of the affected city and promote logical and orderly growth. See Gov. Code § 56425(f). These amendments reflect the reality that many existing SOI's are not consistent with LAFCO policies and that increased vigilance is needed to ensure that growth is orderly and efficient and that best efforts are made to accommodate growth without impacting open space, prime agricultural land, and other issues of regional importance.

If the project site is annexed now, it is highly unlikely that any new information, no matter how carefully developed and compelling, could reverse the momentum for development of this land. Although the present project does not bestow a vested right for development, annexations of land are rarely reversed and inevitably lead to development. Although development of the project area would be entirely foreseeable following the proposed annexation, the project has been analyzed at a programmatic rather than project level of detail in terms of some potentially significant issues.

However, because the project defers generation and assessment of key information related to the project description, including studies of biological resources and mitigation measures, does not include a specific plan, and relies on "future study areas," more information is needed to inform decision makers. Important policy and planning questions that need to be fully examined include:

- Should the project area be annexed at this time?
- Should all of the project area be annexed and developed?
- What mitigation measures could further reduce significant impacts?

- What measures are likely to be required in the future as the full extent of the project and its impacts become obvious?

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The project area, and surrounding areas, which could be influenced by the growth-inducing nature of development, currently provide an important greenbelt buffer between the urban areas of Dublin and Livermore. Such a resource should not be impacted without adequate review and consideration. This project, and the environmental review documents supporting it, need to address this issue. The City of Livermore would like to collaborate with the City of Dublin to provide a community separator of mutual benefit.

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II. The Project Description May Be Inadequate and May Not Comprehensively Analyze the Project's Consistency With Dublin's General Plan, and Related Planning Documents.

The EIR's project description does not comprehensively address some project features that have the potential to result in significant impacts.

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The CEQA Guidelines define "project" as "the whole of an action, which has a potential for resulting in a physical change in the environment, directly or ultimately . . ." CEQA Guidelines § 15378. Among other components, an EIR's project description must contain a "general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities." CEQA Guidelines § 15124(c). As the Court of Appeal has noted, "The defined project and not some other project must be the EIR's bona fide subject." County of Inyo, 71 Cal.App.3d at 185. An accurate and complete project description is indispensable because, "[a] curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal . . . and weigh other alternatives in the balance. An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR." Id. at 192.

The RDSEIR defers surveys of biological resources. As discussed below in section VI(C), has not described future roads and services to the project adequately, see section VI(B), does not describe the uses of future study areas, and relies on the mid-range of build-out as opposed to the maximum allowed.

A. Specific Plan Has Not Been Prepared for Much of the Project Area.

The entire project site is within the Eastern Extended Planning Area adopted by the EDGPA in 1994, but only 472 acres are within the East Dublin Specific Plan Area. Although the Dublin General Plan designates this Extended Planning Area primarily for residential uses, Implementing Policy 2.1.4(B) of the EDGPA requires that: "A Specific Plan(s) will be required for the remainder of the extended planning area to provide similar direction for its ultimate development." The EDGPA goes on to state that, "Approval of residential development in the

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Eastern Extended Planning Area will require determination that . . . the proposed project is consistent with all applicable General Plan and Specific Plan policies.”

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The project description included in the RDSEIR does not include preparation of a Specific Plan for the approximately 637 acres that are outside the Specific Plan Area. Delaying creation of a Specific Plan for this area sacrifices an overall, whole project area analysis prior to the more detailed planning of individual project components. According to the EDGPA, a Specific Plan is intended to ensure, among other issues, that proposed site grading and means of access will not disfigure the ridglands, and that the timing of development will not result in premature termination of viable agricultural operations on adjoining lands. The project, as analyzed in the RDSEIR, does not conform to these policies and creates environmental issues of regional and cumulative concern, which could be potentially resolved through Dublin-Livermore coordination on open space and agricultural issues.

B. Analysis of “Future Study Areas” Should Not Be Deferred.

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The project description relies on “future study areas” both to describe the project site and the areas around the project site, thus deferring examination of these lands and impacts to them to a later, undefined date. The future study area designation indicates “. . . the City of Dublin’s interest in the area and the need for additional studies of environmental constraints, future land uses, infrastructure and other issues.” Livermore shares this interest in the Doolan Canyon area east of the project area and wishes to ensure, in accordance with Livermore’s General Plan, that these lands will be permanently preserved as an agricultural greenbelt buffer between our two cities. In Livermore’s view, any project proposed in the Eastern Extended Planning Area adjacent to Dublin’s Doolan Canyon “Future Study Area” must address how this area can be maintained and preserved into the future, and include safeguards that prevent potential future urban encroachment.¹ The City of Livermore applauds the recent decision by the City Council to initiate a study to consider removal of the Doolan Canyon area from Future Study Area land use designations.

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Furthermore, the East Dublin Properties Stage 1 Site Plan indicates that approximately 126 acres immediately north of the Dublin Boulevard extension will be designated as “Future Study Area” because these lands are located within the Airport Protection Area (APA) for the Livermore Municipal Airport. However, the EDGPA designates these lands for low and medium density residential. The DSEIR should provide clarification that, inasmuch at the property in question is located within the APA and inconsistent with low and medium density residential use, these properties should be permanently designated as Rural Residential/ Agriculture, including the 10.4-acre parcel indicated as General Commercial.

¹ Recently, Dublin representatives have indicated the willingness to reexamine the inclusion of Doolan Canyon in Dublin’s Future Study Areas. Livermore applauds Dublin’s willingness to reexamine this issue. However, Livermore retains its comment that Dublin’s Doolan Canyon Future Study Area should be eliminated in favor of permanent open space protection for the area made possible with mitigation fees. Until the issue of Doolan Canyon is settled, this annexation should be postponed.

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The RDSEIR retains these properties in a Rural Residential-agricultural category and the response to comments clarifies that any new information from an adopted Airport Plan would be revised in terms of follow-on project reviews for the project areas. See RDSEIR at 2-9; Response document at page 127. No revised analysis is provided in accordance with CEQA requirements. See September 14, 2001 Letter at 10. Moreover, since the project does not include a "cap" on development within these future study areas, it is feasible to assume that development will continue to be limited to 1 unit per 100 acres once these lands are surrounded by commercial, industrial and public uses. A revised DSEIR should consider:

- Removing these areas from the annexation;
- Capping development to RRA levels; or
- Analyze a worst case scenario build-out of commercial or industrial uses on these properties.

In the absence of one of these options, the RDSEIR may substantially underestimate likely development on these lands. If this land will not ultimately be used for urban development, should it be part of the annexation?

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III. Circumstances Have Changed Since the EIR for the EDGPA and Specific Plan Was Certified in 1993, Necessitating Further Environmental Study and Review.

The City of Livermore has commented in previous letters concerning changed circumstances in the region since the Program EIR for the EDGPA and Specific Plan was certified by Dublin in 1993. The RDSEIR addresses some of the changed circumstances; however, numerous changed circumstances with the potential to result in new significant impacts are not addressed by the RDSEIR. Specifically, these changed circumstances include:

- *AB 2838, Hertzberg Amendments to the Cortese-Knox Local Reorganization Act* including, but not limited to modified definition of what constitutes prime agricultural land the RDSEIR needs to address project consistency with LAFCO factors, including water supply, open space, and traffic.
- *Biological resources.* The California red-legged frog was listed as a federal threatened species in 1997 and critical habitat that includes the Project was designated for this species in 2001. The potential occurrence of many special-status species was not considered in the 1993 EIR (e.g., California tiger salamander and Livermore Valley tarweed). New standards have been applied by state and federal resource agencies that afford greater protection to habitat for San Joaquin kit fox and to riparian corridors than were applicable in 1993. The document needs to address these changed circumstances or risk underestimation of significant impacts to biological resources as outlined in section VI(C) of this letter.
- *Dramatic changes in commute patterns,* due to the explosion of jobs and the lack of affordable workforce housing in the Bay Area . Currently, about 150,000 commuters

drive daily into the Bay Area from outlying counties for work, with over half of that number commuting over the Altamont Pass on I-580 from cities in San Joaquin and Stanislaus counties. This number of commuters is expected to double by 2025. The RDSEIR contains no analysis of the direct and indirect impacts of this change in commute patterns. It is possible this project may contribute to the problem. This information should be included in the review of a project designed nearly a decade ago.

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A revised DSEIR should address these changed circumstances and adequately and comprehensively analyze their environmental impacts.

IV. The RDSEIR Should Provide an Adequate Analysis of the Project's Consistency with LAFCO Policies and Factors.

Livermore has noted the deficiencies in each prior environmental document's analysis of project consistency with LAFCO issues and policies. See e.g., September 14, 2001 Letter, Exhibit 2 at 7-10. The RDSEIR does not respond to the City of Livermore's comments. Specifically, the response to comments document, which preceded the RDSEIR, states:

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Regarding LAFCO issues, the City of Dublin believes that the proposed project is consistent with the most recent LAFCO policies and requirements. As noted in the response to the above comment, the Regulatory Setting section of the DSEIR includes an extensive discussion of LAFCO policies.

EDPO Supplemental EIR, Response to Comments document, October 2001, Response 8.12 at 125.

The discussion of LAFCO policies contained in the DSEIR, see DSEIR at 2-10 to 2-12, and that contained in the RDSEIR, see RDSEIR at 2-12 to 2-13, are very similar. Neither section describes how the project is consistent with LAFCO policies and factors. Rather, both defer examination to a later date.

The Project annexation application to LAFCO will address all of the listed factors. To the extent that such factors involve potential environmental impacts, appropriate analysis will be provided through the Eastern Dublin EIR as supplemented by this Revised DSEIR.

RDSEIR at 2-13. Thus, the RDSEIR does not included a detailed analysis of project consistency with LAFCO policies and factors for consideration. Because LAFCO must rely on this document for its own findings, not analyzing the project's consistency with LAFCO policies and factors for consideration is a concern. These omissions include, but are not limited to:

- Demonstration that this project is consistent with policies protecting prime farmland;
- The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Government Code section 56016;

- The ability of the agency to provide services and sufficiency of revenues for those services— specifically, service plans, see Gov. Code § 56668(j);
- The timely availability of an adequate water supply, see Gov. Code § 56668(k); and

To the extent that the project is not consistent with these policies and does not provide the information LAFCO needs to assess whether findings can be made related to factors for consideration, the project is likely to require additional environmental review related to the potentially significant impacts, including:

- *Lack of availability of public services and infrastructure* to serve the project and potentially significant cumulative impacts related to services and infrastructure;
- *Reduced services* for existing residents, and/or more costly services; and
- Premature loss of prime farmland.

The analysis of project consistency with LAFCO policies or the analysis of related impacts cannot be deferred. Since the City submitted its comments in September 2001, Alameda County LAFCO submitted comments on the application for the project (PA 00-025 Eastern Dublin Property Owners Reorganization). See LAFCO Letter dated October 11, 2001, Exhibit 4. Although LAFCO did not submit comments specifically addressing the missing information in the DSEIR related to its issues, the LAFCO letter states that the application is incomplete and details information that must be included in a revised application. The missing information includes:

- The level and range of public services needed for the affected territory;
- An indication of when those services can feasibly be extended to the affected territory;
- Clarification as to whether any land located within the territory proposed for annexation is considered “prime agricultural land” as defined by Government Code section 56064;

A revised DEIR should be prepared which addresses these issues and includes at minimum:

- A detailed “consistency analysis” table or similar discussion that includes each relevant LAFCO provision and describes how the project is consistent with the provision.
- Additional analysis of the need for annexation of this area, taking into consideration Dublin’s potential to accommodate development on in-fill lands and within Dublin Ranch; and
- Additional analysis and information regarding Dublin’s ability to service this area without impacting services to existing residents either in terms of service levels or costs.

This information should not be deferred to the LAFCO process for a number of reasons. LAFCO must rely on the RDSEIR for its actions; therefore, the RDSEIR should address all LAFCO issues. Additionally, this information is necessary for the EIR to adequately address CEQA issues, including, but not limited to: policy consistency, see Guidelines § 15125(d); service adequacy, see id. 15124(c); and farmland loss, see Pub. Res. Code § 21095,--all are required topics for the EIR under CEQA. Furthermore, a Specific Plan for the entire project site could have included information about delivery of services and ability of the new development to pay for those services.

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V. The RDSEIR Underestimates Project-Related and Cumulative Impacts.

The RDSEIR underestimates many project-related and cumulative impacts for three major reasons:

- First, the RDSEIR's impact analysis of *project-related impacts* may be underestimated because it is based on an assumed project site build-out at the mid-point of the density range, rather than the maximum allowed (e.g., RDSEIR assumes commercial and industrial uses in the project area will not exceed approximately 1.4 million square feet).
- Second, the RDSEIR assumes that full build-out of the East Dublin area will be limited to approximately the average of the density range actually available for each land use category. See RDSEIR at 2-9. This results in an underestimation of *cumulative impacts*. Furthermore, it is unclear what assumptions were made about the rest of Dublin.
- Third, the RDSEIR assumes the project will not lead to development in Doolan Canyon and within the Airport Protection Area (APA).

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As described in detail below, these assumptions result in the RDSEIR substantially underestimating both project-related and cumulative impacts in many impact areas, including, but not limited to, impacts related to transportation, biological resources, public facilities and services, water and sewage, traffic, air quality and noise. The RDSEIR's should analyze both project-related and cumulative impacts under a worst-case scenario of maximum allowable build-out consistent with CEQA. It is difficult to tell from the RDSEIR the true scale of potential development that approval of the project will permit. The analysis of a project must include the "whole of an action , which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." CEQA Guidelines § 15378(a). The "enactment and amendment of zoning ordinances" are projects subject to CEQA, see Pub. Res. Code § 21080, precisely because the Legislature has recognized that a change in the development *potential* of a site has reasonably foreseeable environmental impacts that should be fully analyzed.

By analyzing only the "mid-point" of potential development permitted under the annexation and pre-zoning, the RDSEIR severely understates the project's environmental impacts. Such understatement undercuts the very purpose of CEQA. In San Franciscans for Reasonable

Growth v. City and County of San Francisco, 158 Cal.App.3d 61 (1984), the court held that an EIR's analysis of cumulative impacts was inadequate where the EIR for high-rise construction considered only between 6.3 and 8.8 million square feet of cumulative development in downtown San Francisco, despite acknowledging the potential for 12 to 18 million square feet. Id. at 77. The court noted that the EIR's analysis "left out nearly 60 percent of the total amount of related development An omission of such magnitude inevitably renders an analysis of cumulative impacts inaccurate and inadequate because the severity and significance of the impacts will, perforce, be gravely understated." Id. at 77-78. Moreover, the court noted that, even if an interested person had noticed this discrepancy and attempted to calculate the true impacts from the higher projected development figures "the true severity and significance of the cumulative impacts cannot be derived from the . . . EIR's analysis as it stands simply by doubling or tripling the statistics On the contrary, it is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them." Id. at 79.

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(cont.)

As discussed specifically below, the RDSEIR's analysis of both project-related and cumulative impacts does not comply with CEQA as interpreted by San Franciscans for Reasonable Growth, 158 Cal.App.3d 61.

A. The RDSEIR Underestimates Project-Related Impacts.

According to the RDSEIR, the impact analysis for project-related impacts assumes that future development will be limited to the mid-point of the allowable density for each land use category. Specifically, the document states that the analysis of impacts is based on "potential development of the Project area at the mid-point of the density of each land use category (except for Rural Residential/Agriculture)." RDSEIR at 2-11- 2-12. Table 2.4-2 indicates the mid-point development densities anticipated for the Project area under the General Plans and Specific Plans. According to the RDSEIR:

These densities are proposed for the Project through the Stage 1 Development Plan, with exceptions of the two Future Study Areas, (Doolan Canyon, APA) for which the Project and this DSEIR assume no new development.

RDSEIR at page 2-12.

Contrary to the use of the mid-point density projections, there is no mechanism that "caps" the development on the project site to the mid-point of the density range. The RDSEIR does state that the residential development would be a "maximum" of 2,526 and that non-residential development would be expected to be a "maximum" of 1,421,450 square feet. See RDSEIR at page 2-8. However, these are mid-point density numbers and there is no indication that there will be a development agreement provision or any other means of enforcing these development figures as a permanent limit. To the contrary, development is only limited to the *maximum* density. If all the single family residential land uses were actually built out at the maximum of 6 dwelling units per acre, which is not unrealistic, it would increase the build-out of the project site by nearly 870 units beyond what the RDSEIR has studied. Additionally, because

the Master Plan already excludes public right-of-way, at least some of the gross-to-net averaging has already been accounted for. See RDSEIR at 2-15 (fn.).

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A revised DSEIR must analyze the full potential build-out at the high end of the density range less acreage for roadways and other uses, for each land use category. In the absence of any permanent "cap" limiting full build-out of the site to 2,526 residential units, 581,090 square feet of commercial uses and 840,360 square feet of industrial uses, a "worst case scenario" of build-out impacts to traffic, public facilities and services, air quality and noise must be analyzed.

B. The RDSEIR and Prior FEIR Underestimated Cumulative Impacts.

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The same assumptions that result in the RDSEIR's underestimation of project-related impacts are relied upon in the document's analysis of cumulative impacts. The cumulative impact analysis assumes that the build-out of the entirety of East Dublin will be close to an average in each land use category. See DEIR at 2-9, Table 2.0-2 (fn.). It is not clear from review of the document what assumptions were made about build-out of the City of Dublin as a whole in the cumulative analysis; thus, similar assumptions may well have been made for the build-out of the remaining City.

Accordingly, the RDSEIR should disclose the assumptions made for build-out of the areas included in the cumulative analysis. In either the response to comments or a revised DEIR, documentation should be provided for the build-out assumptions underlying the cumulative analyses. Specifically, what build-out assumptions were made about the build-out of each community? Figure 5-B only identifies the development levels for some of the discrete projects, but does not provide figures for the cities or other County unincorporated areas. Unless there are mechanisms that would ensure permanent limits on the ultimate amount of development, this analysis should be revised based on the high end of the density and intensity ranges for each land use category.

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VI. The RDSEIR's Analysis of Environmental Impacts and Mitigation Measures Is Inadequate.

The RDSEIR's analysis of environmental impacts does not provide the necessary facts and analysis. Without such detail, the RDSEIR, like the previous DSEIR, is deficient under CEQA. The role of the EIR is to make manifest a fundamental goal of CEQA: to "inform the public and responsible officials of the environmental consequences of their decisions before they are made." Laurel Heights I, 6 Cal.4th at 1123. To do this, an EIR must contain facts and analysis, not just conclusions. See Citizens of Goleta Valley v. Board of Supervisors, 52 Cal.3d 553, 568 (1990). Any conclusion regarding the significance of an environmental impact not based on analysis of the relevant facts is counter to CEQA's informational goal.

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As set forth below, the RDSEIR includes conclusory statements regarding environmental impacts, unsupported by facts or the necessary analysis. Furthermore, the RDSEIR proposes to defer analysis of environmental impacts to a later date. As discussed below, such deferral is not an option. CEQA mandates that environmental impacts be identified and analyzed

in the EIR, not at a later date. See Sundstrom v. County of Mendocino, 202 Cal.App.3d 296 (1988) (holding that a negative declaration was invalid when county approved a project while postponing the resolution of uncertainties regarding environmental impacts to a later date).

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Additionally, the RDSEIR improperly attempts to defer mitigation of many of these significant impacts to a later date. CEQA requires that mitigation measures be identified and analyzed. "The purpose of an environmental impact report is . . . to list ways in which the significant effects of such a project might be minimized . . ." Pub. Res. Code § 21061. The Supreme Court has described the mitigation and alternative sections of the EIR as the "core" of the document. Citizens of Goleta Valley v. Board of Supervisors, 52 Cal. 3d 553 (1990).

An EIR is inadequate if it does not suggest mitigation measures, or if its suggested mitigation measures are so undefined that it is impossible to evaluate their effectiveness. See San Franciscans for Reasonable Growth v. City and County of San Francisco, 151 Cal.App.3d 61, 79 (1984). The formulation of mitigation measures may not properly be deferred until after Project approval; rather, "[m]itigation measures must be fully enforceable through permit conditions, agreements, or legally binding instruments." 14 CCR § 15126.4 (a). As explained below, the RDSEIR's identification and analysis of mitigation measures is inadequate. Furthermore, it improperly proposes to defer discussion and development of suitable mitigation measures until an undefined later date.

A. *Agricultural Resources*

The RDSEIR's analysis regarding the project's effects on agricultural lands remains incomplete. The document now recognizes the new definitions of prime agricultural lands, consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act (AB 2838) of 2000. See Gov. Code § 56064. As noted in the RSDEIR, based on these definitions, soils are considered to be prime agricultural lands if they meet any of the criteria listed on page 3.1-3. The first among these criteria are soils that have an NRCS rating of Class I or Class II, if irrigated, providing that irrigation is feasible. Notably, the RDSEIR recognizes that there are roughly 100 acres of Class I and Class II soils within the project area. See RDSEIR at 3.1-3.

10.13

Despite this acknowledgment, the RDSEIR concludes, with no analysis, that irrigation of these 100 acres is not feasible, and therefore that the project will result in no adverse environmental impact to agricultural lands. This conclusion is problematic for several reasons.

First, the conclusion that it is not economically feasible to irrigate this land is not based on analysis by consultants specializing in irrigation, water supply or water resources. See RDSEIR Appendix C, Letter dated February 7, 2001 by Berlogar Geotechnical Consultants; MacKay and Soms Draft Agricultural Lands Irrigation Cost Estimate dated January 11, 2002. This analysis should be conducted by a consultant specializing in irrigation and water supply.

Second, the RDSEIR does not explore the use of reclaimed water to irrigate these lands, concluding that it would not be economically feasible. See, RDSEIR at 3.1-3; see also, Appendix C, Letter dated October 3, 2001 by Berlogar Geotechnical Consultants; MacKay and Soms Draft Agricultural Lands Irrigation Cost Estimate dated January 11, 2002. However, this

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(cont.)

conclusion is based in part on the premise that the infrastructure to transport this reclaimed water would have to be built solely for the purpose of irrigation and, thus, that the cost would be borne solely by those needing water to irrigate their agricultural land. See RDSEIR, Appendix C, MacKay and Soms Draft Agricultural Lands Irrigation Cost Estimate dated January 11, 2002. In reality, this infrastructure is already planned and will provide water for non-agricultural uses as well. Because the infrastructure necessary for the use of reclaimed water for irrigation will already be in place, the RDSEIR's analysis of whether it is economically feasible to irrigate this land with reclaimed water should have been based only on the marginal cost of using water from the infrastructure for irrigation, not on the cost of the entire infrastructure system. The economic feasibility of providing reclaimed water for irrigation should be analyzed again, taking this difference into consideration.

Finally, the RDSEIR relies on conflicting expert reports that provide inconsistent facts and analysis and that contradict conclusions drawn in the RDSEIR. For example, the third criteria under which land may qualify as prime agricultural land is land that supports livestock . . . and that has an annual carrying capacity equivalent to at least one animal unit per acre. . . Gov. Code ' 56064; see also RDSEIR Appendix C, Berlogar Geotechnical Consultants Letter dated February 7, 2001. The February 7, 2001 Berlogar Letter relies on the assessment of two of the largest cattle ranchers in Alameda County to conclude that the carrying capacity of the East Dublin Properties study area would be approximately one-tenth animal unit per acre. RDSEIR Appendix C. However, a letter provided by Ronald Amundson states, all nonirrigated soils except one in the project area are rated as Very Good in terms of grazing suitability, and have an estimated animal carrying capacity of >1 animal unit month per acre for nonirrigated / nonfertilized range. RDSEIR Appendix C, Amundson Letter. These two analyses appear inconsistent, not only with each other, but also with the overall conclusion that this land is not prime agricultural land. The RDSEIR does not explain this inconsistency and, thus, cannot be relied upon to support reasoned decision-making with regard to the project's impact on agricultural land.

B. Traffic and Circulation.

Central Parkway. The RDSEIR's analysis of traffic and circulation issues pertaining to Central Parkway is confusing and internally inconsistent. It is still unclear from this document what the City of Dublin's plans are for the extension of roadways (particularly Central Parkway) into the adjacent future study area.

10.14a

For example, although this document suggests that "it is clear that Central Parkway loops southeast to connect to Dublin Boulevard within the project site and not within the Future Study Area," see RDSEIR at 3.6-27, the figures referenced are not clear. Furthermore, neither Figures 2-C, 2-G, 2-H, 2-L, 3.3-C, 3.4-B, nor 3.6-A through 3.6-F show Central Parkway looping southeast to connect to Dublin Boulevard. Instead, these figures seem to indicate that Central Parkway will terminate at a dead end somewhere east of Fallon Road, and that Street "D" (Croak Road) will function as a parallel connection between Central Parkway and Dublin Boulevard. Even the footnote on page 3.6-22 suggests "the possibility of using Croak Road as the connector for Central Parkway to Dublin Boulevard", but defers this determination to "later tentative map and site development review stages when lotting patterns are known." If Street "D" were to

provide such a connection, the volume of traffic using this road and its connecting intersections (intersections 18 and 20) would be substantial (i.e., approximately 8,700 to 9,200 ADT). However, the traffic analysis for these intersections seem to indicate that only a small amount of traffic (in the neighborhood of 50 AM peak hour vehicles) would use this connection. Therefore, some other connection must be envisioned and assumed in the traffic analysis, similar to that shown on Figure 2-K. Unfortunately, none of the figures that illustrate the project provide any indication of where or how such a loop-road connection would be made, or how such a loop road would affect the land use plan for the project. Additionally, potential environmental effects that such a loop road might have on adjacent properties, such as noise and air quality, are not mentioned in the RDSEIR.

10.14
(cont.)

The only conclusions that can be drawn from this information are that either:

- The loop connection of Central Parkway to Dublin Boulevard is an important and integral component of the project but is simply missing from the Project Description; or
- This important loop connection must occur somewhere else other than within the project site.

If the first conclusion is correct, then this important circulation component is not adequately included in the Project Description or analyzed in the RDSEIR. Accordingly, Livermore requests that this RDSEIR be revised and recirculated to clarify the circulation network proposed for this project and to appropriately analyze its impacts. This analysis is critical to the feasibility of the proposed circulation system and to the overall land use pattern proposed for the project, and cannot be deferred to later approvals associated with tentative maps or site development review of specific development projects.

If the second conclusion above is correct, then the RDSEIR should be revised again to address the potential environmental consequences associated with such an off-site roadway connection. Aside from potential on-the-ground effects of such a roadway extension (i.e., grading of hillsides and ridgelines, impacts to biological and hydrologic resources, loss of agricultural resources, etc.), the cumulative and growth-inducing effects of extending an additional roadway into the Doolan Canyon area have not been discussed in this EIR

10.1

Fallon Road/Dublin Boulevard Intersection. The RDSEIR describes the impact of Project plus Cumulative traffic at this intersection as resulting in a LOS F condition, even with implementation of Mitigation Measure SM-Traffic-7. See RDSEIR at 3.6-19. There are several problems with this analysis and its conclusions.

First, although Dublin Boulevard would act as an "escape route" from congestion on I-580 (presumably during both the AM and PM peak hours), the greatest traffic volumes at this intersection would be I-580 "escape" traffic on Dublin Boulevard heading west in the AM and east in the PM. Additionally, high traffic volumes would be expected from traffic exiting I-580 at northbound Fallon and turning westbound at Dublin Boulevard in the AM, and eastbound at Dublin Boulevard in the PM, thus using Dublin Boulevard as an "escape," or alternate to I-580.

However, the analysis presented in the RDSEIR shows a nominal volume (376 AM peak vehicles) of vehicles "escaping" from I-580 to use eastbound Dublin Boulevard. This suggests that the majority of traffic at this intersection would actually be headed southbound onto Fallon Road in the direction of I-580, and not "escaping" at all. Therefore, it is unclear where all of this southbound traffic from Dublin Boulevard is headed. It would seem that the most important location for left turn lanes would be from northbound Fallon onto westbound Dublin Boulevard.

10.14.b
(cont.)

Second, Mitigation Measure SM-Traffic-8 is a requirement for the developers to pay for feasibility studies to determine the potential for providing an auxiliary intersection on Fallon Road. Presumably, this auxiliary intersection would relieve at least some of the traffic at the Fallon/Dublin intersection. However, there is no indication in the RDSEIR what factors would be used to determine feasibility. In fact, the RDSEIR indicates that at least part of this feasibility test would be modifications to planned land uses and planned buildings on the west side of Fallon Road. See RDSEIR at 3.6-20. If this auxiliary intersection is capable of reducing impacts at the Dublin/Fallon intersection, it should be included in the project description, or required as mitigation in this document? It is not reasonable to defer consideration of needed circulation system improvements until such time as future land uses are developed, thereby rendering such improvements infeasible. The purpose behind analyzing potential impacts in an EIR is to identify appropriate mitigation measures at a time when plans can be revised as needed. If this auxiliary lane is considered by Dublin as necessary to reduce traffic congestion impacts at the Fallon/Dublin intersection, then it should be required as a condition of this project, and not deferred until preparation of future feasibility studies.

Third, the RDSEIR recognizes that there are no physical improvements that can be safely implemented to reduce this impact to a level of less than significant. See RDSEIR at 3.6-20. It also recognizes that Dublin General Plan policies require implementation of transportation measures to improve levels of service. The document identifies the types of alternative transportation measures that could be implemented, including a comprehensive TDM program. Despite this, the RDSEIR does not require such a TDM program, but rather defers consideration of this program until application of Stage 2 Development Plans. Livermore strongly recommends that an effective TDM program be developed for this project, and that this TDM program must be an integral, required component of the project. Deferral of mitigation measures is not acceptable under CEQA.

10.14.c

I-580 Impacts and Mitigation Measures. The RDSEIR recognizes that the project would contribute toward the significant cumulative impact of freeway congestion on I-580 and I-680. See RDSEIR at 3.6-23 through -25. However, no real mitigation measures are identified to address this impact. The RDSEIR identifies actions to "encourage" alternative travel modes and "advocating" needed transit improvements, see 3.6-24; however, encouragement and advocacy are not mitigation measures, even if advocacy is defined as coordinating with other local jurisdictions to obtain additional funds. It is our strong opinion that only financial commitments toward regional transportation solutions are effective mitigation measures. Such regional transportation solutions should include:

- Increased financial contributions toward the construction of high occupancy vehicle (HOV) lanes on I-580; and/or

- Providing increased funding for improved transit opportunities.

Accordingly, the RDSEIR should again be revised to analyze adequately the appropriate level of needed financial contributions by this project for implementation of such regional solutions. The RDSEIR explains that the project will be required to pay regional TVTD Fees, and suggests that these fees pay for the project's proportionate share of impacts to I-580, as well as its proportionate share of transit improvements in the Tri-Valley area. However, TVTD Fees are recognized as being inadequate to fully finance all of the needed transportation improvements within the Tri-Valley area. This project should have a larger financial responsibility in assisting regionally-based solutions.

10.14.c
(cont.)

As discussed in the prior comment letters, Livermore has recently adopted a Regional Component to its local Traffic Impact Fee program. The purpose of this Regional Component is to provide additional sources of funding, beyond the already required TVTD Fees, that can be used to assist in financing regional transportation and transit improvements that are needed to accommodate increased cumulative development. Livermore strongly urges its other local jurisdictional neighbors within the Tri-Valley to similarly address their responsibility for funding these needed regional improvements.

C. *Biological Resources.*

The DSEIR relies on future mitigation that is uncertain and will have substantial effects on the proposed project and its environmental effects. The revised introduction to the biological resources section of the RDSEIR argues that detailed information on biological resources is not necessary at this time because of the programmatic nature of the RDSEIR. The RDSEIR states that "before any development can occur on any of the properties within the Project area, detailed development proposals must subsequently be prepared on a property-by-property basis and be presented to the City." RDSEIR at 3.3-1.

10.15.a

The primary mechanism for implementing mitigation in the RDSEIR for biological resources is a Resource Management Plan (RMP). This plan must be prepared for the entire project area "before any property within the Project area may be developed, and through the property-specific, project-level environmental review that must occur before any property may be developed." This approach has two important shortcomings. First, it is unclear how the RMP for the entire project area will be reviewed by the public and its feasibility assessed if development projects are submitted and reviewed by Dublin on a project-by-project basis. If the RMP is to be developed for the entire project area, the first development project reviewed would therefore be responsible for collecting data on biological resources for the entire project area. This seems less likely to occur given the uneven approach to surveys in the project area to date (i.e., some parcels have surveys done for some species, while other parcels have none).

The second shortcoming in this approach of mitigating impacts to biological resources through the RMP is that the application of that mitigation will have ripple effects through the proposed project that have not been analyzed fully in the RDSEIR. Some of these

10.15.b.1

effects may substantially alter the proposed project or jeopardize its feasibility. Examples of such effects include, but are not limited to:

10.15.b.1
(cont.)

- *SM-BIO-1: Resource Management Plan-on-site preservation.* The RMP calls for on-site avoidance, preservation, and management of sensitive resources. The proposed Project cannot meet this standard because it includes only 76.9 acres of open space in scattered pieces. Much more open space will be needed to preserve the resources already disclosed to occur on the site, calling into question the feasibility of the proposed GP designations, circulation plan, other infrastructure needs (e.g., water supply), and the locations of neighborhood parks.

- *SM-BIO-3: Avoid Special-Status Plants.* Two special-status plants have been found in the Project area, Congon's tarplant and San Joaquin spearscale, however, their locations were not disclosed. The presence of these alkaline species suggests that the site contains suitable habitat other special-status plants as well. If substantial populations of these or other special-status plants are found on site, avoidance of these populations may require altering circulation patterns, locations of parks, and residential or commercial development.

10.15.b.2

- *SM-BIO-5: Avoid Fallon Road drainage.* The drainage near Fallon Road contains the highest quality riparian habitat in the Project area. SM-BIO-5 calls for "completely avoiding" this drainage. However, the proposed GP designations show intensive development occurring in or adjacent to this drainage along Fallon Road (Figure 2-H). Proposed uses include medium-high density residential development, neighborhood commercial, and neighborhood square. A small and inadequate buffer of approximately 50 feet is proposed for portions of this drainage only; some of the drainage is given no buffer at all. Complying with this mitigation measure will require a substantial project redesign, possibly affecting circulation, locations of parks, and residential and commercial development potential.

10.15.b.3

- *SM-BIO-12: Protect California red-legged frog habitat areas.* SM-BIO-12 calls for protection and enhancement of habitat for California red-legged frog in the project area, "including the drainage upstream and east of the current Fallon Road alignment." Implementation of this mitigation measure will have substantial effects on the feasibility of the proposed project. Only 76.9 acres of open space are currently proposed. Substantially more than this would be required to protect and enhance red-legged frog habitat areas on site. Of the six locations of red-legged frogs shown on Figure 3.3-B, two would be removed by development shown in Figure 2-H. The other four would occur within narrow stream corridors which would inadequately protect these sites (and would certainly not "enhance" them). Furthermore, as described above, the riparian habitat along the current alignment of Fallon Road is not shown as protected in the current development plan. Implementing mitigation measure SM-BIO-12 would have substantial effects on the proposed project that could affect other environmental topics such as circulation, locations of parks, and residential and commercial development potential.

10.15.b.4

- *SM-BIO-13: Avoid California red-legged frog aquatic and dispersal habitat and provide 300 to 500-foot stream buffers.* SM-BIO-13 requires avoidance to the extent feasible of suitable California red-legged frog aquatic and dispersal habitat, including protection of 300 to 500-foot buffers on each side of streams that provide red-legged frog habitat. Based on the occurrences of frogs from surveys to date, it appears that all streams within the Project area provide suitable habitat. Therefore, buffers should be expanded to 600 to 1000-feet (instead of the current approximately 50 feet) to implement this mitigation measure. This will clearly result in a substantial reduction in the available land for development and infrastructure, affecting circulation, neighborhood parks, and GP designations. 10.15.b.5
- *SM-BIO-16: Protect and enhance special-status invertebrate habitat.* The locations of special-status invertebrates in the project area is unknown because surveys for these species have not been conducted. If they are found on site, SM-BIO-16 calls for the protection of their habitat. This would include not just ponds or aquatic features in which they are found, but a substantial buffer zone (several hundred feet or more) to ensure the hydrologic regime supporting the aquatic feature remains. This could affect infrastructure, affecting circulation, neighborhood parks, and GP designations. 10.15.b.6
- *SM-BIO-37: Protect and enhance burrowing owl habitat.* SM-BIO-37 calls for protection and enhancement of burrowing owl habitat as part of the RMP. The locations of burrowing owls on the site are not known but they presumably occur in the flatter areas of the southern portion of the project area, where the most intensive development is to occur. Implementation of this mitigation measure could cause substantial changes to the project description, affecting circulation, neighborhood parks, and GP designations. 10.15.b.7

Additional regulatory requirements will substantially affect the proposed project's feasibility and environmental effects. Before development occurs, applicants will have to comply with a variety of additional laws for biological resources besides CEQA, including the federal Endangered Species Act, Migratory Bird Treaty Act, and Clean Water Act (CWA); and California Endangered Species Act and State Fish and Game Code regulating streambed alteration (Sections 1600-1607). The mitigation measures in the RDSEIR have not been "tested" with state and federal regulatory agencies to see if they would meet their standards. If they do not, the proposed project may need substantial revision, which could affect other environmental sections. 10.15.c

In planning the Vasco-Laughlin Specific Plan within and adjacent to Livermore (a project similar in scope to the proposed project), the City of Livermore found that these additional regulatory requirements caused substantial alterations in their project description. These changes, in turn, affected other environmental impacts and required many iterations of the project description to resolve the conflicts. Examples of how additional regulatory requirements could affect the City of Dublin's Proposed project are presented below.

Endangered Species Act. Applying state and federal regulatory requirements for protection of threatened and endangered species such as the California red-legged frog and the San Joaquin kit fox may result in a substantial increase in protection of biological resources, reducing

the available area for development or changing its location. This may render parcels with significant constraints much less suitable for development. The proposed general plan designations may be inappropriate for the project area given the biological constraints that are yet to be disclosed. For example, the potential effects of the proposed project on critical habitat for the California red-legged frog have not been evaluated. As stated on page 3.3-18 of the RDSEIR, all of the proposed project is within critical habitat designated by the Fish and Wildlife Service. These changes could also effect circulation and other infrastructure plans, and the feasibility of neighborhood parks.

CWA Section 404(b)(1) Alternatives Analysis. The project applicants will require authorization from the U.S. Army Corps of Engineers (USACE) under CWA section 404, which regulates the placement of dredged and fill materials into waters of the United States. Before completing its review of the permit application, USACE must evaluate the proposed project in light of public interest and compliance with NEPA. In order for the permit application to be approved, USACE must make a finding that the project complies with the Guidelines established by the Environmental Protection Agency (EPA) in 40 CFR Part 230. These Guidelines, known as the 404(b)(1) Guidelines, require USACE to demonstrate that the proposed project:

- Is the least environmentally damaging practicable alternative;
- Will qualify for state water quality certification (or for waiver of certification) under Section 401 of the CWA;
- Will comply with the Coastal Zone Management Act and the Endangered Species Act;
- Will not violate toxic effluent standards;
- Will not contribute to significant degradation of waters of the United States; and
- Will adopt appropriate and practicable mitigation.

Compliance with the Guidelines is mandatory prior to issuance of a Section 404 permit.

It has not demonstrated that the proposed project is the least environmentally damaging practicable alternative and that a practicable alternative that avoids or reduces impacts to wetlands does not exist. Subpart B of the Guidelines states:

No discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.

40 CFR § 230.10[a]. An alternative is considered *practicable* if it is “available and is capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.” 40 CFR § 230.10[a][1]. Each alternative must meet the overall project purpose as stated by USACE.

The Guidelines qualify requirements for discharges to special aquatic sites for uses that are not considered "water dependent" by the following regulatory presumption.

10.15.c
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Where the activity associated with a discharge which is proposed for a special aquatic site (as defined in Subpart E) does not require access or proximity to or siting within the special aquatic site in question to fulfill its basic purpose (i.e., is not "water dependent"), practicable alternatives that do not involve special aquatic sites are presumed to be available, unless clearly demonstrated otherwise

40 CFR § 230.10[a][3]. Thus, for any project that is not water dependent, there is a rebuttable presumption that a less damaging alternative exists that does not include the discharge of dredged or fill material into special aquatic sites such as wetlands. Applicants are required to demonstrate that their proposed project is the least environmentally damaging alternative. The RDSEIR has not demonstrated that the proposed Project is the least environmentally damaging practicable alternative and therefore risks project modifications that could jeopardize and constrain the proposed mitigation measures.

The level of analysis in the RDSEIR is inconsistent with the spirit of program EIRs as defined by CEQA. The RDSEIR appears to argue that because this is a program level EIR, preparation and analysis of basic information about the project's potential biological resource impacts can be deferred. This approach is not in keeping with the CEQA Guidelines, which state that program EIRs are intended to include a detailed discussion of impacts and mitigation measures, including those on biological resources. See Guidelines §§ 15168(a) ("The program EIR can provide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action..."); 15168(c)(5) ("[a] program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. With a good and detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required.").

10.15.d

The EDGPA EIR and RDSEIR approach biological resources at the most cursory level, providing only the most basic and easily-obtainable information on baseline conditions (e.g., NDDDB records), defer almost all key surveys until later, apply generic mitigation measures, and as a result retain significant or potentially significant effects on many biological resource issues. This approach means that project EIRs will be required for nearly every subsequent development proposals within the project area. This defeats the purpose of a program EIR, which is to simplify future CEQA compliance and provide for a more comprehensive analysis of effects and a more comprehensive approach to mitigation.

Key Biological Data are Missing from the DSEIR. The RDSEIR acknowledges in several places that key biological data are not provided because of on-going survey work that was not complete at the time the RDSEIR was released. These data must be provided to the public to allow adequate review under CEQA of the potential for the project to affect biological resources. These data are necessary to evaluate the feasibility of proposed mitigation (e.g., RMP) and its effects on the proposed project and other environmental topics (see discussion above). It is

10.15e

inadequate to acknowledge a potential impact without describing at least the general level and location of that impact. Without this information, the reader has no way to evaluate whether the impact is significant and whether mitigation measures adequately reduce that impact to a level below significance. The RDSEIR claims that all impacts to biological resources except one are reduced to a level below significance with the mitigation proposed in the EIR and RDSEIR. However, without the basic information about the amount and location of the sensitive resources that are being mitigated, it is impossible to evaluate the adequacy of these mitigation measures.

10.15.e

The following key data are missing from the RDSEIR and must be provided to allow proper assessment of project impacts:

- *Sensitive Habitats.* The extent of three sensitive habitats, seasonal wetlands, freshwater marsh, and alkali grassland, was not quantified in the RDSEIR because field surveys were not done (page 3.3-3 and 3.3-4). This information is essential to be able to evaluate the impact of the project on these sensitive habitats.
- *Jurisdictional Wetlands.* The RDSEIR does not include any quantification or estimates of the extent of waters of the United States, including wetlands, in the project area. Based on the presence of ponds, seasonal wetlands, and intermittent streams, it is likely that these sensitive jurisdictional areas occur on site.
- *Special-status Plants.* The RDSEIR acknowledges on page 3.3-4 that the project area supports potential habitat for 13 special-status plants not considered in the original EIR. A recent survey (2001; Sycamore Associates, in prep.) found two of these species, Congdon's tarplant and San Joaquin spearscale. However, the locations of these siting were not disclosed. These recent results illustrate the high potential for the project area to support special-status plants. Botanical surveys must be completed and documented on all parcels in order for the public to properly evaluate the potential impacts on these species.
- *Federally-listed Invertebrates.* The RDSEIR on page 3.3-5 acknowledges that federally listed invertebrates may occur on the project site. However, surveys have not been conducted to determine whether the site supports species such as the Conservancy fairy shrimp, vernal pool fairy shrimp, longhorn fairy shrimp, and vernal pool tadpole shrimp.
- *California Red-legged Frog.* The RDSEIR on page 3.3-6 describes recent habitat assessments for the CRLF on most of parcels within the project area. However, it appears that these assessments were not conducted on the First American Title or Croak parcels in the center of the project area, which represent 32% (353 acres) of the site. The results of surveys in the entire project Area are essential to evaluating the potential effects of the project on the CRLF.
- *California Tiger Salamander.* The California tiger salamander is assumed to be present throughout the project area (DSEIR page 3.3-7). We concur with this assessment given the extent of potentially suitable habitat and the known occurrence of

this species on the Anderson property. However, additional surveys for this species should be conducted so that the potential impacts to this special-status species can be fully understood and evaluated.

10.15.e
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- *Tricolored Blackbird*. On page 3.3-9 the DSEIR states that a tricolored blackbird colony was discovered in the southern portion of the project area in 1999 but that “the project area may provide suitable breeding habitat for this species.” These two statements are inconsistent. The presence of a breeding colony on the site means suitable habitat exists on the site. The condition and status of the 1999 breeding colony and their habitat are not described in the DSEIR, so one must assume that the colony still exists. All relevant locations of tricolored blackbird colonies must be shown on the site and in the project vicinity so that the impacts of the project can be evaluated and adequately mitigated. The nesting site, the colony size, and their foraging habitat (e.g., irrigated pasture, unused fields, non-native grassland, vernal pools) should be described to be able to evaluate the potential impacts to this species from the proposed project.

Inadequate Impact Analysis of and Mitigation for Effects of Direct and Indirect Habitat Loss. In the methodology section for the impact analysis, the RDSEIR claims to rely on “ongoing surveys for biological resources within the project area.” RDSEIR at 3.3-13. An analysis cannot rely on information not yet collected to determine the level of impact of a project. All of the information on which the impact analysis is based must be included in the RDSEIR or be properly referenced. Reports in preparation are not acceptable sources because they are not available to the public to review and verify.

10.15.f.1

The RDSEIR adds supplemental impact BIO 1 to address direct and indirect habitat loss not contemplated in the EDGPA EIR. See RDSEIR at 3.3-13. The RDSEIR acknowledges that some impacts would occur to seasonal wetlands and intermittent streams, habitats not previously identified in the EDGPA EIR. However, the RDSEIR does not quantify these effects (presumably because the surveys were not done) and instead claims that “a portion of the newly-identified seasonal wetlands would be accommodated in open space.” See Guidelines § 15064(b) (“The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data.”). One must therefore infer that a substantial portion of the seasonal wetland would be filled by proposed development. The quality of the seasonal wetlands filled or remaining are not discussed, nor is their location. Similarly, the RDSEIR does not quantify the effects on intermittent streams.

10.15.f.2

There is no discussion of the potential indirect effects of the project on seasonal wetlands or intermittent streams. For example, the RDSEIR also does not evaluate whether the functions and values of the remaining seasonal wetlands could be preserved once development surrounds them. Furthermore, there is no discussion of the potential indirect effects on intermittent streams once development is built within the stream’s watershed (e.g., runoff effects on aquatic communities, stream flow patterns). Commercial and residential development greatly increases impervious cover and changes the pattern of runoff. Stormwater runoff will greatly increase in intensity and frequency if measures are not taken within and adjacent to development

10.15.f.3

areas to reduce these effects. Increased stormwater flows can increase channel erosion and degrade sensitive habitats. In addition, runoff from development can contain substantial amounts of oil, grease, and other pollutants, which can also degrade sensitive habitats. Design features can be incorporated into development areas to reduce these hydrologic effects and minimize their indirect effects on sensitive habitats. However, the RDSEIR does not acknowledge these potential adverse effects or identify mitigation measures to reduce them. None of these impacts are discussed or analyzed in the original EIR either (Impacts 3.7A or 3.7B, as referenced in the RDSEIR on page 3.3-13).

10.15.f.3
(cont.)

The impact analysis for direct and indirect habitat loss provides no useful data or conclusions on which to judge whether the impact is significant or not. The conclusion on page 3.3-13 that the impact is "potentially significant" is thus unwarranted. Without more data, the RDSEIR must conclude that the impact to seasonal wetlands and intermittent streams is significant.

10.15.f.4

Mitigation measure SM-BIO-1 describes a "comprehensive" Resource Management Plan (RMP) that will be prepared to provide additional mitigation for impacts for direct and indirect loss of habitats. This measure defers important mitigation until preparation of the RMP. Because the RMP is deferred, the adequacy and feasibility of the proposed mitigation are not stated in the RDSEIR and cannot be evaluated. The CEQA Guidelines state that "Formulation of mitigation measures should not be deferred until some future time." Guidelines § 15126.4(a)(1)(B).

10.15.f.5

A major benefit of this RMP is the ability to plan for development, open space preservation, and mitigation in a more comprehensive fashion than with individual development projects. However, because the RDSEIR defers the RMP until later, the proposed project does not benefit from this approach and includes no comprehensive planning for biological resources. Furthermore, the feasibility of the RMP is called into question because approval of the proposed project will effectively commit the City to development of the project area consistent with the current General Plan designations, thereby greatly reducing the flexibility to comprehensively plan for biological resources.

At a minimum, the following aspects of the RMP should be provided in the RDSEIR so that its adequacy, feasibility, and potential effects on other aspects of the proposed project and its environmental effects can be properly evaluated:

- Program goals and objectives;
- Measures for maintaining on-site mitigation in perpetuity;
- Identification of any proposed off-site mitigation and measures for maintaining offsite mitigation in perpetuity;
- Mitigation ratios for preservation and creation;
- Preconstruction and construction avoidance and minimization measures; and

- Onsite avoidance and minimization measures.

10.15.f.
(cont.)

Without these details of the RMP, the adequacy of mitigation for supplemental impact BIO-1 cannot be evaluated. As stated in the CEQA Guidelines, "...[mitigation] measures may specify performance standards which would mitigate the significant effects of the project and which may be accomplished in more than one specified way." Guidelines § 15126.4(a)(1)(B). Because mitigation measure SM-BIO-1 is inadequate, we disagree with the RDSEIR that this impact will be reduced to a less than significant level.

Inadequate Impact Analysis of and Mitigation for Effects to Special-Status Plants.

10.15.g

The RDSEIR on page 3.3-15 acknowledges that the project area supports suitable habitat for at least five special-status plants, including the federally endangered palmate-bracted bird's-beak and the newly discovered Livermore Valley tarweed. Two of these species, Congdon's tarplant and San Joaquin spearscale, were found in the project area during limited surveys (locations not disclosed). The RDSEIR provides no additional data on the occurrences of these species. Therefore, for some species it is impossible to evaluate the adequacy of proposed mitigation measures. Because the RDSEIR defers surveys and presenting survey results until later, presumably during submissions of development applications, one cannot properly evaluate the potential impacts to special-status plants.

For example, if a population of palmate-bracted bird's-beak was found in the project area, it would be highly significant because it would represent the western-most population known to exist (the nearest population is in the Springtown alkali sink east of the project area), and only one of five known populations in the world. A new population of Livermore Valley tarweed on the site would also be highly significant because it would be only the third population known to exist in the world. This species is likely to be listed by the state or federal government in the near future as threatened or endangered.

Mitigation proposed for a population of either palmate-bracted bird's-beak of Livermore Valley tarweed consists of avoidance, if feasible (SM-BIO-3), or mitigation off-site, including transplanting (SM-BIO-4). These mitigation measures are appropriate for some special-status plants, but not Livermore Valley tarweed or palmate-bracted bird's-beak. These measures are inadequate because of the extreme rarity of these two species. If populations of either species are found on the site, they must be preserved and maintained through long-term management and adequate buffer zones from development to prevent indirect impacts. Seeding experiments conducted for palmate-bracted bird's-beak by researchers at Stanford University largely failed to establish new populations. Transplanting mature plants of either species has not been attempted. Transplanting rare plants is not a feasible mitigation measure because of its high rate of failure. The RDSEIR includes a provision in SM-BIO-4 that "if the [transplanted] plants fail to establish after a five year period, then step 'a' above must be implemented." This provides for habitat preservation in the event that transplanting fails. However, "fail to establish" is not defined, so this could be interpreted as meaning that if one plant successfully establishes from an original population of hundreds or thousands, that the transplanting effort was successful. In the absence of a clear standard, this mitigation measure is inadequate.

Furthermore, mitigation measure SM-BIO-4 calls for preservation of special-status plants at off-site locations if on-site preservation cannot be accomplished. The RDSEIR has not evaluated whether suitable off-site locations exist nearby that contain the special-status plants that occur or may occur on the Project site. The feasibility of this mitigation measure cannot be evaluated and it is therefore inadequate.

10.15.g
(cont.)

Because of the lack of data on the occurrence of special-status plants on the site and the inadequacy of proposed mitigation measures, impacts to special-status plant species are not reduced to a less than significant level and therefore remain significant.

Inadequate Impact Analysis of and Mitigation for Effects to Botanically Sensitive Habitats. The analysis of project impacts to botanically sensitive habitats is inadequate because of the lack of appropriate data on the location and extent and quality of these habitats in the project area. The impact analysis also ignores potential indirect impacts to these sensitive habitats through adverse hydrologic impacts (e.g., degradation of water quality, increase in nuisance runoff from development), disturbance from people in nearby development, and changes in topography that might affect patterns of surface water flow. Therefore, the RDSEIR does not adequately evaluate the potential impacts of the project on seasonal wetlands and intermittent streams.

10.15.h.1

Supplemental mitigation measure SM-BIO-6 proposes to mitigate any loss of seasonal wetland or intermittent streams using a mitigation ratio of 2:1 through creation, restoration, or enhancement of wetlands or other waters. The RDSEIR does not demonstrate that this mitigation measure is feasible. It is not clear, for example, if enough mitigation acreage is available onsite or if there are suitable sites nearby that will provide enough suitable mitigation habitat to replace the lost functions and values of the seasonal wetlands and intermittent streams (SM-BIO-7). Without demonstrating that the on-site or off-site mitigation is feasible, the mitigation measure is inadequate.

10.15.h.2

Because of a lack of appropriate data on existing conditions, an inadequate impact analysis, and inadequate mitigation measures, impacts to botanically sensitive habitat remain potentially significant.

10.15.h.3

Inadequate Impact Analysis of and Mitigation for Effects to San Joaquin Kit Fox. The RDSEIR acknowledges on page 3.3-6 that the project area provides suitable habitat for the San Joaquin kit fox. We concur with this assessment. The RDSEIR also states that there are no new impacts and no increased impacts to San Joaquin kit fox and its habitat beyond those identified in the Eastern Dublin EIR. The RDSEIR fails adequately evaluate the impact of the project on kit fox in light of recent mitigation policies of regulatory agencies such as the U.S. Fish and Wildlife Service (USFWS). In a recent letter to the City of Livermore and Alameda County, the USFWS recommended mitigation ratios of 3:1 for the loss of unoccupied kit fox habitat adjacent to the proposed project. However, the RDSEIR (and the Eastern Dublin EIR) does not provide any clear mitigation for the loss of approximately 550 acres of suitable kit fox habitat.

10.15.i

Mitigation measure SM-BIO-9 provides for protocol and pre-construction surveys to determine whether San Joaquin kit fox are present on the site. It is unclear, however, how kit fox habitat will be mitigated based on the results of these surveys. Based on Livermore's

extensive and recent experience with resource agencies on several large projects east of the project site and north of I-580 regarding kit fox, it is highly likely that the resource agencies will consider the project area to be suitable habitat for the kit fox regardless of survey results. For Livermore's projects, the agencies have argued that, despite the negative results of surveys, kit foxes occur in the area sporadically and in low densities and may not be observed in 1 or 2 years of surveys.

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(cont.)

There is sufficient evidence that kit foxes used the project area in the recent past, possibly to a greater extent, and could potentially use it in the future. It is thought that California ground squirrels, kit fox's main prey in this area, were eliminated from all of Contra Costa County by 1975 as a result of aggressive rodent control efforts. Similar rodent control efforts may have occurred in Alameda County, which may have caused the kit fox population in the northern edge of its range (of which the proposed project is a part) to decline substantially. Kit foxes may re-occupy their former range and population density as rodenticide use continues to decline and ground squirrel populations recover. The RDSEIR must consider significant the effects of the removal of 550 acres of suitable kit fox habitat and propose specific mitigation to offset this impact.

10.15.J.1

Inadequate Impact Analysis of and Mitigation for Effects to California Red-legged Frog. The RDSEIR states on page 3.3-18 that "Since certification of the Eastern Dublin EIR, CRLF have been observed at several locations within the project area, however the extent of their distribution within the project area has not been determined specifically." The impact analysis is inadequate without including the new data of CRLF locations observed since publication of the Eastern Dublin EIR. The RDSEIR correctly concludes that the proposed project "could have a broader impact on CRLF habitat and individual frogs than previously analyzed." The RDSEIR correctly concludes that this is a potentially significant effect. However, mitigation is inadequate to reduce this effect to a level below significance.

The RDSEIR acknowledges that the project area is wholly within the Mount Diablo Core Area of critical habitat designated for the CRLF by the FWS. Core recovery units are areas in which recovery actions such as habitat preservation and restoration are focused. Because the proposed project will likely fill waters of the United States, including jurisdictional wetlands, the project will likely require a permit from the U.S. Army Corps of Engineers (Corps) for this fill under Section 404 of the Clean Water Act. This permit will trigger the need for the Corps to consult with the FWS on the impacts of the project on critical habitat under Section 7 of the Endangered Species Act. As currently proposed, the project may destroy or adversely modify critical habitat for the CRLF because of the scope of the impact (over 1,000 acres of occupied and suitable habitat removed) and its location within a draft designated core area. The project area contains all of the primary constituent elements of critical habitat for CRLF: 1) suitable aquatic habitat, 2) associated uplands, and 3) suitable dispersal habitat connecting suitable aquatic habitat. Changes required by FWS to address this impact may necessitate substantial changes to the proposed project, affecting other environmental issues such as traffic and utilities (see discussion at the beginning of this section). The RDSEIR should analyze the potential effects on CRLF critical habitat to address this issue.

Mitigation measure SM-BIO-11 calls for "focused surveys following USFWS survey protocol." The purpose of these surveys is unclear. The 1997 protocol states that surveys

10.15.J.2

should be conducted only after consulting with the USFWS: "Based on the information provided from the site assessment, the Service will provide guidance on how California red-legged frogs should be addressed, including whether field surveys are needed or whether incidental take authorization should be obtained through section 7 consultation or a section 10(a)(1)(B) permit pursuant to the Act." Thus, the USFWS may consider the entire site or large portions of the site to be suitable for the California red-legged frog (as acknowledged already in the SEIR) even if the results of protocol surveys are negative. This mitigation measure should be revised to be consistent with the guidance provided in the 1997 protocol.

10.15.J.2
(cont.)

Mitigation SM-BIO-12 calls for CRLF habitat to be included in the Resource Management Plan outlined in mitigation SM-BIO-1. As discussed above, key components of the Resource Management Plan should be included as part of the project to demonstrate its feasibility and adequacy.

10.15.J.3

Mitigation BIO-SM-13 states that development of the project area shall avoid all areas suitable for CRLF to the extent feasible. These areas should be designated at this time so that the level of impact and adequacy of the mitigation measure can be evaluated. This mitigation measure also proposes the use of 600- to 1,000-foot-wide open space corridors along streams that provide CRLF habitat. The RDSEIR acknowledges that all streams within the project area provide suitable breeding habitat for the CRLF (page 3.3-6). Figure 3.3-B also supports this conclusion (according to the RDSEIR, there are presumably even more locations of CRLF in the project area not shown in this figure). Therefore, according to BIO-SM-13, all streams within the project area should have a buffer zone or open space corridor of 600 to 1,000 feet. However, the RDSEIR on Figures 2-F and 2-G shows riparian open space corridors of approximately 100 feet. Thus the proposed project is inconsistent with mitigation measure BIO-SM-13.

10.15.J.4

Because the RDSEIR states that all streams in the project area provide suitable habitat for the species, mitigation measure BIO-SM-13 should be clarified to say that all streams in the project area should have such open space corridors (which would also function as buffer zones). Because of the large number of observations of California red-legged frogs in the project area, future surveys will not likely eliminate any stream segment as suitable habitat for the frog.

Figure 2-G also indicates that a trail would be built within the 100-foot-wide corridor. This is also inconsistent with mitigation measure BIO-SM-13 because a trail so close to riparian habitat would be a significant adverse impact on the CRLF (and other species), exceeding the "minor impact on the habitat" as allowed in mitigation measure BIO-SM-13.

10.15.J.5

The RDSEIR acknowledges on page 3.3-6 that the entire project area provides suitable dispersal habitat for CRLF. Despite this, there is no discussion of the impacts of the project on CRLF dispersal habitat or to dispersal corridors, and there is no proposed mitigation to offset this important impact.

10.15.J.6

As currently proposed, the project would eliminate the population of CRLF on-site because of the intensity of development proposed, the narrow width of corridors, trails proposed within all corridors, the substantial reduction in upland dispersal habitat, and the lack of adequate connectivity with off-site populations. Mitigation measure SM-BIO-13 implies that on-site

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preservation may be possible. This would only be possible, however, with a major project redesign.

10.15.J.7
(cont.)

Mitigation measure SM-BIO-14 describes off-site mitigation procedures to be followed if on-site preservation and enhancement of CRLF habitat is not feasible. However, the RDSEIR does not provide an evaluation of whether off-site mitigation is feasible at the 3:1 ratio specified. Without demonstrating that off-site mitigation is feasible, this mitigation measure is inadequate.

10.15.J.8

Because the impact discussion is inadequate and the Specific Plan is inconsistent with the proposed mitigation measures, the impact to California red-legged frogs remains potentially significant.

10.15.J.9

Inadequate Mitigation for Effects to California Tiger Salamander. In Supplemental Impact BIO 7, the RDSEIR acknowledges that California tiger salamander (CTS) were found in the southern portion of the project area and that the entire project area provides either suitable breeding habitat, aestivation habitat, dispersal habitat, or a combination of these habitats. Mitigation SM-BIO-18 calls for CTS habitat to be included in the Resource Management Plan outlined in mitigation SM-BIO-1. As discussed above, key components of the Resource Management Plan should be included as part of the current project to demonstrate its feasibility and adequacy.

10.15.K

Mitigation measure SM-BIO-19 describes off-site mitigation procedures to be followed if on-site preservation and enhancement of CTS habitat is not feasible. However, the RDSEIR does not provide an evaluation of whether off-site mitigation is feasible at the 1:1 ratio specified. Without demonstrating that off-site mitigation is feasible, this mitigation measure is inadequate.

Inadequate Impact Analysis of and Mitigation for Effects to Tricolored Blackbird. The impact analysis on page 3.3-25 does not state whether the known breeding colony of tricolored blackbird would be preserved or destroyed as a result of development. There is also no discussion of the significance of the colony or any potential direct or indirect impacts to it from the proposed project.

10.15.L

In general, tricolored blackbirds are very sensitive to construction-related disturbance near their breeding colonies, especially if their nesting substrate is affected. It may not be sufficient to just protect the nesting area because they require a large foraging area near a colony. If their foraging habitat is removed, the colony will likely be lost. They also require water on or near their nesting colonies, and if this is diverted or removed they also will not breed.

Mitigation measures SM-BIO-38 and SM-BIO-42 appear to contradict each other. SM-BIO-38 calls for construction within nesting habitat for passerines during the non-breeding season, while mitigation SM-BIO-42 calls for preservation of nesting habitat. This difference should be addressed.

Mitigation SM-BIO-42 calls for habitat for nesting passerines, including tricolored blackbird, to be included in the Resource Management Plan outlined in mitigation SM-BIO-1. As discussed above, key components of the Resource Management Plan should be prepared at this time so that its feasibility and adequacy can be evaluated.

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Because of the inadequacy of the impact analysis and mitigation measures, the impact to tricolored blackbirds remain potentially significant.

10.15.n

Failure to Acknowledge Regional Habitat Planning. Because of the project's large acreage and lack of proposed open space (less than 7% of the project area), the project will have significant and unavoidable cumulative impacts on biological resources. These cumulative impacts could be mitigated through Dublin's participation in regional habitat planning efforts such as a habitat conservation plan (HCP), which could provide comprehensive compliance with federal and state laws relating to biological resources. The City of Livermore is strongly supportive of comprehensive, multi-species habitat planning, and has initiated discussions with state and federal resources agencies concerning such an effort. Participation by both cities in regional habitat planning would allow for coordination of planning and mitigation efforts and compatibility of neighboring land uses. The RDSEIR does not acknowledge this important regional planning effort and how the proposed project may affect this effort.

10.15.o

Inadequate Mitigation for Cumulative Biological Impacts. The RDSEIR on page 5-2 acknowledges three supplemental cumulative effects related to biological resources:

- BIO 1: Direct and Indirect Habitat Loss
- BIO 2: Loss of Rare Plant Species
- BIO 5: California Red-Legged Frog

10.15.p

The RDSEIR claims that supplemental cumulative impacts BIO 1, BIO 2, and BIO 5 would be reduced to a level below significance through mitigation already proposed in chapter 3. However, as discussed above, these mitigation measures do not reduce the direct and indirect effects of the project below significance, so therefore cannot also reduce the cumulative biological impacts to a level below significance. Thus, supplemental cumulative impacts BIO 1, BIO 2, and BIO 5 remain significant without additional mitigation. Mitigation that could reduce these impacts to a level below significance include participation in or contribution to regional habitat planning activities, which the RDSEIR does not acknowledge.

D. *Water and Sewage.*

The RDSEIR does not include any relevant additional information as to the reliability of utility services, especially those involving water and sewage. Additional information provided in the "Supplemental Information to Clarify Issues of Concern with Previous DSEIR" section, see RDSEIR at 3.7-10, simply highlights the inapplicability of the 1993 EDGPA EIR to the current project. Although an additional qualitative discussion regarding sewer service, water service, and the use of recycled water is provided, no additional quantitative analysis that

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substantiates the conclusions stated can be found. Specific comments highlighting some of the main problems with the RDSEIR's identification and analysis of water and sewage impacts are provided below:

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Water. The RDSEIR states that the "proposed Project envisions the same type and density of proposed development assumed in the Eastern Dublin EIR. Thus, water use related to potential development of the Project area is not expected to differ from the Eastern Dublin EIR." See RDSEIR at 3.7-4. However, in the section entitled Supplemental Information to Clarify Issues of Concern with Previous DSEIR, there is a discussion regarding the difference in the demand analyzed in the 1993 EDGPA EIR, a 1993 addendum to the Eastern Dublin EIR, the DSRSD 2000 Urban Water Management Plan, and the current project plan. See RDSEIR at 3.7-11. The discussion centers on a significant decrease in potable demand (relative decrease of 35%), and a significant increase in usage of recycled water from 1,008 to 3,900 acre-feet annually (relative increase of 287%). The conclusion of the discussion is that since the current total water demand does not differ significantly from the total water demand in the 1993 EDGPA EIR, there is no additional significant impact. No discussion of the character of the change in demand or the possible impacts from an increase in recycled water usage of nearly 287 percent is provided.

We are also concerned with the potential for groundwater pumping to supply the project area and potential conflicts with adopted Zone 7 policies which govern the use of the groundwater basin.

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Salt Loading to Main Basin. In the prior DSEIR, the use of treated wastewater (or recycled water) for landscape irrigation was identified as a potential impact to the ground water basin. Specific mitigation measures (3.5/23.0) were drafted in 1993 that require "coordination with any Zone 7 salt mitigation requirements." However, no salt management plan has been implemented in the last nine years making this mitigation measure (3.5/23.0) meaningless. According to the RDSEIR, the "plan includes demineralizing shallow groundwater with high salt content and reinjecting it into the groundwater basin; the resulting salty brine is to be piped out of the basin through the LAVWMA disposal facility." Despite this reliance on the LAVWMA disposal facility, according to information provided in the RDSEIR itself, the LAVWMA disposal facility already lacks such capacity.

Furthermore, statements added to the RDSEIR to clarify this issue are instead contradictory. The RDSEIR still states that possible impacts due to the use of recycled water for landscape irrigation exist. See RDSEIR at 3.7-2. However, no analysis is provided regarding the quantity of recycled water to be applied, location of application, or impacts to the local groundwater basin and to those who rely on the local basin for groundwater of acceptable quality. Due to the potential for localized salt loading from greater quantities of recycled water application in relatively localized areas due to anticipated parks and golf courses, an analysis of the impacts on the groundwater basin is warranted. Simply finding that the "impact is more of a regional salt-water management problem, because it results from the accumulation of all existing and proposed irrigation system improvements of the entire region" ignores potentially significant local and cumulative impacts. Without providing any quantitative or qualitative information, the RDSEIR's statements regarding the impact of recycled water use are unsupported.

Sewage. Livermore's main concern regarding wastewater treatment and capacity is whether there will be sufficient facilities and capacity for disposal of treated wastewater. DSRSD, through coordination with the developers, will provide the infrastructure for the collection and treatment of wastewater generated by this project. However, it is hardly clear from the RDSEIR how wastewater will be disposed.

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The document indicates that significant impacts associated with a lack of adequate collection facilities will be mitigated to an insignificant level by implementing mitigation measures 3.5/1.0-5.0. See RDSEIR at 3.7-1. These mitigation measures, from the EDGPA EIR, require the developer and DSRSD to ensure adequate facilities will be provided to serve the additional development prior to issuance of grading permits. However, when comparing the disposal capacity of 14.4 to 16.25 MGD with the anticipated capacity at build-out from implementing mitigation measure 3.5/9.0, or 36.0 MGD, there is a shortfall of 19.75 to 21.6 MGD. Mitigation measures 3.5/11.0-14.0 in the EDGPA EIR recognize the importance of developing recycled water as a means of wastewater disposal to make up the difference between treatment and disposal capacity. The Significance Criteria on page 3.7-2 states; "Wastewater treatment and disposal impacts are considered significant if they would require new or expanded wastewater treatment facilities beyond what was anticipated in the Eastern Dublin EIR or if there would be inadequate treatment and/or disposal capacity to serve the Project." Under this criteria and with the paucity of information provided regarding adequate disposal capacity, wastewater disposal impacts should be considered significant.

Furthermore, although the RDSEIR states that "[s]torage of recycled water to serve much of Eastern Dublin, including the Project area, will be located in enclosed water tank(s) which will be located in an off-site storage facility within Dublin Ranch," the Major Infrastructure Plan provides no indication of where storage facilities will be built or how many tanks will be needed. See RDSEIR at Figure 2-J. Additionally, the *Revised Water Service Analysis for Eastern Dublin*, December 2001, (PWSA) does not support the DSRSD demand for recycled water at this level. As described in the PWSA, DSRSD anticipates that at build-out (year 2020) the annual demand for recycled water will be 3,910 acre-feet, with an annual supply of 11,026 acre-feet. The amount of wastewater associated with 19.75 to 21.6 MGD that would need disposal if mitigation measure 3.5/9.0 were implemented would be approximately 22,100 to 24,200 acre-feet annually. Even if DSRSD were able to realize its projected annual demand of 3,910 acre-feet annually, approximately 18,000 to 20,000 acre-feet annually of treated wastewater would still require disposal.

Without reexamination and further analysis of these water and sewage related impacts, the RDSEIR remains incomplete and contradictory.

E. *Airport Compatibility.*

EIR's on all projects within the purview of an airport comprehensive land use plan or within two miles of a public or public use airport must evaluate the impacts of safety and noise by using the handbook prepared by the California Department of Transportation, Division of Aeronautics. As mentioned in Livermore's prior comment letters and as supported by the letter from the Division of Aeronautics to the City of Dublin dated September 12, 2001, such an analysis

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was not conducted as part of the DSEIR, nor has it been completed pursuant to this RDSEIR. Before a Stage 1 Development Plan can be approved that would establish land uses, particularly proposed school sites, the appropriateness of these land uses needs to be determined based on the criteria of the DOT-DA handbook. The conclusions of this analysis must then be included in the EIR for this project.

Additionally, since portions of the project site fall within the Airport Protection Area (APA) for the Livermore Municipal Airport, the project needs to be submitted to the Alameda County ALUC for consistency determination with existing, as well as future airport operations. The ALUC will need to rely on information contained in this EIR for this referral process. However, the APA identified in the RDSEIR is based on an old, 1986 Airport Master Plan. The City of Livermore is working toward preparation of a new, updated Airport Master Plan for the Livermore Municipal Airport. The new Airport Master Plan and its associated APA should be identified and used in the analysis as part of this EIR. It is important that needed airport improvements that will serve the entire region not be precluded by premature approvals of inconsistent land uses, especially when such potential inconsistencies can easily be avoided during the planning stages.

Finally, as noted above, the RDSEIR recognizes that new residential land use designations or intensification of existing land uses are prohibited within the APA. See RDSEIR at 2-9. However, the project description states that properties affected by the current APA are designated as "Future Study Areas", with an underlying RR/A designation. The "Future Study Area" designation implies that the underlying RR/A designation on these properties may be subject to change in the future subject to future studies. What are these future studies, and how does the City of Dublin intends to implement the "Future Study Area" designation? Since the RDSEIR states that these lands cannot be developed as residential given the current policies, the Future Study Area designation should simply be removed, thereby ensuring that future policies will not override this important safety restriction.

F. *Air Quality.*

New information presented on page 3.2-1 of the RDSEIR suggests that within the Tri-Valley Air Basin "almost all clean air standards are met on almost every day of the year." The document additionally states that "emissions from upwind Bay Area sources . . . for airborne pollutants including ozone, carbon monoxide and particulate matter (PM-10)" are the reason for not meeting these standards "in at least a portion of the basin some of the time." However, these statements conflict with subsequent statements in the RDSEIR that precursors of ozone and carbon monoxide are derived primarily from on-road motor vehicles and that congestion levels on I-580 within the Tri-Valley contribute greatly to this regional air quality problem. See RDSEIR at 3.2-4.

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Although the RDSEIR appears to recognize that rapid urbanization within the Tri-Valley area, along with increased regional traffic and changing commute patterns, have resulted in air quality conditions that would result in the project contributing to air emissions exceeding BAAQMD significance thresholds, its analysis of mitigation measures remains inadequate. This impact requires implementation of all reasonable and feasible measures, consistent with the updated 2000 Clean Air Plan. However, aside from a brief discussion of future monitoring,

strategies to be developed at a later time for transportation measures, and advanced signal timing, the RDSEIR offers no reasonable and feasible mitigation measures to address this impact.

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The RDSEIR should be amended to include appropriate mitigation strategies that are capable of achieving real reductions in air quality emissions. Such strategies should include design guidelines and requirements for increasing alternative modes of travel, implementation of, or financial contributions toward increased transit opportunities, mixed-use land use patterns and other strategies that would mitigate impacts on air quality. Even if implementation of these measures could not fully achieve a reduction of this project-specific and cumulative impact to levels of less than significant, all reasonable and feasible mitigation are required.

G. *Other Environmental Issues.*

Like the DSIER before it, the RSDIER does not address a number of significant environmental issues, primarily because both documents simply reference the EDGPA EIR prepared in 1992 and 1993. Conditions pertaining to these issues have changed so significantly since that time that the analyses contained in the 1993 FEIR are no longer applicable or relevant. Therefore, the RDSEIR contains an inadequate analysis of many issues including, but not limited to:

- *Exacerbation of Downstream Flooding Conditions:* Cumulative development within the entire watershed over the past ten years has significantly increased peak flood flows at downstream locations, particularly in the Arroyo de la Laguna at Bernal Avenue in Pleasanton. The RDSEIR should have evaluated the project's contribution to projected future flood flows, identified appropriate fair-share contributions toward the cost of adequate regional flood control facilities throughout the Zone 7 drainage service area, and assessed the need for additional downstream flood channel improvements in order to adequately serve development in accordance with Zone 7 flood control criteria.
- *Sub-Standard Levels of Service on Isabel Parkway/SR 84 from I-580 to I-680.* At the time the 1993 EDGPA EIR was prepared, there was no analysis of the project's potential impacts to Isabel Parkway/SR 84. The current RDSEIR should have assessed the project's contribution of traffic to this new regional roadway. It should also identify appropriate mitigation measures necessary to mitigate this traffic impact to levels of less than significant, including making fair-share contributions toward the widening of Isabel Parkway between I-580 and Vineyard, and widening SR 84 from Vineyard to I-680.
- *Parks and Recreation.* As noted in the 1993 EDGPA EIR, the City of Dublin does not maintain a 5-acres per 1,000 population ratio for developed parkland, and this situation has undoubtedly changed with the addition of substantial new housing opportunities in Dublin since that time. The RDSEIR should have assessed the potential effects associated with Dublin residents seeking to use the nearest LARPD facilities should they be unable to meet their recreational needs locally. The City of Livermore supports the concerns raised by LARPD in their letter to you on this same issue.

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- *Cumulative Electrical Demands.* During the past several years, existing electrical service capacity in the region has become constrained, and cumulative development in the area (including the project) will likely require significant electrical transmission improvements to adequately serve the area. Electrical demand is expected to exceed capacity for the region's customers during peak hours by mid-2002. The ability of PG&E to provide service to the area may be further affected by PG&E's recent declaration of bankruptcy. The RDSEIR should have assessed the impacts to the region associated with the project's electrical service demands in light of these changed circumstances, and determined if there is any feasible mitigation available. Energy conservation strategies should have been considered as a means of reducing the project's demand for these services.

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- *Cumulative Solid Waste Disposal.* The capacity of regional permitted solid waste disposal facilities has changed significantly since 1993, with increased amounts of disposal needs combined with reductions in permitted disposal capacity. The RDSEIR should have assessed the impacts to the region associated with the project's solid waste disposal demands in light of these changed circumstances, and determine if there is any feasible mitigation available. Requirements for recycling and waste reduction should have been considered as a means of reducing the project's demand for these services.

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VII. The RDSEIR Does Not Analyze Adequately the Growth-Inducing Impacts of the Project.

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The RDSEIR must consider the growth-inducing potential of the project in this undeveloped area. CEQA requires that an EIR include a "detailed statement" setting forth the growth-inducing impacts of the proposed project. See Public Resources Code § 21100(b)(5); City of Antioch v. City Council of Pittsburg, 187 Cal.App.3d 1325, 1337 (1986). The statement must "[d]iscuss the ways in which the proposed project could foster economic growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment." CEQA Guidelines § 15126.2(d). It must also discuss how a project may "encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively" or "remove obstacles to population growth." Id.

Several elements of the project will likely induce growth on lands beyond the project site, but within the City's Future Study Area. These elements include, but not limited to:

- The terminus of the Central Parkway;
- The elementary school located at the edge of the site adjacent to the Future Study Area;
- The amount and type of development proposed adjacent to the numerous RRA-future study areas within the Project Area; and
- The extension of services to the edge of the Doolan Canyon Future Study Area.

The RDSEIR does not provide any analysis of the growth-inducing potential of the project, and instead relies on the 1993 EDGPA EIR for this analysis. No measures are provided to ensure that growth will not be induced into these Future Study Areas. This lack of identification and analysis of growth-inducing impacts of this development of undeveloped land, surrounded by open space, is serious under CEQA.

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VIII. The RDSEIR Does Not Adequately Present and Analyze Alternatives and Improperly Rejects the Proposed Reduced-Development Alternatives Without Adequate Basis.

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In its prior comment letter of September 14, 2001, Livermore requested inclusion and analysis of two reduced development envelope alternatives: one which reduced the total development by 25% (both in terms of the development footprint and total development); and a second which clustered development with higher densities to avoid impacts to biological, geologic and other impacts. See September 14, 2001 Letter, Exhibit 2 at 34. The RDSEIR improperly rejects both alternatives.

A proper analysis of alternatives is essential if an EIR is to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. Pub. Res. Code § 21002; CEQA Guidelines §§ 15002(a)(3), 15021(a)(2) 15126.6(a); Citizens for Quality Growth v. City of Mount Shasta, 198 Cal.App.3d 433, 443-45 (1988). As stated in Laurel Heights Improvement Association v. Regents of University of California ("Laurel Heights I"), "without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process. . . . [Courts will not] countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the consequences of action by their public officials." 47 Cal.3d 376, 404 (1988).

In commenting on the July 2001 DSEIR, the City of Livermore and others advised Dublin that the alternatives analysis failed to analyze a reasonable range of alternatives under CEQA. The current RDSEIR does not remedy this inadequacy as it does not include an analysis of a single alternative to the project which reduces the project's development area (other than the no project or no development alternatives which Dublin already rejected as infeasible in approving the EDGPA/SP). The RDSEIR attempts to justify this artificially constrained range of alternatives by explaining that reduced area alternatives "would not avoid the Project's unavoidable impacts sufficiently to be identified and analyzed further" or would simply "reduce but not avoid the Project's significant cumulative biological impacts." RDSEIR, 4-17.

The DSEIR's premise that an alternative need not be analyzed merely because it would not fully eliminate a significant environmental impact is erroneous. The CEQA Guidelines explain that an EIR "shall describe a *range* of reasonable alternatives to 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." CEQA Guidelines § 15126.6(a) (emphasis added); accord §§ 15126.6(b),(c),(f). Thus, reasonable alternatives that would substantially reduce significant impacts must be considered even if they would not entirely avoid these impacts. Because Dublin has already indicated that it does not consider the no project and no development alternatives to be feasible or reasonable, see RDSEIR at 4-2, the RDSEIR's alternatives analysis

contains a "range" of alternatives consisting of a single alternative which does not address some of the project's most significant land use impacts.

The RDSEIR's identification of a single feasible project alternative does not satisfy CEQA's mandate that an EIR discuss a reasonable range of alternatives that "offer substantial environmental advantages over the project proposal." Citizens of Goleta Valley v. Board of Supervisors, 52 Cal.3d 553, 566 (1990). This is especially true given that Dublin has characterized the DSEIR as a program-level EIR, which is intended to "[p]rovide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR or an individual action" and to allow "the lead agency to consider broad policy alternatives and program wide mitigation at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts." CEQA Guidelines § 15168.

As noted above, and in Livermore's prior comment letter, the project has significant impacts on drainage and agricultural, biological, and visual resources that were not analyzed in the 1993 EDGPA EIR or which occur in a significantly different planning and legal context today. The RDSEIR should, at the minimum, present an alternative that outlines the contours of a development with a smaller footprint and attempts to avoid the areas with the most critical drainage, agricultural, biological, and visual impacts. To dismiss such an alternative as "similar" to the No Project/ECAP Alternative or to note that a 25% reduction in the developed area would generally correlate to a 25% reduction in project impacts does not provide the degree of detail necessary to "allow meaningful evaluation, analysis, and comparison with the proposed project." CEQA Guideline § 15126.6(d); accord Laurel Heights I, 47 Cal.3d at 404, 406 (EIR must contain "meaningful analysis" containing "meaningful detail" about alternatives); San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus, 27 Cal.App.4th 713, 736-38 (1994) (EIR inadequate where it does not state the degree to which lower density alternative would lessen impacts or to consider alternatives such as clustering, increased buffer zones, or lower density that would protect adjacent wetlands).

None of the alternatives evaluated in the prior EDGPA EIR or the RDSEIR analyze a project with a reduced development envelope or footprint. Such an alternative would address significant avoidable and significant unavoidable impacts including: change in the area's visual character (Impact 3.8/B, EDGPA EIR); cumulative loss of open space and agricultural lands (Impact 3.1/F, EDGPA EIR); loss or degradation of botanical resources (RDSEIR Bio 3) and a number of other project-related significant impacts to biological resources purportedly reduced to less than significant by measures contained in the RDSEIR. The RDSEIR's analysis of the mitigated traffic alternative does not address any of these significant impacts, and therefore does not satisfy CEQA's mandate that an EIR discuss a reasonable range of alternatives that "offer substantial environmental advantages over the project proposal." Citizens of Goleta Valley, 52 Cal.3d at 566

The RDSEIR does not explain why additional alternatives were not proposed that would address significant visual, biological and agricultural impacts. In light of the evidence presented in this comment letter that significant agricultural and biological impacts are not reduced to less than significant by proposed mitigation, see sections IV(A) and (C) above, an analysis of alternatives capable of addressing these impacts must be presented in a revised DSEIR.

To be effective, one or more alternatives should be based on a composite constraints map which identifies site constraints including sensitive biological resources, sensitive visual areas, steep slopes, wetlands and creeks and geologic hazards. An alternative based on avoiding these areas could address several significant impacts. A further alternative could be based on service and infrastructure constraints as a basis for limiting the total amount of development proposed within a reduced envelope/footprint (e.g. to respond to significant impacts including future lack of wastewater plant capacity (Impact 3.5/E), a potential lack of an adequate water supply, and increase in demand for water (Impact 3.5/Q), among others).

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(cont.)

Furthermore, at least one of these alternatives should include components to respond to all impact areas. For example, the alternative could include:

- A reduced development footprint that excludes lands that are not targeted for urban uses and constrained/sensitive lands (e.g. land designated Future Study Area- RRA and RRA lands);
- A permanent cap on the amount of development by land use (e.g. commercial differentiated from industrial, etc.);
- A reduction in potential overall development to address traffic and other issues as warranted.

Additionally, a revised RDSEIR should analyze an alternative that accommodates growth needs within existing in-fill areas and the Dublin Ranch. Such an alternative is warranted for a number of reasons:

- First, an avoidance alternative is required for CWA § 404(b)(1) permitting. Such an alternative should be included in this EIR, and may not be deferred until the permit application;
- Second, as discussed above, LAFCO policies and factors require information that the annexation will promote orderly growth and avoid sprawl and premature loss of prime agricultural land. An "in-fill" alternative must be analyzed to demonstrate the necessity of annexation at this time and that the project promotes orderly growth and extension of services;
- Third, Dublin has recently taken a leadership role in the Tri Valley in developing Transit Oriented Development projects and approving development projects at higher densities than were considered feasible when the EDGPA EIR was certified nearly a decade ago. There has been no analysis of the City's ability to accommodate growth without this annexation. It is quite possible that land within the urban areas of the City could be used more efficiently. Such in-fill development, in combination with the Dublin Ranch development, could be sufficient to accommodate growth for several years, thereby eliminating the need to prematurely convert existing agricultural and open space land to inefficient suburban-style development.

Finally, since SOIs and annexations are intended for lands that will be urbanized, an alternative must be included that excludes from the annexation (and possibly considers removal from the City's SOI) all lands that have been designated either a Future Study Area or Rural Residential. As discussed above, annexation of these lands is contrary to LAFCO policy.

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(cont.)

A revised alternatives analysis must include these additional feasible alternatives in order to meet CEQA's mandate. The revised analysis must be based on a complete list of the proposed project's significant avoidable and unavoidable impacts. Without the above discussed revisions to the alternatives section of this document, the RDSEIR, like the DSEIR before it, remains inadequate under CEQA and should not be certified by Dublin.

Conclusion

The City of Livermore recommends Dublin refrain from certifying the East Dublin Properties EIR until further planning for the remaining portion of the Eastern Extended Planning Area has been developed. Because the circumstances within and surrounding the project area have changed so greatly since the 1993 certification of the EDGPA EIR, because new information has been presented revealing the environmental sensitivity of the region, because decisions concerning greenbelt buffers and the fate of Doolan Canyon are still in flux, and because appropriate mitigations for project impacts have not been developed, certification of this EIR would be premature.

10.28

Further planning for this area should address the following issues:

- Adequate preservation of sensitive biological resources on-site;
- The area's interconnection with regional habitat conservation planning efforts;
- Sustainable development patterns including affordable housing opportunities;
- Needed transportation and transit facilities;
- Viability of agricultural operations in the region; and
- Opportunities/ mechanisms for the permanent preservation of an agricultural / open space greenbelt between our communities.

When prepared, the EIR should be comprehensive, utilizing updated information and project-level analysis and mitigation.

Thank you for the opportunity to provide these comments. Livermore gladly anticipates continuing to work with Dublin representatives to resolve these issues and develop solutions that will achieve the best for our communities. As previously requested, please continue to keep Livermore informed of all contracts, notices, hearings, staff reports, briefings, meetings, and other events related to the proposed project.

June 26, 2001

Via FAX: (925) 833-6628

City of Dublin
Planning Department
Attn: Anne Kinney
100 Civic Plaza
Dublin, CA 94583

Re: Notice of Preparation of a Draft Supplemental Environmental Impact Report for
the East Dublin Properties (PA 00-025)

Dear Ms. Kinney:

The City of Livermore appreciates the opportunity to provide its comments on the Notice of Preparation ("NOP") of a Draft Supplemental Environmental Impact Report ("DSEIR") for the proposed East Dublin Properties Project. As an adjacent jurisdiction, the City of Livermore is concerned about the potential regionally significant impacts of this proposed project, and the potential cumulative impacts that affect us all in the Tri-Valley area. The City of Livermore supports the City of Dublin's decision to require preparation of an EIR for the proposed East Dublin Properties Project ("proposed project"). Livermore is concerned; however, that the scope and content of the Supplemental EIR proposed by the City of Dublin may be inappropriate for the reasons set forth in the following comments.

Of even greater concern to the City of Livermore is the apparent lack of consideration given by the City of Dublin to the permanent protection and preservation of the Doolan Canyon area as a greenbelt and permanent separator between our two cities. For many years, the City of Livermore has enacted policies and pursued planning programs intended to result in the permanent protection of biological resources, agricultural lands and open space in this area. In 1993 the City of Dublin's planning efforts ran contrary to our interests, proposing that this area be include within Dublin's Sphere of Influence and even considering development proposals that would have enabled construction of thousands of homes in this area. With the designation of this area by the City of Dublin in 1994 as a Future Study Area with an underlying General Plan designation of Agriculture, Livermore had hoped that its concerns for permanent protection of this area were acknowledged and accepted by Dublin. Livermore anticipated that any future planning efforts by Dublin for this area would involve mechanisms to ensure permanent protection for this canyon. The City's concerns for this area have been echoed by the open space designation under the Alameda County East County Area Plan, and by provisions of Measure "D" which place this area outside of the County's Urban Growth Boundary.

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Despite this regional consensus, it now appears that Dublin intends to develop urban land uses to the western edge of the Doolan Canyon area, and does not propose any programs or efforts geared toward providing for the permanent protection of the Future Study Area. In fact, the site plan contained in the NOP suggests that both Dublin Boulevard and Central Parkway (northerly of Dublin Boulevard) will be extended into the future study area to the east. While both cities plan for the extension of Dublin Boulevard/North Canyons Parkway, the planned extension of the Central Parkway is inconsistent with the designation of the property as Agriculture /Future Study Area. At a minimum, the Central Parkway should be designed to terminate in a manner consistent with an open space / agriculture designation of the Future Study Area. At best, we would hope that the City of Dublin would defer this development proposal until such time as a multi-jurisdictional program can be put in place for the protection of the Doolan Canyon area and other regionally important habitat and agricultural areas. With the preparation of such a program, the remaining lands suitable for development can be successfully planned as efficient and sustainable communities.

The following sections describe in detail the reasons why the City of Dublin should prepare a new Specific Plan and EIR to comply with CEQA in connection with the proposed project.

Substantial Changes in Existing Circumstances

Significant changes have occurred within the local area and within the Tri-Valley region since the Program EIR for the Eastern Dublin GPA and Specific Plan (SCH #91103064) was certified by the City of Dublin in 1993. A list of these changes (more fully discussed in later sections of this letter) includes:

- a substantial decrease in the supply of large parcels within Alameda County necessary to accommodate grazing operations, and changes in state law regarding the annexation of lands defined as prime agricultural soils;
- rapid urbanization, increased regional traffic and changed commute patterns that have resulted in significant degradation in the air quality of our region;
- new designations of critical habitat for the California red-legged frog, the potential occurrence of special-status species that were not considered in the 1993 EIR (e.g., the California tiger salamander and Livermore Valley tarweed), new standards applied by state and federal resource agencies that afford greater protection to riparian corridors, and the overall cumulative effects of new development on biological resources;
- recent efforts by both Contra Costa County and Livermore to initiate regionally-based habitat conservation plans that may affect the project area;
- cumulative development within the entire watershed which has led to significant increases in peak flood flows;

- increased urbanization and irrigation which has led to an increased influx of salts into the Main groundwater basin;
- significant changes in the demographic characteristics of not only the Tri-Valley region, but also the entire Bay Area. These changes have altered the region's jobs/housing balance and created a Bay Area commute-shed that stretches beyond the traditional 9-county Bay Area as far eastward as Sacramento;
- dramatic increases in housing prices throughout the Bay Area, resulting in a severe regional housing shortages particularly for affordably priced housing opportunities;
- changes in Tri-Valley commute patterns, traffic intensities and traffic generated by new development that has substantially exacerbated traffic congestion on the regional freeway system;
- newly constructed and planned improvements to the transportation system (e.g. Isabel Parkway, BART access, and other transit opportunities);
- changes in water supply contracts and recent litigation regarding the availability of water supplies available to serve new development;
- changes in regional policy, funding mechanisms, and timing of wastewater infrastructure improvements;
- increasingly constrained natural gas and electrical service capacity in the region, combined with increased demand and uncertainty over required electrical transmission improvements; and
- increased amounts of solid waste disposal needs combined with reductions in regionally available permitted disposal capacity.

CEQA Guidelines, Section 15163 provides that, "a lead agency may choose to prepare a supplement to a previous EIR if . . . only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed circumstances." Clearly, in light of the substantial changes in circumstance listed above, more than "minor changes" will be necessary to make the 1993 EIR applicable to the current project. Therefore, a new EIR must be prepared in order to comply with CEQA.

The changed circumstances listed above are some of the very same reasons that the City of Livermore and Alameda County chose to prepare a new, comprehensive EIR during preparation of the Draft North Livermore Specific Plan in 1999-2000 instead of relying on the 1993 EIR prepared for the North Livermore General Plan Amendment. It is also why Livermore chose to initiate a

new, comprehensive EIR for the Vasco-Laughlin Specific Plan rather than relying on the 1988 Area "A" General Plan Amendment EIR. Livermore recommends that the City of Dublin should also recognize these changed circumstances and initiate a fully adequate and comprehensive environmental review of the proposed project rather than relying on older, outdated and inadequate baseline information that would render such an EIR inadequate.

Lack of a Complete Project Description

The City of Dublin's NOP and corresponding Initial Study include the following actions in the project description:

- A Stage 1 Development Plan application to the City of Dublin requesting pre-zoning of the site in accordance with the City's General Plan and Eastern Dublin Specific Plan;
- Annexation of the project area to the City of Dublin and Dublin San Ramon Services District for provision of water, sewer and recycled water services;
- Execution of a Pre-annexation Agreement between the City of Dublin and the project proponents/property owners;
- Detachment from Livermore Area Recreation and Park District upon annexation of the project area to the City of Dublin;
- Post-annexation probable cancellation of Williamson Act contracts for several of the properties within the project area; and
- Detachment of the project area from the Livermore Valley Joint Unified School District and attachment to the Dublin Unified School District.

However, this Project Description does not address the following issues:

The project site is approximately 1,110 acres in size. The entire project site is within the Eastern Extended Planning Area adopted by the Eastern Dublin General Plan Amendment ("EDGPA") in 1994, but only 472 acres are within the East Dublin Specific Plan Area. Although the Dublin General Plan designates this extended planning area primarily for residential uses, Implementing Policy 2.1.4(B) of the EDGPA requires that: "A Specific Plan(s) will be required for the remainder of the extended planning area to provide similar direction for its ultimate development." The EDGPA goes on to state that, "Approval of residential development in the Eastern Extended Planning Area will require determination that . . . the proposed project is consistent with all applicable General Plan and Specific Plan policies."

The project description included in the NOP does not include preparation of a Specific Plan for the approximately 637 acres within the project site but outside the Specific Plan area, which is in direct

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conflict with this General Plan policy. This is of particular concern to the City of Livermore. According to the EDGPA, this Specific Plan is intended to ensure, among other issues, that proposed site grading and means of access will not disfigure the ridgelines, and that the timing of development will not result in premature termination of viable agricultural operations on adjoining lands. Both of these issues are of regional and cumulative concern.

Additionally, in the last decade there has been a growing recognition of the importance of "smart growth" planning principles and what constitutes sustainable development. An adequate definition of such "smart growth" includes intelligently planned communities that channel growth into existing communities or areas with existing services, that provide for public transportation, are walk-able and bike-able, include a mix of uses, and provide for permanent protection of surrounding open space. Presumably, a Specific Plan for this area would provide an opportunity for Dublin to consider and emphasize the importance of such "smart growth" strategies in the development of this area.

Related to the issue of impacts to viable agriculture on adjoining lands, the EDGPA also indicates that the lands immediately to the east of the project site are identified as a Future Study Area. This designation indicates "... the City of Dublin's interest in the area and the need for additional studies of environmental constraints, future land uses, infrastructure and other issues." The City of Livermore shares this interest in the area and wishes to ensure that these lands will be permanently preserved as an agricultural greenbelt / buffer between our two cities. In Livermore's view, any project proposed in the Eastern Extended Planning Area adjacent to Dublin's "Future Study Area" must address how this area can be maintained and preserved into the future, and include safeguards that prevent potential future urban encroachment.

Finally, the East Dublin Properties Stage 1 Site Plan (Exhibit 6 of the NOP) indicates that approximately 126 acres immediately north of the Dublin Boulevard extension will be designated as "Future Study Area" because they are located within the Airport Protection Area (APA) for the Livermore Municipal Airport. However, the EDGPA designates these lands for low and medium density residential use and indicates that, "If, at the time of pre-zoning, the residential designations are inconsistent with the APA, the residential designations will convert to Future Study Area with an underlying Rural Residential / Agriculture designation". The City of Livermore requests clarification from Dublin that these properties are in fact to be designated as Rural Residential/ Agriculture, including the 10.4-acre piece indicated on Exhibit 6 as General Commercial.

Inadequate Mitigation

The EIR for the Eastern Dublin GPA and Specific Plan (SCH #91103064) certified by the City of Dublin in 1993 was a "Program" EIR, designed to assess the environmental impacts of the policies contained in these planning documents. As stated on page 1-2 of that Draft Program EIR, "Once the General Plan Amendment and Specific Plan are approved, specific development proposals for the project site may require a Project EIR to assess project-specific issues." Given the programmatic nature of the 1993 EIR, many of the mitigation measures contained in that document do not provide the specificity required in a project-level EIR. Similarly, many of the mitigation

measures contained in the 1993 document rely on subsequent studies to ensure adequate mitigation of impacts not fully disclosed at a project-level analysis. Examples of such mitigation measures contained in the 1993 EIR include:

- MM 3.8/7.1: The City will conduct a visual survey for the project site to identify and map viewsheds of scenic vistas.*
- MM 3.8/8.1: The City should require that projects with potential impacts on scenic corridors submit detailed visual analyses with development project applications. Applicants will be required to submit graphic simulations and/or section drawings from affected travel corridors through the parcel in question, representing typical views of the parcel from the scenic route. The graphic depiction of the location and massing of the structure and associated landscaping can then be used to adjust the project design to minimize visual impacts.*
- MM 3.7/13: The City should require dedications of land and improvements along both sides of stream corridors as a condition of development project approval. The width of dedicated corridors will be established in consultation with the regulatory agencies since these may vary with specific sites.*
- MM 3.7/4.0: Grazing management plans shall be developed by the City and implemented soon after approval of the GPA and Specific Plan. Management plans shall favor protection of wetland and riparian areas, increased plant diversity, and the recovery of native plants, in particular perennial grasses.*
- MM 3.11/4.0: Require preparation of a construction impact reduction plan that incorporates all proposed air quality mitigation strategies with clearly defined responsibilities for plan implementation and supervision.*
- MM 3.6/9.0: While some permanent landform changes are unavoidable with any development, their magnitude can be reduced by developing minimal grading plans that adapt improvements to the natural landforms, thus minimizing cuts and fills. Construction of traditional flat building pads in hillside areas requires more grading than construction of partial pads, or developing custom lots. Construction of roads or ridges also minimizes grading in hillside areas. Use of retaining structures and steeper cut and fill slopes, where appropriate and properly designed, also minimizes grading in hillside areas.*
- MM 3.6/10: . . . Specific project lot and infrastructure alignment planning should be based on the identification of geotechnically feasible building areas by the project geotechnical consultant. In some hillside areas, clustering structures may be the best approach to minimize grading and avoid adverse conditions.*

These examples illustrate the programmatic nature of the 1993 EIR and demonstrate that mitigation measures contained in that document frequently rely on subsequent studies, pending coordination with other agencies, follow-up analyses and more detailed investigations. Reliance on such mitigation measures for this currently proposed Subsequent Project EIR will not provide the level of detail and specific performance-based mitigation needed to assure that impacts can be reduced to less than significant levels.

Cumulative Impacts and Assessment of Impacts due to Changed Circumstances in the Region

The City must address the cumulative impact of the proposed project given the past, present, and probable future development in the region. (See CEQA Guidelines § 15130(b)(1).) The cumulative analysis must include all other planned, pending and foreseeable projects in the region, including the currently pending land use applications for the Cisco Systems office complex. The EIR for the proposed project must analyze cumulative impacts of the proposed project on all environmental factors, including: aesthetics, biological resources, hazards, public services, utility service, cultural resources, hydrology, water, noise, recreation, air quality, geology, land use, population/housing, and transportation/circulation. The cumulative impact analysis for each environmental resource should consider the following issues at a minimum:

Alteration of Scenic Vistas, Ridgelines and Viewsheds: The NOP suggests that potential visual impacts associated with this project will be mitigated through implementation of mitigation measures contained in the 1993 East Dublin EIR. However, a review of these mitigation measures indicates that, for the most part, these measures call for subsequent studies, the establishment of review procedures, and "other appropriate measures to minimize visual impacts". The EIR for this project should provide the detailed analytical evaluation necessary to identify specific impacts to visual resources that might be associated with implementation of this project. This evaluation should be based on photo-simulations, montages, or other techniques that can demonstrate how development impacts can be reduced to a less than significant level.

Loss of Agricultural Uses: On a cumulative basis there has been a substantial change (decrease) in the supply of large parcels within Alameda County necessary to accommodate grazing operations. As this land supply diminishes, operation and transportation costs of grazing have increased, directly affecting the viability of grazing operations in the County as a whole. The removal of large parcels of agricultural land within the project area from the overall County land supply of active grazing land should be considered a significant cumulative impact, and adequately addressed in the EIR. Mitigation measures such as funding assistance for continued grazing and other agricultural operations in the vicinity, and the permanent protection of adjacent open space and grazing lands within the adjacent "Future Study Area" should be considered.

Williamson Act Cancellation: The NOP anticipates that the City will consider requests for the cancellation of Williamson Act contracts on up to four parcels within the project area. Since the preparation of the 1993 EIR a statute has been enacted allowing the rescission in lieu of cancellation of a Williamson Act contract upon the placement of a permanent conservation easement over lands of comparable size and value. Government Code Section 51256. The EIR for this project should

evaluate the use of this program in order to mitigate the project's contribution to cumulative impacts to agricultural lands.

Increased Regional Emissions: The NOP recognizes that rapid urbanization within the Tri-Valley area, along with increased regional traffic and changing commute patterns, have resulted in air quality conditions that may result in the project contributing to air emissions that would exceed BAAQMD significance thresholds. The EIR should identify appropriate mitigation strategies such as alternative modes of travel, increased transit opportunities, mixed-use land use patterns and other strategies that would mitigate impacts on air quality.

Impacts to Listed and Special Status Species: The NOP acknowledges that the U.S. Fish and Wildlife Service has designated critical habitat for the California red-legged frog since publication of the 1993 EIR. However, the NOP does not acknowledge that the red-legged frog was listed as threatened in 1996, which is a significant changed circumstance. The EIR should assess the effect of the species' listing and designation of critical habitat on the project and its adopted mitigation measures. The EIR should also consider the extensive surveys for federally- and state-listed species and species with special status that have been performed since 1993. A thorough investigation of biological resources of the project area is warranted as other special-status species may occur in the project area that were not considered in the original EIR. One example is the California tiger salamander, which may be listed in the next year. Another is the Livermore Valley tarweed, an extremely rare plant discovered in Livermore in 1999.

Riparian Corridors: Standards applied by state and federal resource agencies since 1993 afford greater protection to riparian corridors than currently required for stream corridors in the project area. The project area includes high-quality riparian corridors, particularly near Fallon Road. The proposed width of open space (40-50 feet) is inadequate to maintain this significant regional resource. Recent requirements by the US Fish and Wildlife Service have called for setbacks of 300 feet from the top of bank where riparian corridors contain special status species. There is also substantial restoration potential of other stream corridors that have been overgrazed and degraded. Riparian habitat restoration should be considered as mitigation for the loss of connectivity with adjacent upland habitat and as an aesthetic amenity to nearby development

Habitat Conservation Planning: Because of the project's large acreage and lack of proposed open space (less than 7% of the project area), the project will have significant and unavoidable cumulative impacts on biological resources. These cumulative impacts could be mitigated through Dublin's participation in a habitat conservation plan (HCP), which could provide comprehensive compliance with federal and state laws relating to biological resources. Livermore is close to initiating a comprehensive, multi-species HCP, with a survey area including lands immediately east of Dublin's project area. Participation by both cities in an HCP process would allow for coordination of planning and mitigation efforts and compatibility of neighboring land uses.

Conflicts with Airport Uses: The NOP recognizes that the Alameda County Airport Land Use Commission created the Airport Protection Area for the Livermore Municipal Airport in 1993, after the East Dublin EIR was certified. The Airport Protection Area affects land uses within the

southern portion of the project area. Although the NOP states that these affected properties are currently designated as "Future Study Areas", it is unclear what land uses may be proposed on these properties or how the "Future Study Area" designation will affect such uses. Additionally, the Airport Protection Area is based on a 1986 Airport Master Plan. Currently the City of Livermore is working toward preparation of a new, updated Airport Master Plan for the Livermore Municipal Airport, and this new Airport Master Plan should be considered when proposing new land use in the vicinity.

Exacerbation of Downstream Flooding Conditions: Cumulative development within the entire watershed over the past ten years has significantly increased peak flood flows at downstream locations, particularly in the Arroyo de la Laguna at Bernal Avenue in Pleasanton. The current EIR should evaluate the project's contribution to projected future flood flows, and identify appropriate fair-share contributions toward the cost of adequate regional flood control facilities throughout the Zone 7 drainage service area.

Increased Salt Loading to the Main Basin: Neither the 1993 EIR nor the NOP makes any reference to potential impacts associated with an increased influx of salts into the Main groundwater basin as a result of the project's urban irrigation. Salt accumulation resulting from such irrigation degrades the groundwater quality, which is a component of the drinking water supply for the region. The EIR should assess the project's potential contribution to salt loading of the Main basin, and should identify appropriate and necessary mitigation measures such as a requirement to participate on a fair share financial basis towards implementation of Zone 7's Salt Management Program.

General Plan Consistency: The EIR must assess whether the proposed project will conflict with any applicable land use plan or policy, including applicable general plans, community plans, and zoning ordinances. Since the EDGPA requires preparation of a Specific Plan prior to any development for portions of the project area outside the current Specific Plan and the project description does not contain a Specific Plan, the project is not consistent with existing general plan policies. This inconsistency must be addressed in the EIR. Additionally, the EIR should address the potential land use incompatibility and growth-inducing effects associated with the proposed extension of Central Parkway through the Future Study Area / open space / agriculture area.

Community Separation: The exhibits in the NOP indicate an area of approximately 2,750 acres between the East Dublin Project Area and the City of Livermore as a "Future Study Area". Livermore's General Plan anticipates that this area will remain as permanently protected open space providing a separation between the cities of Dublin and Livermore. This area is also identified for open space uses in the East County Area Plan. The EIR should analyze differences between the applicable plans for this area and identify means to reconcile them. In particular, the EIR should explore opportunities for this project to generate funding that can be used to assist in the securing of these lands as permanent open space. Livermore requests the opportunity to discuss with Dublin staff options for shared open space protection strategies for this area as part of the scoping efforts for this EIR.

Measure D/East County Area Plan Policies: The NOP states that the Measure D's placement of a portion of the project area outside of the County's Urban Growth Boundary does not directly restrict development within the cities. However, the EIR must recognize and discuss the inconsistencies between the proposed project and the County's adopted general plan for the same area as required by CEQA Guidelines section 15125(d).

Policies of the Alameda County East County Area Plan (ECAP) that are applicable to the proposed project include:

Policy 26: The County shall work with the City of Dublin to exclude development from steep hillsides (shown as Rural Residential in the Eastern Dublin Specific Plan) and from Doolan Canyon and establish programs to acquire these areas as part of a contiguous open space system.

Policy 61: The County shall encourage the Alameda County Open Space Land Trust (see program 23) to acquire fee title or easements on strategic parcels that would permanently secure the Urban Growth Boundary and complete the continuous open space system surrounding Eastern Dublin, North Livermore, South Livermore, and the existing cities of Pleasanton, Dublin and Livermore.

Policy 72: The County shall encourage the City of Dublin to:

- 1. Re-designate in the Eastern Dublin General Plan Amendment area all Rural Residential (RR) and designated by Dublin easterly of Fallon Road, as well as Doolan Canyon, as "Resource Management," consistent with the East County Area Plan. Allowable uses may include agriculture, grazing, recreational, and open space uses. This shall not apply the lands with urban designation as adopted in the Eastern Dublin Specific Plan.*
- 2. Work with the Alameda County Open Space Land Trust to acquire parcels designated by Dublin as "Rural Residential" in Eastern Dublin, through purchase of fee title or easements with open space fees, by means of dedication and/or through density transfer or other funding mechanisms.*
- 3. Require that land use activities conducted within this area adhere to management guidelines developed for the protection of biological resources.*

Program 23: The County shall work with cities to establish a non-profit Alameda County Open Space Land Trust to acquire land within the East County open space system to other public agencies and, where appropriate, convey title or easements to other public agencies. The Land Trust can use developer dedication, fee purchase, open space or access easements, and other mechanisms to acquire and permanently preserve an continuous open space system outside the Urban Growth Boundary. (Emphases in original)

Jobs/Housing Balance: The demographic characteristics of the Tri-Valley region have changed significantly over the past decade, substantially altering the regions' jobs/housing balance. The EIR should include an analysis of the projects' effects on the cumulative regional and local jobs/housing balance. As part of this cumulative scenario, the EIR should also take into account the City of Dublin's recent intention to re-designate a portion of land within the East Dublin Planning area from residential use to commercial / office use. This re-designation is intended to accommodate the proposed new Cisco Systems office park, thereby further lowering the ratio of housing to jobs in the City.

Affordable Housing Availability: The past decade has seen a dramatic increase in housing prices throughout the Bay Area, resulting in a severe regional housing shortage particularly for affordably priced housing opportunities. If a sufficient number of affordable housing units cannot be provided within the local area, workers are forced to commute to jobs from outside areas where affordable housing is more readily available. Generally, high housing costs can result in very long commutes for workers living in lower-cost areas. The more time spent commuting, the greater the cumulative air quality and traffic impacts associated with vehicles moving on the regional roadway network. The City of Dublin's 5% affordable housing requirement (which includes moderate-income housing as well as low- and very low-income housing) does not come close to matching the actual projected need for affordable housing opportunities based on state and ABAG projections for the City or the region. The City of Dublin's EIR should address the impact that this project may have on exacerbating this housing affordability gap.

Sub-Standard Levels of Service on I-580: The NOP (page 54) recognizes that changes in Tri-Valley commute patterns, traffic intensities and traffic generated by the project may cause traffic impacts on the regional freeway system that was not anticipated in the 1993 EIR. In order to address these issues, the current EIR should specifically assess the project's contribution toward cumulatively sub-standard levels of service on I-580. It should also identify appropriate mitigation measures necessary to reduce the project's contribution towards this impact, such as construction of high occupancy vehicle (HOV) lanes on I-580, completion of North Canyons Parkway/Dublin Boulevard extension as a six-lane roadway, and/or providing increased transit opportunities. The EIR should analyze the appropriate level of contribution by the project for the implementation of these measures.

Sub-Standard Levels of Service on Isabel Parkway/SR 84 from I-580 to I-680: At the time the 1993 EIR was prepared, there was no analysis of the project's potential impacts to Isabel Parkway/SR 84. The current EIR should assess the project's contribution of traffic to this new regional roadway. It should also identify appropriate mitigation measures necessary to mitigate this traffic impact to levels of less than significant, including making fair-share contributions toward the widening of Isabel Parkway to 6-lanes between I-580 and Vineyard, and widening SR 84 to 4 lanes from Vineyard to I-680.

Demand for Potable Water Supplies: The NOP recognizes that changes in water supply contracts and recent litigation may have an impact on how, when and how much water can be supplied to the project. Pursuant to the settlement of litigation concerning the provision of water to the Dougherty

Valley project, DSRSD is required to initiate a water service analysis for this project at such time as this NOP was released. The results of this DSRSD study should be used by the EIR to assess the project's projected water demand combined with cumulative water demands throughout the region. The EIR should also identify whether the project's water demand would exceed currently available water supply, and how water supplied to this project may affect water supplies to other cumulative development throughout the region. Additionally, the EIR should assess the extent of environmental impacts that will be caused by the procurement of supply, conveyance and storage capacity needed to meet this project's and other cumulative water demands, including the potential for increased seasonal storage facilities in the region.

Wastewater Disposal Capacity Impacts: The NOP recognizes that changes in regional policy (e.g., restrictions on the injection of RO-treated wastewater into the groundwater), funding mechanisms (e.g. non-participation by the City of Livermore in the LAVWMA pipeline expansion project), and the anticipated timing of wastewater infrastructure improvements have occurred. The EIR should fully assess how these changed circumstances affect the ability of wastewater service providers to meet the demands of the proposed project together with other cumulative demands. The analysis should include discussion of impacts associated with construction and operation of new facilities for the treatment, storage, transmission and use of reclaimed and reverse osmosis treated water.

Parks and Recreation: As noted in the 1993 EIR, the City of Dublin does not maintain a 5-acres per 1,000 population ratio for developed parkland, and this situation has undoubtedly changed with the addition of substantial new housing opportunities in Dublin since that time. The EIR should assess the potential effects associated with Dublin residents seeking to use the nearest LARPD facilities should they be unable to meet their recreational needs locally. The City of Livermore supports the concerns raised by LARPD in their letter to you on this same issue.

Cumulative Electrical Demands: During the past several years, existing electrical service capacity in the region has become constrained, and cumulative development in the area (including the project) will likely require significant electrical transmission improvements to adequately serve the area. Electrical demand is expected to exceed capacity for the region's customers during peak hours by mid-2002. The NOP also recognizes that the ability of PG&E to provide service to the area may be further affected by PG&E's recent declaration of bankruptcy. The EIR should assess the impacts to the region associated with the project's electrical service demands in light of these changed circumstances, and determine if there is any feasible mitigation available. Energy conservation strategies should be considered as a means of reducing the project's demand for these services.

Cumulative Solid Waste Disposal: The capacity of regional permitted solid waste disposal facilities has changed significantly since 1993, with increased amounts of disposal needs combined with reductions in permitted disposal capacity. The EIR should assess the impacts to the region associated with the project's solid waste disposal demands in light of these changed circumstances, and determine if there is any feasible mitigation available. Requirements for recycling and waste reduction should be considered as a means of reducing the project's demand for these services.

City of Dublin
Planning Department
July 26, 2001
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Concluding Comments

The City of Livermore recommends that the East Dublin Properties EIR should not be prepared until a Specific Plan for the remaining portion of the Eastern Extended Planning Area has been developed. This recommendation is based on our understanding of changed circumstances within and surrounding the project area, new information about the environmental sensitivity of the region, and the need for all local jurisdictions in the region to re-evaluate land use planning in the context of smart growth principles. Preparation of a Specific Plan for this area should start with recognition of the area's potential interconnection with other regionally based habitat conservation planning efforts, followed by a specific development plan that addresses the issues of

- regional habitat planning,
- sustainable development patterns including affordable housing opportunities,
- needed transportation and transit facilities,
- viability of agricultural operations in the region, and
- opportunities/ mechanisms for the permanent preservation of an agricultural / open space greenbelt between our communities.

When prepared, the EIR should be a comprehensive one, utilizing updated information and project-level analysis and mitigation.

Thank you again for the opportunity to provide these comments. Livermore looks forward to working with Dublin representatives as the project review process proceeds. Please keep this office informed of all contracts, notices, hearings, staff reports, briefings, meetings, and other events related to the proposed project.

Sincerely,

Marc Roberts
Community Development Director

- cc:
- Mayor / City Council
 - Adolph Martinelli, County of Alameda
 - Brian Swift, City of Pleasanton
 - Dale Myers, Zone 7
 - Vivian Housen, LAVWMA
 - Bert Michalczyk, DSRSD
 - Ken Craig, LARPD
 - Brad Olson, EBRPD
 - Sheila Larsen, USFWS
 - Carl Wilcox, CDFG

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Exhibit 2

September 14, 2001

HAND DELIVERED

Eddie Peabody, Jr.
Director of Community Development
100 Civic Plaza
Dublin, CA 94583

Re: Comments on Draft Supplemental Environmental Impact Report
for the East Dublin Properties (PA 00-025)

Dear Mr. Peabody:

Attached to this letter are the City of Livermore's comments on the Draft Supplemental Environmental Impact Report (DSEIR) issued by the City of Dublin for the East Dublin Properties project. As you are aware, Livermore provided extensive comments in a June 26, 2001 letter responding to Dublin's Notice of Preparation of the DSEIR. Unfortunately, in Livermore's view the DSEIR does not appear to address many of the concerns set forth in Livermore's response to the Notice of Preparation. As Livermore's attached comments demonstrate, neither the scope nor the content of the DSEIR comply with the disclosure requirements of the California Environmental Quality Act (CEQA). The City of Livermore requests that Dublin defer action on this project until an environmental document is prepared and circulated for public comment that fully complies with CEQA.

Preparation of an adequate Environmental Impact Report is especially important because of the project's numerous potential impacts on Livermore and its planning area. We hope Dublin will join Livermore in giving priority attention to the discussion and resolution of Livermore's concerns with the project and its impacts as outlined in our comments. I will be glad to coordinate with you in establishing a meeting schedule between representatives of our two cities.

These comments were prepared with the assistance of Lamphier-Gregory; Terrell Watt, Planning Consultant; Jones & Stokes (biology); Saracino-Kirby-Snow (Water Resources); and Shute, Mihaly, & Weinberger LLP, Attorneys at Law.

City of Dublin
Community Development
September 14, 2001
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If you desire further information concerning these comments, please contact Susan Frost,
Senior Planner, at (925) 373-5200.

Sincerely,

Marc Roberts
Community Development Director

- c: Mayor / City Council
- Linda Barton, City Manager
- Adolph Martinelli, Alameda County
- Brian Swift, City of Pleasanton
- Dale Myers, Zone 7
- Vivian Housen, LAVWMA
- Bert Michalczyk, DSRSD
- Ken Craig, LARPD
- Brad Olson, EBRPD
- Sheila Larsen, USFWS
- Carl Wilcox, CDFG

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Exhibit 3

October 16, 2001

HAND DELIVERED

City of Dublin
Attn: Eddie Peabody, Jr.
Director of Community Development
100 Civic Plaza
Dublin, CA 94568

Re: East Dublin Properties Project (PA 00-025)

Dear Mr. Peabody:

This letter provides the City of Livermore's comments on items on the agenda for the October 16, 2001 City of Dublin City Council meeting regarding the East Dublin Properties Project (PA 00-025) ("Project").¹ Please ensure that this letter and its enclosures are made available to the City Council for that meeting and introduced into the administrative record for the Project. We would have liked to be able to provide this letter further in advance of the October 16, 2001 meeting. We note with considerable disappointment, however, that Dublin's unusually rushed schedule for environmental review and consideration of the Project has left us with little time to address the important issues now before the Dublin City Council.

As you know, Livermore has been actively involved in the environmental review process for the Project, and on September 14, 2001 submitted extensive comments on Dublin's Draft Supplemental Environmental Impact Report ("DSEIR") for the Project. On October 2, 2001, the Dublin City Council, without notice to the City of Livermore and without considering or responding to Livermore's comments on the DSEIR, waived the first reading of and introduced a rezoning and stage 1 development plan ordinance ("Ordinance") for the Project. On October 5, 2001, the City of Dublin released responses to some of the comments submitted by the public on the DSEIR. As explained below, the responses to comments on the DSEIR fail to comply with the California Environmental Quality Act ("CEQA"). This letter also describes recent procedural errors committed by Dublin, which errors preclude Dublin from legally holding a second reading of the Ordinance at the October 16, 2001 meeting. For these reasons, the City of Livermore respectfully requests that the City Council defer action on the Project until such time as the public and the City's decisionmakers have an opportunity to consider the Project in the manner required by CEQA.

¹ These comments were prepared with the assistance of Lamphier-Gregory; Terrell Watt, Planning Consultant; and Shute, Mihaly & Weinberger LLP, Attorneys At Law.

A. Dublin Has Not Satisfied the Requirements of CEQA for the East Dublin Properties Project.

1. Dublin Has Failed to Respond Adequately to Livermore's Comments on the Draft Supplemental EIR for the Project.

The opportunity for the public and public agencies to review and comment on Environmental Impact Reports constitutes a vital part of CEQA. Pub. Res. Code § 21091; CEQA Guidelines §§ 15087-88. Accordingly, the courts have held, failure to provide a "good-faith, reasoned analysis in response" to comments on even a single issue--or failure to support those responses with factual information-- "results in a subversion of the purposes of CEQA" and renders an EIR invalid. *See e.g., Rural Landowners Assn. v. City Council*, 143 Cal.App.3d 1013, 1023 (1983); CEQA Guidelines § 15088 ("Conclusory statements unsupported by factual information will not suffice"). Moreover, where a lead agency fails to revise an EIR in response to comments, it "must particularly set forth in detail the reasons why the particular comments and objections were rejected." *People v. County of Kern*, 39 Cal.App.3d 830, 841 (1974) (*Kern I*). Courts have also rejected evasive or "nonspecific and general response[s]" as inadequate under CEQA. *See Cleary v. County of Stanislaus*, 118 Cal.App.3d 348, 358 (1981) (invalidating EIR that contained nonspecific and general responses to specific comments on air quality and agriculture); *Los Angeles Unif. School Dist. v. County of Los Angeles*, 58 Cal.App.4th 1019, 1029-31 (1997) (conclusory rejection of proposed mitigation rendered EIR invalid); *Gallegos v. State Bd. of Forestry*, 76 Cal.App.3d 945, 952-54 (1978) (conclusory responses to comments on functional equivalent to EIR legally inadequate); *People v. County of Kern*, 62 Cal.App.3d 761, 770 (1976) (*Kern II*) (county's inadequate response to comments on EIR required issuance of writ "for failure [] to proceed in a manner required by law").

As the following examples illustrate, Dublin has provided legally inadequate responses to Livermore's concerns about a host of critical issues:

a. LAFCO Factors (Responses to Comments 8-9 and 8-14)

The SEIR will be the document relied upon for the proposed annexation of the project area to the City of Dublin. Therefore, it is essential that the FSEIR include analysis of the Project's consistency with LAFCO factors as well as impacts associated with the proposed annexation. *See* Govt. Code § 56668.

In its September 14, 2001 comment letter, the City of Livermore provided extensive comments concerning the DSEIR's inadequate analysis of the land use, policy and changed circumstances related to the LAFCO requirements as well as the impacts of the proposed annexation. Dublin's response to comments is inadequate, evasive and fails to respond to Livermore's comments concerning the need for an analysis of consistency with LAFCO factors.

Essentially, Dublin responds to Livermore's comments on this topic by referring the reader to page 2-10 of the DSEIR and stating that no further analysis is required. *See* Response Document at 124, 126. Page 2-10 of the DSEIR does not address Livermore's comments concerning whether

the Project is consistent with applicable LAFCO policies and factors, nor does it address the impacts associated with the proposed annexation. Moreover, neither the original EIR for the Project nor the SEIR demonstrates that the Project is consistent with LAFCO policies addressing the need for planned, orderly, efficient patterns for urban development and guiding development away from prime agricultural lands in order to protect open space lands. In light of these shortcomings, Dublin must revise its SEIR to include the following:

1. Information regarding the current capacity within Dublin's city limits to accommodate projected development demand over the next ten years. This information is critical to determining whether the annexation prematurely converts open space and agricultural land to suburban uses.
2. A discussion of why the Project will be consistent with LAFCO policies concerning orderly and efficient patterns for urban development.
3. An analysis of other lands outside the city limits, which Dublin could annex for needed urban development with less of an impact on agricultural lands.
4. An analysis of other lands in the Tri-Valley region that are more suitable for urban development in terms of existing services, agricultural suitability, and other factors.
5. A complete analysis of the Project's consistency with applicable general plan and specific plan policies.
6. Any and all other information needed to demonstrate the Project's consistency with LAFCO factors for consideration.

The SEIR should also indicate what specific steps have been taken to address LAFCO issues, including meetings with the LAFCO staff, materials provided to LAFCO staff and information requested from staff concerning the Project, if any.

b. Changed Circumstances (Response 8-7)

As Livermore indicated in its earlier comment letter, changed circumstances since 1993, when Dublin conducted its original EIR for the Project, render reliance on a Supplemental EIR improper. These changed circumstances are particularly important in light of the dramatic scale of the Project and the fact that it involves substantial new development of agricultural and open space land.

Dublin's Responses to Comments do not adequately address Livermore's comments concerning changed circumstances. Specifically, in both its comment letter on the DSEIR and on the NOP for the Project, Livermore submitted numerous examples of the manner in which circumstances have changed significantly since the East Dublin EIR was certified in 1993. The East Dublin development is a major project with regional significance. The Project alone and in combination with other projects has the potential to result in impacts that were not predicted in 1993

and impacts that are more significant than predicted in 1993. Most notably, with respect to biological resources, agricultural land, air quality, availability of services, jobs to housing balance, traffic, cumulative impacts and other issues, the regional setting has changed dramatically since 1993, when the Project was analyzed. Specifically, the regional setting is different than described and projected in the 1993 EIR in at least the following key respects:

- 1) Since 1993, there have been dramatic changes in what mitigation measures are required and considered feasible to address such impacts as the loss of habitat, open space and agricultural land. See documents enclosed herewith including, but not limited to: South Livermore Specific Plan, North Livermore Specific Plan, City of Davis Ordinance and General Plan excerpt.
- 2) The transportation model and Association of Bay Area Governments ("ABAG") Projections 2000 upon which cumulative impacts were evaluated, did not take into consideration the explosion of new job growth in the Tri-Valley and I-580-I-680 corridor, without the commensurate growth in housing affordable to new employees. Moreover, the transportation model and ABAG projections did not account for the amount of housing that would be produced in Brentwood, Tracy and beyond that would serve the job growth in the Tri-Valley and I-580-I-680 corridor. The transportation model does not account for the effects that housing outside the region has on the I-580 corridor, but instead equalizes internal trip productions (i.e., housing) to match trip attractions (i.e., jobs). The result is that the traffic on the regional freeway system is substantially worse than projected in the 1993 EIR. See discussion of changed circumstances in October 11, 2001, Memorandum of Dan Smith, City of Livermore Special Projects Coordinator to Dan McIntyre, City of Livermore City Engineer Changes (enclosed); see also list of changed circumstances in the Livermore's comment letter on the SDEIR at 5-6 and Livermore's comments on the NOP at 2-3.

Dublin's response to the Livermore's identification of changed circumstances and arguments for an updated analysis is inadequate. Specifically, Dublin's response simply states that it believes the issue of changed circumstances has been adequately addressed in Section 2.3, Update of Previous Environmental Documentation. Section 2.3 is approximately 2 and 1/2 pages of descriptive text about the legal requirement for a subsequent or supplemental EIR and provides a short list of changed circumstances including:

- Changes in status of sensitive species;
- Potentially substantial increases in regional traffic;
- Possible changes in noise and air quality conditions related to traffic;
- Potential for cancellation of Williamson Act contracts; and
- Changes in the distribution of public services and utilities.

Dublin's response continues on to say that many of the issues raised by the City (including increases in housing prices, changes to commute patterns, increased potential for flooding, etc.) are not significant changes in circumstance. The response fails to provide any reasons why these significant changes in circumstance need not be analyzed in an updated environmental document; it simply says they do not warrant additional analysis. As a result, neither the responses to comments

document nor the DSEIR provides any evidence supporting the conclusion that the proposed East Dublin project will not result in new or more significant impacts in the region when evaluated in light of these changes. For example, there is no evidence that the East Dublin project will not increase the regional jobs housing imbalance, particularly the imbalance of housing affordable to the new jobs. If the imbalance is exacerbated by the Project, traffic and air quality could be much worse than projected by the project and cumulative analyses in the 1993 EIR. Such an analysis is critical to support findings related to air quality and traffic impacts for the Project.

Finally, Dublin's response states that the prior EIR adequately addressed changes in regional traffic, changes in noise and air quality, and changes in adequacy of public facilities and services, among others. This is not the case, because the analysis contained in the prior EIR did not properly project the current or future regional setting for the reasons outlined above (e.g., new mitigation measures, inadequate modeling and growth projections).

The above-described changed circumstances warrant updated analysis through the preparation of a subsequent rather than a supplemental EIR for the East Dublin project. CEQA Guidelines § 15162.

c. Mitigation of Agricultural Land Loss (Responses to Comments 8.29 through 8.33)

Also inadequate are Dublin's responses to Livermore's comments concerning Dublin's obligation to mitigate for the loss of agricultural land and open space. Dublin acknowledges in its response to comments that the Project contributes to the loss of open space and agricultural land in the Tri-Valley region and acknowledges that this impact was found to be a significant cumulative impact. See Response Document at 130. Dublin nonetheless refuses to consider any of the numerous feasible mitigation measures suggested in Livermore's comment letter on the DSEIR. The feasibility of the mitigation measures suggested by Livermore has recently been evidenced by their implementation in other communities. See e.g., South Livermore Specific Plan, Cayetano Campus FEIR and Davis Ordinance (these documents are provided with this letter for ease of reference and inclusion in the administrative record).

Dublin's response to comments does not address the merits of these mitigation measures proposed by the City of Livermore or take the position that they are infeasible. Instead, Dublin dismisses all mitigation for the loss of agricultural land and open space by relying on its earlier adoption of a finding of overriding considerations for this significant impact. Dublin should instead acknowledge the feasibility of and adopt the mitigation measures suggested by Livermore. CEQA Guidelines § 15126.4, 15163, 15162(1)(C) & (D) (SEIR must be prepared if "[m]itigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative" and/or if "[m]itigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.").

d. Biological Resource Impacts

As the following examples illustrate, Dublin has failed to adequately respond to Livermore's comments on the DSEIR's analysis of biological resource impacts.

Responses to Comments 8.40 to 8.47: The City of Dublin states in Response 8.40 that "the potential exists for such biological resources to be affected by development" and that "this SEIR establishes the mitigation requirements and standards that will apply to all such impacts." As discussed in the City of Livermore's comment letter, it is inadequate to acknowledge a potential impact without describing at least the general level and location of that impact. Without this information, the reader has no way to evaluate whether the impact is significant and whether mitigation measures adequately reduce that impact to a level below significance. The SEIR claims that all impacts to biological resources except one are reduced to a level below significance with the mitigation proposed in the EIR and SEIR. However, without the basic information about the amount and location of the sensitive resources that are being mitigated, it is impossible to evaluate the adequacy of these mitigation measures.

The City of Dublin points to the fact that it is preparing a program level EIR in order to argue that it can defer providing basic information about the Project's potential biological resource impacts. This approach is not in keeping with the CEQA Guidelines, which state that program EIRs are intended to include a detailed discussion of impacts and mitigation measures, including those on biological resources. CEQA Guidelines §§ 15168(a) ("The program EIR can provide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action..."), 15168(c)(5) ("[a] program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. With a good and detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required.")

The Eastern Dublin EIR and SEIR approach biological resources at the most cursory level, providing only the most basic and easily-obtainable information on baseline conditions (e.g., NDDB records), defer almost all key surveys until later, apply generic mitigation measures, and as a result retain significant or potentially significant effects on many biological resource issues. This approach means that project EIRs will be required for nearly every subsequent development proposals within the Project area. This defeats the purpose of a program EIR, which is to simplify future CEQA compliance and provide for a more comprehensive analysis of effects and a more comprehensive approach to mitigation.

Response to Comment 8.48: The City of Dublin does not address the City of Livermore's concern that the impact analysis appears to rely on on-going biological surveys or studies that have been completed but not yet published. If new studies have become available since publication of the DSEIR, the impact analysis for the relevant species must be revised.

Response to Comment 8.49: This response does not address the City of Livermore's concern that it is impossible to evaluate the significance of the impact on seasonal wetlands and intermittent

streams without more information on their extent and location in the project area. The fact that the SEIR is programmatic does not excuse the City of Dublin from providing enough information on the project area's existing condition because the project area's existing condition must be described accurately so that the significance of impacts on biological resources can be evaluated against that baseline.

Response to Comment 8.50: The City of Livermore concurs that applying the Resource Management Plan ("RMP") to all properties in the project area is appropriate to mitigate the impacts to biological resources of development of each property. Only through comprehensive planning such as through a RMP will adequate mitigation be possible. However, mitigation measure SM-BIO-1 only provides a rough outline of the contents of the RMP. It does not provide any details of the standards that will be included in the RMP. The City of Dublin claims that mitigation measures SM-BIO-2 through 45 are "specific mitigation" and because the RMP will incorporate these mitigation measures the RMP contains "specific standards." The City of Livermore disagrees with this claim. Mitigation measures SM-BIO-2 through 45 are, for the most part, generic and inadequate to mitigate the impacts of the Project on biological resources (as described in the City of Livermore's comment letter). If the RMP depends entirely on these mitigation measures, then the RMP will also be inadequate to mitigate impacts.

Responses to Comments 8.53 and 8.54: The City of Dublin does not adequately address the City of Livermore's concern about potential impacts to Livermore Valley tarweed or palmate-bracted bird's-beak. Mitigation measure SM-BIO-4 contains the following phrase: "[I]f a special-status plant species cannot be avoided..." This statement implies that if Livermore Valley tarweed or palmate-bracted bird's-beak were found on the project site, then impacts to these species would be allowed if avoidance was infeasible, as long as off-site mitigation or transplantation was accomplished. These mitigation measures are appropriate for some special-status plants, but not the two species listed above. If a population of either species was found on the project site, any impacts to this population would be highly significant and could not be offset by either off-site mitigation or transplanting individuals or collecting seeds, as described in our previous comment letter. In the absence of survey data that shows these species do not occur on the project site, adequate mitigation must be included for these species in the event they are found later.

Response to Comment 8.55: The City of Dublin claims that the analysis of impacts to botanically sensitive habitats is adequate for this program-level EIR. The City of Livermore disagrees. Mitigation is identified to avoid or minimize direct impacts to these habitats through preservation and the creation of buffer zones. However, there is no impact analysis or associated mitigation for indirect impacts to wetlands or other botanically sensitive habitats beyond establishing buffer zones. For example, commercial and residential development greatly increases impervious cover and changes the pattern of runoff. Stormwater runoff will greatly increase in intensity and frequency if measures are not taken within and adjacent to development areas to reduce these effects. Increased stormwater flows can increase channel erosion and degrade sensitive habitats. In addition, runoff from development can contain substantial amounts of oil, grease, and other pollutants, which can also degrade sensitive habitats. Design features can be incorporated into development areas to reduce these hydrologic effects and minimize their indirect effects on sensitive habitats. However,

the SEIR fails to acknowledge these potential adverse effects or identify mitigation measures to reduce them.

Response to Comment 8.58: Again, the City of Livermore disagrees that the impact analysis of California red-legged frog is adequate because it lacks basic information about the distribution and occurrence of this species in the project area. The key to the occurrence numbers on figure 3.3-B helps, but this figure should be updated with recent survey data from all properties in the project area.

Mitigation measure BIO-SM-12 calls for "focused surveys following USFWS survey protocol." The purpose of these surveys is unclear. The 1997 protocol states that surveys should be conducted only after consulting with the USFWS: "Based on the information provided from the site assessment, the Service will provide guidance on how California red-legged frogs should be addressed, including whether field surveys are needed or whether incidental take authorization should be obtained through section 7 consultation or a section 10(a)(1)(B) permit pursuant to the Act." Thus, the USFWS may consider the entire site or large portions of the site to be suitable for the California red-legged frog (as acknowledged already in the SEIR) even if the results of protocol surveys are negative. This mitigation measure should be revised to be consistent with the guidance provided in the 1997 protocol.

Response to Comment 8.60: The response does not address the City of Livermore's conclusion that all streams within the project area must have a 600- to 1,000-foot-wide open space corridor in order to protect suitable habitat for the California red-legged frog. Because the DSEIR states that all streams in the project area provide suitable habitat for the species, mitigation measure BIO-SM-14 should be clarified to say that all streams in the project area should have such open space corridors (which would also function as buffer zones). Because of the large number of observations of California red-legged frogs in the project area, future surveys will not likely eliminate any stream segment as suitable habitat for the frog.

Response to Comment 8.62: The City of Livermore's comment refers to the impact analysis, not the mitigation measures. The impact analysis on California red-legged frog acknowledges that the project area provides upland habitat for dispersal and aestivation. However, there is no discussion of the potential impact of the Project on this type of habitat. The only reference to an impact is that "potential development of the Project area could have broader impact on CRLF habitat and on individual frogs than previously analyzed." This statement provides no details on the type and extent of "broader impacts" that may occur. The SEIR fails to acknowledge the potential substantial adverse impact to upland dispersal and aestivation habitat from the intensive development proposed. Without this discussion of impacts, the adequacy of the mitigation measure cannot be evaluated.

Responses to Comments 8.66 to 8.70: The City of Dublin acknowledges in its response that the nesting colony of tricolored blackbird in the project area will be lost due to development. However, the SEIR does not acknowledge this impact or evaluate its significance. Although this species is not state- or federally-listed, some consider this species sufficiently rare or sensitive to disturbance to warrant consideration under CEQA as rare or endangered. Because the SEIR provides incomplete

data on the habitats present in the project area, it is unknown whether suitable nesting sites are present elsewhere on the site. Without this information, specific mitigation should be identified to offset the loss of this breeding habitat. Mitigation measures SM-BIO-38 through 42 do not mitigate for the loss of habitat for tricolored blackbirds. Because the location of suitable tricolored blackbird habitat is not described in the SEIR, the statement "sufficient foraging area will be available to nesting tri-colored blackbirds on adjacent lands..." cannot be evaluated. For example, breeding sites separated from foraging sites by dense development may not be suitable for tricolored blackbirds.

In light of the foregoing examples, Livermore believes that Dublin has failed to provide the mandated "good-faith, reasoned responses" to Livermore's comments on the DSEIR for the Project. Moreover, our preliminary review of Dublin's responses to the DSEIR comments it received from other interested parties indicates that those responses are similarly flawed.

e. Water Supply Impacts

Dublin's responses do not address the City of Livermore's comments concerning the Project's impacts on water supply, particularly the lack of any clear source of supply for the Project. The responses do not take into consideration the ongoing arbitration proceedings concerning the adequacy of the Preliminary Water Service Analysis for Eastern Dublin prepared by the Dublin San Ramon Services District ("DSRSD"). In addition, the responses neither consider nor disclose the fact that DSRSD released in early October a revised Water Services Analysis for Eastern Dublin. The SEIR analysis must disclose and analyze this new information and provide the public and City of Dublin officials an opportunity to understand its implications for the Project.

2. The SEIR Fails Adequately to Analyze the Pre-Annexation Agreements.

The Project includes a pre-annexation agreement with one of the East Dublin property owners, but the SEIR provides almost no information regarding the content of the agreement. Indeed, a copy of the agreement was not available to the City of Livermore until yesterday. Although Livermore has not had an opportunity to review the agreement in detail, it appears to establish financial arrangements between the City of Dublin and the developer for certain aspects of the Project (e.g., its impact on the City's General Fund) and to require the City of Dublin to seek similar funding commitments from other East Dublin property owners. The agreement makes no reference to the manner in which costs associated with other aspects of the Project will be financed.

By piecemealing the Project financing, the pre-annexation agreement could limit the ability of the City of Dublin and/or landowners to finance the costs of Project elements that are not addressed by the pre-annexation agreement. This could interfere with implementation of the Project's necessary mitigation measures. The DSEIR is flawed for its failure to acknowledge and consider this issue. Specifically, as Livermore discussed in its earlier comments, a number of the mitigation measures relied on by Dublin require further study and defer analysis and implementation until some later point in the development process. The following mitigation measures, which Dublin has indicated will be addressed in the next phase of development, provide examples of Dublin's deferred approach to mitigation for the Project.

- MM 3.8/7.1: The City will conduct a visual survey for the project site to identify and map viewsheds of scenic vistas.*
- MM 3.8/8.1: The City should require that projects with potential impacts on scenic corridors submit detailed visual analyses with development project applications. Applicants will be required to submit graphic simulations and/or section drawings from affected travel corridors through the parcel in question, representing typical views of the parcel from the scenic route. The graphic depiction of the location and massing of the structure and associated landscaping can then be used to adjust the project design to minimize visual impacts.*
- MM 3.7/13: The City should require dedications of land and improvements along both sides of stream corridors as a condition of development project approval. The width of dedicated corridors will be established in consultation with the regulatory agencies since these may vary with specific sites.*
- MM 3.11/4.0: Require preparation of a construction impact reduction plan that incorporates all proposed air quality mitigation strategies with clearly defined responsibilities for plan implementation and supervision.*
- MM 3.6/9.0: While some permanent landform changes are unavoidable with any development, their magnitude can be reduced by developing minimal grading plans that adapt improvements to the natural landforms, thus minimizing cuts and fills. Construction of traditional flat building pads in hillside areas requires more grading than construction of partial pads, or developing custom lots. Construction of roads or ridges also minimizes grading in hillside areas. Use of retaining structures and steeper cut and fill slopes, where appropriate and properly designed, also minimizes grading in hillside areas.*
- MM 3.6/10: . . . Specific project lot and infrastructure alignment planning should be based on the identification of geotechnically feasible building areas by the project geotechnical consultant. In some hillside areas, clustering structures may be the best approach to minimize grading and avoid adverse conditions.*

By entering a pre-annexation agreement that only partially addresses Project financing, it may be difficult to implement mitigation measures like those listed above at a later stage in development of the Project. In light of the foregoing, Dublin's reliance on deferred mitigation measures is inconsistent with the requirement of CEQA.

- B. The City Has Committed Procedural Errors that Preclude It from Legally Approving the Project at the October 16, 2001 Meeting.**
- 1. Dublin Failed to Provide Livermore with Necessary Notice of Meetings Regarding the Project.**

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Under CEQA, Dublin was obligated to provide timely notice to Livermore of its October 2, 2001 City Council meeting as well as its September 25, 2001 Planning Commission meeting regarding the Project. Pub. Res. Code §§ 21092, 21092.4, 21153; CEQA Guidelines §§ 15087(c), 15163(c). Dublin did not provide the required notice or engage in the necessary consultation, despite Livermore's clearly expressed interest in the Project and request for notice. This failure to provide notice clearly violates CEQA and is particularly troubling in light of the fact that Livermore was apparently not the only interested party not informed of these important public meetings or consulted as required by CEQA.² Dublin cannot argue that its notice procedures were in substantial compliance with CEQA or that its notice violations amounted to harmless error because interested parties such as the City of Livermore were, in fact, unaware of and therefore precluded from participating in critical public meetings. *Compare* Pub. Res. Code § 21092.

2. Dublin Improperly Introduced the Proposed Ordinance before Releasing Its Response to Comments and Final SEIR.

CEQA is "an integral part of any public agency's decision making process." Pub. Res. Code § 21006. Dublin disregarded CEQA's essential role in project planning when, on October 2, 2001, it introduced the ordinance approving the Project without first releasing its responses to comments on the DSEIR and before releasing the FSEIR.³ By rushing to introduce the ordinance approving the Project before the FSEIR and responses to comments became available, Dublin frustrated the clear intent of CEQA, improperly prejudged the adequacy of the FSEIR and acted arbitrarily based on incomplete information regarding the Project.⁴

Now that the FSEIR and Dublin's responses to comments are available, Dublin's can rectify its earlier hasty, nonsequitur procedure only by *reintroducing* the ordinance approving the Project at or after its October 16, 2001 City Council meeting and deferring final action on the ordinance at least until the next City Council meeting. This is the only way to ensure that CEQA is taken seriously and provide decisionmakers the necessary opportunity to review and consider the Project's environmental impacts.

3. Because the Ordinance Approving the Project Has Been Altered Since Its Introduction on October 2, 2001, Dublin Cannot Adopt the Ordinance Until At Least Five Days after its October 16, 2001 Meeting.

² Dublin provided neither the agenda nor the staff report in advance of the September 25 and October 2, 2001 meetings. Dublin's "Notice Of Public Review of Draft Supplemental Environmental Impact Report" makes no mention of either hearing. In *Fall River Wild Trout v. County of Shasta*, the court held that the failure to inform a trustee agency of the environmental review process deprived the county initiating the action of the information necessary for informed decisionmaking and public participation. 70 Cal.App.4th 482, 493 (1999). Similarly, the participation of impacted communities, like Livermore, in Dublin's proposed annexation is essential under CEQA.

³ Dublin did not issue its response to comments until October 5, 2001.

⁴ We note that the City Council was not the only body that acted without complete CEQA documentation. The Planning Commission, which recommended approval of the Project on September 25, 2001, did so before Dublin completed its CEQA documentation and review.

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When ordinances "are altered after introduction, they shall be passed only at regular or at an adjourned regular meeting held at least five days after alteration." Gov't Code § 36934. The ordinance before the Dublin City Council on October 16, 2001 will have undergone a significant substantive change from its original form as introduced on October 2, 2001. Most notably, finding number 10 in the Ordinance relies on and references the EIR Mitigation Monitoring Program identified in the SEIR. When the Ordinance was introduced, this finding had a meaning different from its present meaning because neither the SEIR nor its Mitigation Monitoring Program were finalized (much less brought before the City Council) until well after October 2, 2001. Put another way, the Ordinance is now premised on a different base of information than it was when it was introduced on October 2, 2001. Because the Ordinance has been so altered, Dublin should, pursuant to Government Code section 36934, refrain from adopting the Ordinance at its October 16, 2001 City Council meeting.

In light of the foregoing CEQA violations and procedural problems, the City of Livermore requests that Dublin refrain from acting on the Project on October 16, 2001, and instead defer consideration of the Project until it has fully complied with the requirements of CEQA. If you desire any further information, please contact Susan Frost, Senior Planner at (925) 373-5200.

Sincerely,

Marc Roberts
Community Development Director

Enclosures

- cc: Mayor / City Council
- Linda Barton, City Manager
- Adolph Martinelli, Alameda County
- Brian Swift, City of Pleasanton
- Dale Myers, Zone 7
- Vivian Housen, LAVWMA
- Bert Michalczyk, DSRSD
- Ken Craig, LARPD
- Brad Olson, EBRPD
- Sheila Larsen, USFWS
- Carl Wilcox, CDFG

Documents that Demonstrate Changed Circumstances and State of the Art Mitigation Measures

The following documents issued since 1993 demonstrate the major change in circumstances outlined in this letter and the City of Livermore's September 14, 2001 comment letter on the DSEIR for the East Dublin Properties. We have listed the documents in order by their date of publication and indicated some of the changed circumstances illustrated by each document. For ease of reference, we are providing copies of the listed documents with this letter, except where noted.

1. 1993, California RWQCB Water Reuse Requirements (Order #93-159)
 - Establishment of prohibitions, recycled water use limitations, recycled water quality specifications, limits on groundwater recharge projects, and other detailed provisions for use of recycled water within the Livermore-Amador Valley.
2. 1994, East County Area Plan, A Portion of the Alameda County General Plan
 - Designation of the entire Doolan Canyon Area (including a portion of the East Dublin Master Plan Area outside of the East Dublin GPA) as resource management and watershed protection
 - Establishment of an Urban Growth Boundary at the edge of the East Dublin GPA
 - Preservation strategies for lands outside the Urban Growth Boundary, including the establishment of the Alameda County Open Space Land Trust
 - Use of Williamson Act contracts and other economic incentives to support agricultural uses.
3. 1995, Ordinance No. 1823, City of Davis, Farmland Preservation Requirements
 - Mitigation requirement for loss for agricultural land (1:1 replacement requirement)
4. 1996, Clean Water Revival Project, Environmental Impact Report
 - Changed circumstances pertaining to the advanced treatment of wastewater to produce recycled water
5. 1996, City of Pleasanton General Plan
 - Changed circumstances pertaining to land use and development, particularly in the vicinity of the Dublin/Pleasanton BART station
 - Regional approach to mitigation of jobs/housing issues

- Establishment of criteria for annexation of unincorporated County lands, including requirements that all such annexations be logical extensions of existing development areas and that annexed lands should not be under an agricultural preserve or open space contract
6. 1996, Final Rule in the Federal Register designating the California red-legged frog as federally-threatened
 - New understanding of habitat requirements and distribution of the species
 7. 1997, South Livermore Valley Specific Plan and Environmental Impact Report (3 volumes)
 - Mitigation requirement for loss of agricultural land (acre per acre and acre per unit dedication requirement and fees for development in transition areas)
 8. 1997, Survey Protocol for the California red-legged frog
 - New understanding of the survey requirements to demonstrate presence/absence of the species
 9. 1998, Cayetano Corporate Campus, Environmental Impact Report
 - Mitigation requirement for impacts to kit fox habitat (payment of fee)
 - Mitigation requirements for local project impacts to regional highways and interchanges
 10. 1998, Recovery Plan for Upland Species of the San Joaquin Valley, California, including the San Joaquin kit fox and the palmate-bracted bird's-beak. (complete document available at: http://ecos.fws.gov/recovery_plan/pdf_files/1998/980930a.pdf)
 - New understanding of the conservation measures necessary to recover these species, which is linked to mitigation requirements
 11. 1998, Livermore-Amador Valley Water Management Agency Export Pipeline Facilities Project, Environmental Impact Report (3 volumes)
 - Current limitations and planned improvements for wastewater services. Timing of improvements and cumulative impacts.
 - Mitigation requirements for endangered species
 - Significant changes in demographic characteristics of the service area
 12. Agricultural Enhancement and Open Space Conservation in the Tri-Valley
 - Mitigation for loss of agricultural and open space land

13. 2000, North Livermore Specific Plan and Environmental Impact Report (6 volumes)
 - Significant changes in regional traffic and changed commute patterns, and newly constructed or planned improvements to the transportation system and their timing
 - Cumulative development in the Tri-Valley
 - Increase of salt into the main groundwater basin
 - Cumulative demand and supply of major services and infrastructure (e.g., water, wastewater, roadway capacity)
 - Mitigation requirement for loss of open space, habitat and agricultural land (e.g., fee of \$25,000 per acre)
14. 2000, Draft Recovery Plan for the California red-legged frog (available at USFWS Sacramento Office, 2800 Cottage Way)
 - New understanding of the conservation measures necessary to recover the species, which is linked to mitigation requirements
15. 2000, North Livermore 10,000 Population Alternative
 - Recognition of the traffic implications associated with an imbalanced job/housing ratio, including the effects on regional transportation systems of in-commuting from areas such as Tracy and Brentwood
16. 2000, Regional (Major Projects) Component of the Traffic Impact Fee Program, City of Livermore, Environmental Impact Report (2 volumes)
 - Mitigation requirements for locally-generated traffic impacts on the regional transportation system (i.e., I-580, BART extensions, Isabel Parkway, etc.)
17. 2001, Final Rule in the Federal Register—Determination of Critical Habitat for the California red-legged frog
 - New understanding of the “primary constituent elements” of the species’ habitat
18. 2001, Zone 7 Water Agency Water Supply Planning Program Environmental Impact Report (2 volumes)
 - Current limitations and planned improvements for water service. Timing of improvements and cumulative impacts.
 - Mitigation requirements for endangered species
 - Significant changes in demographic characteristics of the service area

19. 2001, Livermore Vision Project Briefing Book
 - Planning response to regional changed circumstances applying "smart growth" principles

20. 2001, Memorandum of Dan Smith, City of Livermore Special Projects Coordinator to Dan McIntyre, City of Livermore City Engineer
 - Changes since 1993 in the area's transportation system

Responses to Letter 10: City of Livermore

Response 10.1: The comment claims the Revised DSEIR lacks an adequate project description; defers studies, impact and mitigation analyses; improperly relies on the 1993 East Dublin EIR given changed circumstances; inadequately analyzes impacts; and inadequately discusses alternatives. The comment states these claims will be more fully addressed in later comments, and asserts that the Revised DSEIR provides insufficient information to allow informed decision making by the City and participation by the public.

Later comments in the letter address the above issues further and detailed responses are provided for each issue. As evidenced by the detailed responses set forth herein, the City has provided a good faith, reasoned analysis in response to every comment submitted on the Revised DSEIR. The responses are based on careful analysis and detailed factual support as required by CEQA. The commentor may disagree with the "answers" provided in these responses. However, that does not mean that the response is legally inadequate. The commentor may also have different views from the City regarding development policy in Dublin; different viewpoints do not make the Revised DSEIR legally inadequate. All substantive environmental comments submitted by the commentor or other parties have been properly and adequately addressed as required by CEQA.

Response 10.2: The comment notes existing agricultural and grazing lands north and east of the Project area would be impacted by the project as would the open space buffer between Dublin and Livermore.

The City of Dublin notes that land uses and densities proposed in Stage 1 Planned Development Plan is substantially the same as identified in the adopted Eastern Dublin General Plan/Specific Plan. Land uses and densities become less intense on both the northerly and north-easterly portions of the Project site to ensure that the existing rural character of lands both north of the area and northeasterly of the site (the Doolan Canyon area) are protected.

To add an even greater level of protection for adjoining lands, owners of properties adjacent to the northerly and northeasterly portion of the area have agreed to further restrict development potential on these Rural Residential/Agricultural areas by recording conservation easements over the vast majority of future lots (to exclude proposed building envelopes) to ensure that much of this area would remain undeveloped open space.

Response 10.3. The comment asserts that development of the Project area is foreseeable therefore the proposed annexation should be analyzed at a project level. Because the Revised DSEIR is a programmatic EIR, it does not contain key information related to the project description or biological analyses, does not

include a specific plan and relies on future study areas. The comment identifies policy and planning issues related to the annexation request.

See Response 10.12 regarding the appropriateness of a program level EIR for the annexation project. The City is aware of no authority supporting comment's assertion that annexations must be analyzed at a project level even when project-level applications have not been requested; nor was any such principle established by the court which determined the Eastern Dublin EIR to be adequate under CEQA. The project description in the Eastern Dublin EIR assumed annexation and future development in Eastern Dublin, but nevertheless analyzed the Eastern Dublin project at a programmatic level. The current annexation makes no different assumptions than were analyzed therein. Furthermore, analyzing the annexation at a program level does not allow future implementing projects to avoid mitigation measures adopted with the previous EIR or the supplemental mitigation measures proposed in the Revised DSEIR. The program level analysis contained in the Eastern Dublin EIR and the Revised DSEIR is adequate under CEQA.

The City declines to accept comment's suggestion that the Revised DSEIR should examine policy matters such as whether the annexation should be approved at this time. The Eastern Dublin EIR as supplemented by the Revised DSEIR provides information on environmental impacts related to potential future development of the Project area, however, examination of the merits of the annexation proposal is within the purview of the City Council and LAFCO and beyond the scope of CEQA review.

Response 10.4: In regard to planning a future greenbelt area between Dublin and Livermore, the Project area is not designated as any type of greenbelt or permanent open space. Urban type uses have been shown on the project area since adoption of the Eastern Dublin Specific Plan and General Plan approximately 10 years ago. However, a large proportion of proposed land uses within the proposed Project, approximately 270 acres of land, would consist of Rural Residential/Agricultural designation. Rural Residential/Agricultural uses would be located on the northerly and northwesterly periphery of the Project area and would allow very limited residential uses (one unit per 100 acres) with the balance of each future lot to be devoted to permanent open space and agricultural uses.

Regarding preservation of permanent, undeveloped open space adjacent to surrounding properties off of the Project site, refer to the response to Comment 10.2, above.

The City of Dublin welcomes the invitation of the City of Livermore to meet and discuss the planning of a future open space buffer/community separator between the two communities.

Response 10.5: In response to the comment that the RSDEIR is deficient since it does not provide a complete project description in terms of (a) complete biological studies, (b) future roads and services to the project, (c) uses of future study area and (d) relies on the mid-range of buildout densities.

In regard to the adequacy of biological surveys, please refer to Response 10.15a and 10.15b. In response to the comment about the adequacy of roads to serve the proposed Project, refer to response 10.14. In response to comments regarding the future study area, refer to response 10.7. In response to comments regarding use of mid-range land use densities and intensities of uses, refer to response 10.11.

Response 10.6: In response to the comment that the proposed Project does not include preparation of a specific plan for approximately 637 acres of land located within the Project area but outside the boundaries of the Eastern Dublin Specific Plan, the City of Dublin notes that such a Specific Plan will be undertaken for that portion of the Project area lying outside of the existing Specific Plan area prior to or simultaneous with consideration of Stage 2 Planned Development rezonings.

Response 10.7. The comment asserts that the future study areas defer examination of impacts to these lands to a later, undefined date, and that any project adjacent to the Doolan Canyon area must address preservation of the land from future urban encroachment. Livermore applauds the City's study to remove Doolan Canyon from the Future Study Area designations.

The land use designation for Doolan Canyon is Future Study Area/Agriculture. This designation was adopted in 1993 as part of the Eastern Dublin GPA. This general plan designation does not permit urban level development, and was adopted by the City to avoid such development. As noted in the Revised DSEIR beginning at p. 2-5, the 1993 GPA approval reduced the Eastern Dublin development area by nearly half. This same action eliminated all urban development originally proposed for Doolan Canyon in favor of 100-acre Agricultural designations. As further noted in the Revised DSEIR, the commentor encouraged this action at the time "for the preservation of Doolan Canyon..."

The current annexation project does not encroach on the future study area, nor does it propose any land use changes for the future study area or to the City's vision of the open space character of Doolan Canyon. No one has requested study of future uses in Doolan Canyon, other than the City's recent GPA study to remove Doolan Canyon from the City's planning area altogether. The current project and its relation to nearby land uses were foreseen and analyzed through the Eastern Dublin EIR. The land use designation adopted by the City has

effectively preserved Doolan Canyon for nearly a decade. No further analysis is required with respect to the current project's effects on Doolan Canyon.

Response 10.8. The comment suggests that land uses for properties within the APA should be clarified and should be permanently designated Rural Residential/Agricultural, as should the General Commercial designated parcel. The comment asserts that likely development on these properties will be underestimated unless the properties are removed from the annexation, development is capped to RRA levels or commercial/industrial buildout on the properties is analyzed.

The General Plan and Eastern Dublin Specific Plan are very clear on the appropriate land uses for the Airport Protection Area (APA).

The Plan allows some low and medium density residential uses within the Livermore Airport Protection Area (APA). If, at the time of rezoning, the residential designations are inconsistent with the APA, the residential designations will convert to Future Study Area with an underlying Rural Residential/Agriculture designation. (Excerpt, Dublin General Plan, Ch. 2; see also GP Figure 2B, Specific Plan pp. 16, 27, 33 and Figure 4.1.)

The Eastern Dublin EIR analyzed buildout of the APA under the originally proposed land use designations. The potential for limitations on such development was also addressed. (See Eastern Dublin DEIR p. 3.1-10, Figure 3.1-D and FEIR Responses 2-1, 2-4, and 2-5; May 4, 1993 Addendum, Initial Study, p. 17.) The current annexation/rezoning Project comports exactly with the adopted General Plan and Specific Plan by showing the APA as Future Study Area/Agriculture in the proposed rezoning. Contrary to commentor's statement that the Project defers planning for the APA, planning for the APA was specifically addressed in 1993 and requires the treatment now proposed for the affected area. As noted in Section 2.6 of the Initial Study for the current Project, and consistent with the 1993 Eastern Dublin approvals, no urban development potential is shown for the APA and no such development is assumed in the Revised DSEIR. (See also Response 10.11 which addresses the maximum development potential for the Project Area.) Whether the APA should be included in the annexation is a planning and policy decision, not a CEQA issue. The City Council and LAFCO will determine whether the annexation is appropriate from a planning perspective when they consider approval of the Project.

Response 10.9. The comment asserts that the RDSEIR fails to address numerous changed circumstances with the potential to result in new significant impacts. Such circumstances include a revised definition of prime agricultural lands through AB 2838, listing and critical habitat determinations for the California red-legged frog, new special status species (California Tiger Salamander,

Livermore Valley tarweed), new agency standards for San Joaquin kit fox and riparian corridors, and changes in commute patterns.

The commentor is incorrect. All of the "changes" cited are addressed in the Eastern Dublin EIR and/or the Revised DSEIR.

a. AB 2838: The Revised DSEIR notes "The [act governing annexations] recently was amended by AB 2838 ... to, among other things, revise the definition of prime agricultural lands." (p. 3.1-3). Discussion of the revised definition follows in the analysis.

b. California red-legged frog (CRLF): The Eastern Dublin EIR analyzed potential impacts to the CRLF as significant, assuming that the species would become listed (Impact 3.7/F). The Revised DSEIR updates the previous analysis to reflect the critical habitat determination and proposes related supplemental mitigation measures. (pp. 3.3-18 to -20).

c. New special status species: New special status species are identified and analyzed in the Revised DSEIR, e.g., Livermore tarplant (p. 3.3-15). Potential impacts to California Tiger Salamander were analyzed in the Eastern Dublin EIR (Impact 3.7/G) and are updated in the Revised DSEIR on p. 3.3-21.

d. San Joaquin kit fox, riparian corridors: The Eastern Dublin EIR identified impacts and mitigation measures for kit fox. The Revised DSEIR incorporates "updated survey and pre-construction protection measures ... adopted since 1993 ... to ensure that the latest protocols and standards are implemented in future development of the Project area." (p. 3.3-17). Supplemental mitigation measures in the Revised DSEIR expand the 100' riparian corridors in the Eastern Dublin EIR to 300-500' buffers. (p. 3.3-19).

e. Changes in commute patterns: Changes in commute patterns were addressed in the Eastern Dublin Specific Plan and are examined in the Revised DSEIR "in light of increases in regional traffic and changes in commute patterns since certification of the Eastern Dublin EIR in 1993." (p. 3.6-1).

The commentor misconstrues the significance of changed circumstances under CEQA. Changed circumstances alone do not require further environmental review after an EIR has been certified. Rather, changed circumstances are the basis for determining whether a subsequent or supplemental EIR is required pursuant to CEQA Guidelines Sections 15162 and 15163. Changed circumstances only trigger the requirement for additional review if they result in new or substantially more severe significant environmental impacts. As discussed on Page 1-2 of the Revised DSEIR, the City recognized that circumstances surrounding the Project Area changed since certification of the Eastern Dublin EIR (including those changes noted by the commentor). Consistent with CEQA,

the City prepared an Initial Study (Appendix A, Revised DSEIR), determined that there was a potential for new or significantly increased impacts to certain impact categories and prepared the Revised DSEIR to address those categories. The City has adequately identified and analyzed any changed circumstances with the potential for new or significantly increased environmental impacts. No further review is required.

Response 10.10. The commentor asserts that the Project EIR must analyze consistency with all LAFCO factors and policies because LAFCO will rely on the document for its findings.

The Revised DSEIR describes LAFCO's role as a Responsible Agency under CEQA (p. 2-14) and describes the elements of the Project that will require a LAFCO decision. (pp. 2-12 to -14). As noted in that discussion, LAFCO will consider a lengthy and varied list of factors in its decisionmaking. Some of the factors are planning and policy matters, some are environmental matters. To the extent that the factors involve environmental matters, appropriate information is included in the Eastern Dublin EIR as supplemented by the Revised DSEIR. LAFCO has been provided all required notices during the CEQA process for the Project and has requested no additional information in the environmental documentation. All information on the project application requested by LAFCO in its October 11, 2001 letter to the City will be submitted to LAFCO as requested.

Response 10.11.a: The comment states the Revised DSEIR assumes build-out at the mid-point density range and therefore underestimates project related impacts because no mechanism is in place to regulate the development potential beyond the maximum density ranges contained within the Specific Plan and General Plan.

The proposed project includes rezoning the project area to a Planned Development, Stage 1 Development Plan, pursuant to Section 8.32.030A of the City of Dublin Zoning Ordinance. Contrary to the comment, there is a mechanism, which regulates the development potential. As required by the Dublin Zoning Ordinance, a Stage 1 Development plan must include maximum number of residential units and non-residential square footages. The maximum number of residential units and non-residential square footages for this project will be the midpoint, specifically: 2,526 residential units and 1,421,450 square feet of non-residential square footage (as identified in the RDSEIR project description and the project application submission- page 4, Stage 1 Development Plan). The development potential will be capped for the project by means of the Planned Development Zoning, Stage 1 Development Plan. Therefore, the Revised DSEIR project related and cumulative impacts are correctly assumed, because the analysis is based on the mid-point density range, which will be regulated by the Zoning. In the event the development beyond the mid-point is requested, the Zoning will have to be modified to permit additional development. As required

by the City and CEQA, further environmental review will be required to evaluate the additional development's impact to the environment.

Response 10.11.b: The Comment states the RDSEIR and prior FEIR underestimated cumulative impacts.

Eastern Dublin has developed pursuant to Planned District Zoning, which regulate the development potential, as required by the Eastern Dublin Specific Plan and General Plan. To date, all of Eastern Dublin has developed either at or below the mid-point density ranges adopted by the Eastern Dublin Specific Plan and General Plan. Therefore, utilizing the mid-point density for evaluating the project level impacts, as well as cumulative impacts, are appropriate.

Response 10.11.c: The Comment states RDSEIR should disclose the assumptions made for the build-out of the areas included within the cumulative analysis.

The Eastern Dublin EIR and the Revised DSEIR utilized the list of past present, and future projects for the cumulative analysis, consistent with CEQA Guidelines: Section 15130(b)(1)(B). The list of assumptions for the cumulative analysis of the projects listed on Figure 5-A are contained on page 5.0-1 of the Eastern Dublin EIR and contained directly on Figure 5-B (i.e. land use designation, urban limit line location, unit and square footage totals). Figure 5-A and Figure 5-B attempt to clarify the background of the cumulative analysis by providing a map, which illustrates the location of the list of major projects within the Tri-Valley; and by illustrating which projects, over time have been removed from consideration. By illustrating which projects have been removed from consideration (i.e. Tassajara Valley) and by providing additional information such as unit count, total square footage, and location of Contra Costa and Alameda Counties urban limit lines, Figures 5-A and 5-B provide a more accurate picture of the baseline level in which to evaluate the cumulative impacts resulting from the proposed project.

The list of projects identified on Figures 5-A and 5-B includes major projects within: (1) the I-680 and I-580 corridor of the Tri-Valley, (2) southern Contra Costa County, and (3) eastern Alameda County. These listed projects represent projects with the potential to impact the cumulative environment. The scope of the area selected to determine cumulative effects include areas that share: watersheds, groundwater recharge areas, drainage areas, traffic origins and destinations, visual areas, and habitat areas.

Response 10.12. The comment asserts that the RDSEIR contains conclusory statements unsupported by facts, and defers analysis of impacts and mitigation measures, as detailed in later specific comments.

The City disagrees with commentor's assertions. The Eastern Dublin EIR as supplemented by the Revised DSEIR provides an appropriate level of detail for the Project. Both the Eastern Dublin EIR and the Revised DSEIR are program level documents, befitting the "planning" rather than "project" level approvals sought by the applicant. Like the Eastern Dublin EIR, the Revised DSEIR assumes that the Project area will be developed with urban uses to implement the land use program established in the 1993 Eastern Dublin approvals. Both EIRs identify potential impacts from future development and identify mitigation measures that will be implemented with future development. The currently requested approvals are a further step in the development process, and additional planning level approvals for specific plans and Stage 2 Development Plans must be obtained before any project level approvals may be considered. To the extent that each level of approval requires additional information, such information may be evaluated in additional CEQA reviews and additional mitigation measures adopted.

CEQA strongly encourages this tiering approach. (CEQA Section 21093, CEQA Guidelines Sections 15152, 15168). First tier program EIRs may contain generalized mitigation criteria and policy-level alternatives, with later EIRs containing detailed evaluation of impacts of individual projects that will implement the program. (See CEQA Guidelines section 15385, *Koster v. County of San Joaquin* (1996) 47 CA4th 29, 36-37.) Potential impacts and mitigation measures are identified in the Revised DSEIR with appropriate timing based on future required applications and reviews.

Response 10.13: The commenter notes the RDSEIR analysis on agricultural lands is incomplete. The document concludes, with no analysis, that irrigation of 100 acres of the Project area recognized as either Class I or Class II soils is not feasible and this conclusion is problematic. The issues this conclusion is problematic includes; (a) the irrigation feasibility analysis has not been completed by a qualified consultant; (b) the RDSEIR does not explore use of reclaimed water for irrigation purposes and (c) conflicting information is presented in the document regarding conclusions.

In response to the qualification of the consultant, MacKay & Somps, who prepared the analysis of the feasibility of providing irrigation water to the Project area, this civil engineering firm has been in existence since 1953 and provides a full range of planning and design of various infrastructure improvements, including but not limited to roads, water, sewer and storm drainage. Firm engineers have prepared numerous designs of potable and non-potable water systems for municipalities and private clients throughout Northern California. MacKay & Somps prepared preliminary plans for the Dublin Ranch golf course, presently under construction. Based on nearly fifty years of engineering experience, MacKay & Somps is eminently qualified to prepare a feasibility study for the provision of an irrigation system to and within the Project area.

In regard to the analysis supporting the infeasibility of extending reclaimed water facilities to the Project site, the commenter is incorrect in stating that reclaimed water facilities will "already be in place" to irrigate Class I and II soils. Extension of reclaimed water lines to the Project area would only occur as part of the proposed Project, to support irrigation of parks and other landscaped areas. As noted in the Berlogar report, the extension of reclaimed water lines financed by revenues anticipated to be derived from future agricultural operations is not feasible.

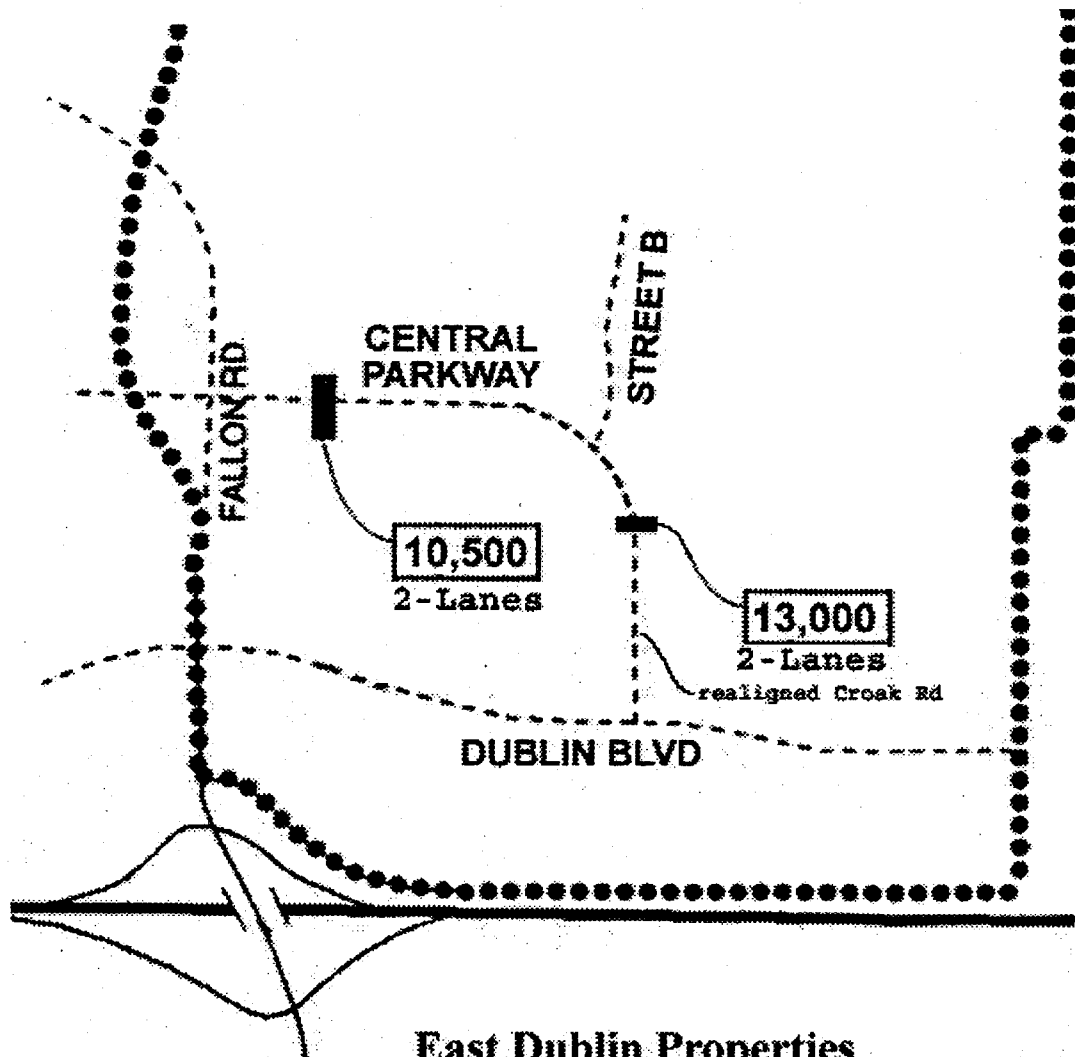
In regard to the apparent discrepancy between the Amundson report, the Amundson report is based on secondary source material, while the Berlogar report is based on real world experiences of agricultural operators. The Berlogar report clearly indicates that use of the Project area for grazing is not financially feasible. Therefore, the City of Dublin does not believe a discrepancy exists.

In summary, soils within the Project area fail to meet the four criteria for prime agricultural soils as identified in AB 2838.

Response 10.14.a: Central Parkway. The comment states that the discussion in the Revised DSEIR with respect to the location of Central Parkway in the Extended Planning Area located east of the Project Area is confusing and internally inconsistent. The comment also concludes that only two conclusions can be drawn from the information --that Central Parkway east of Fallon Road is missing from the Project Description or that Central Parkway east of Fallon Road as it loops southeast to Dublin Boulevard must occur somewhere other than within the project site -- and concludes that in either case the Revised DSEIR must be revised and recirculated again.

The comment states that certain figures (2-C, 2-G, 2-H, 2-L, 3.3-C, 3.4-B and 3.6-A through 3.6-F) do not show that Central Parkway loops southeast to connect to Dublin Boulevard, as is shown on the General Plan (Figure 5-1b). These Figures do show a road (sometimes labeled as Croak Road and sometimes labeled as Road "D") connecting Central Parkway and Dublin Boulevard in the general location as the loop road shown on General Plan Figure 5-1b.

As stated in the footnote on page 3.6-22 of the Revised SDEIR, the location of the collector streets within the Project Area and the possibility of using Croak Road (or Street D) as the connector for Central Parkway to Dublin Boulevard will be determined by tentative maps and Site Development Review stages of the Project, when these are submitted for individual properties within the Project Area. Since the alignment of the streets within the Project Area cannot be determined at this time, the traffic analysis did not assume that Croak Road would be used as the connector for Central Parkway to Dublin Boulevard. For this reason, the daily traffic volume projected for Croak Road in Year 2025 with



East Dublin Properties
FIGURE 10.1

Estimated Daily Volumes On Central Parkway
with Croak Road Realignment
Cumulative 2025+Project

Project was relatively low (e.g., 3,800 vehicles per day versus 9,200 vehicles per day on Central Parkway).

If a determination is made at a future tentative map and Site Development Review stage to realign Croak Road to serve as the connector for Central Parkway to Dublin Boulevard, one possible realignment is shown for illustrative purposes only in Figure 10.1. The estimated daily volumes shown in Figure 3.6-F of the Revised DSEIR for Croak Road and for Central Parkway (east of Fallon Road) would be reassigned to yield the volumes shown in Figure 10.1. Based on this reassignment of traffic, Central Parkway would carry an estimated 10,500 vehicles per day between Fallon Road and Street B, and 13,000 vehicles per day between Street B and Dublin Boulevard under 2025 plus Project conditions. These estimated daily volumes would require two lanes on Central Parkway (one lane in each direction) between Fallon Road and Dublin Boulevard, similar to the two-lane requirement specified for both Central Parkway (east of Fallon Road) and Croak Road in Figure 3.6-F of the Revised SDEIR. (To avoid confusion with the street names shown in Figure 3.6-F of the Revised SDEIR, this figure is revised as shown in Figure 10.2 to show the updated street names in Eastern Dublin in the vicinity of the Project Area.) Additionally, Supplemental Mitigation Measure SM-TRAFFIC-4 on page 3.6-16 of the Revised DSEIR to install a traffic signal at the Dublin Boulevard/Street D intersection would still be applicable, and the Central Parkway connector to Dublin Boulevard would function as Street D.

The location of Central Parkway east of Fallon Road is addressed in detail in the Revised DSEIR on pages 3.6-2, -21-22 and 27-28. Central Parkway east of Fallon Road is shown on all the maps and figures and has been considered in analyzing all of the environmental impacts of the Project; in particular, Chapter 3.6 analyzes the traffic and circulation impacts of the Project including this segment of Central Parkway as described above. The commentor is correct that the Project Description does not include a description of Central Parkway east of Fallon Road; however, the project description does not include specific references to any of the roads through the project site. CEQA does not require a project description to include every detail of the proposed project. (See CEQA Guidelines, section 15124.) The commentor's second conclusion ignores the detailed explanation on pages 3.6-2, -21-22 and 27-28 of the Revised DSEIR explaining that the roads east of Fallon Road are consistent with Figure 5.1b of the General Plan and is not supported by any evidence that contradicts this explanation other than speculation. Such speculation is not a basis for revision to the Revised DSEIR or recirculation.

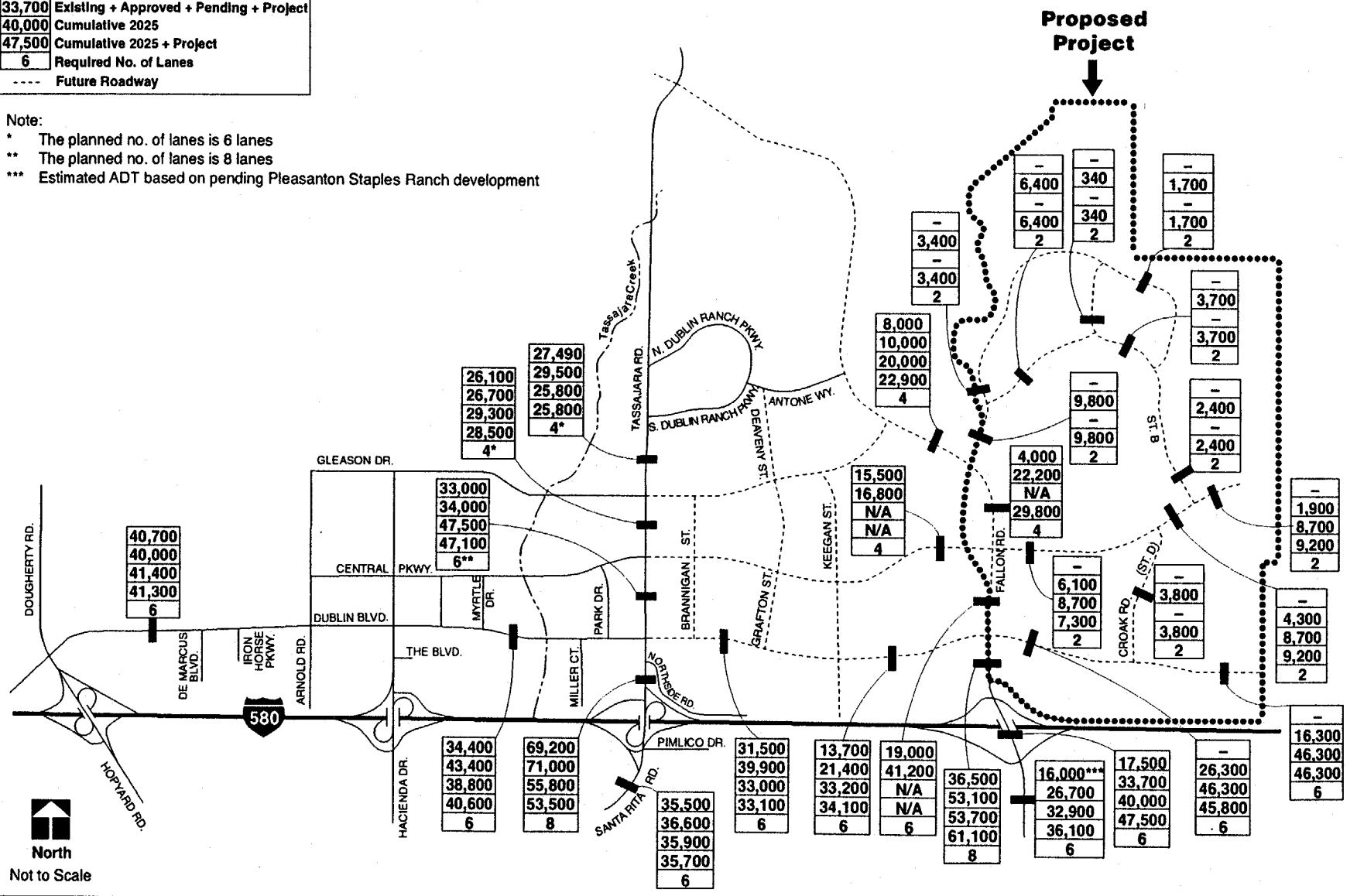
On page 3.6-27 of the Revised DSEIR the reference to "Figure 2-I" is corrected to read "Figure 2-K."

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LEGEND

17,500	Existing + Approved + Pending
33,700	Existing + Approved + Pending + Project
40,000	Cumulative 2025
47,500	Cumulative 2025 + Project
6	Required No. of Lanes
---	Future Roadway

Note:
 * The planned no. of lanes is 6 lanes
 ** The planned no. of lanes is 8 lanes
 *** Estimated ADT based on pending Pleasanton Staples Ranch development



City of Dublin
 East Dublin Annexation
Estimated Daily Volumes

East Dublin Properties
 FIGURE 10.2



Response 10.14.b: Fallon Road/Dublin Boulevard Intersection. The comment states that the Revised DSEIR does not contain the proper analysis of the Fallon Road/Dublin Boulevard intersection in the Project Plus Cumulative traffic analysis for three reasons.

First, the comment questions future traffic volumes estimated for the southbound movement at the intersection of Dublin Boulevard/Fallon Road when Dublin Boulevard would be expected to carry most trips as an "escape route" from congestion on I-580 during the AM and PM peak hours

The reference to "escape" made on page 3.6-19 of the Revised DSEIR is intended to convey that Dublin Boulevard parallels a congested I-580 and provides east-west relief to the freeway in the peak commute direction. The north-south traffic at the Dublin Boulevard/Fallon Road intersection is serving a combination of background, regional, and Project traffic.

Second, the comment states Mitigation Measure SM-Traffic-8 of the Revised DSEIR should be required and that there is no indication of what factors would be used to determine feasibility. Mitigation Measure SM-Traffic-8 of the Revised DSEIR requires studies and construction of the auxiliary intersection only if the studies conclude that the auxiliary intersection is feasible. As indicated on page 3.6-20 of the Revised DSEIR, construction would require modifications of planned Fallon Road and Dublin Boulevard alignments and possible modifications of planned land uses and building locations on the west side of Fallon Road. These are factors that would be used to determine feasibility along with standard engineering criteria. CEQA requires that mitigation measures be feasible; the Revised DSEIR requires this mitigation measure but only after a determination that it is in fact feasible.

Finally, after noting that the Revised DSEIR identifies alternative transportation measures to improve level of service at the intersection, the comment states that a transportation demand program or "TDM" program should be required as part of this Project and not deferred to the Stage 2 Development Plan as provided in the Revised DSEIR (page 3.6-20). The Revised DSEIR does not require a transportation demand program as a mitigation measure with the Project because an effective transportation demand program must be tailored to the specific project to be effective and the type of specific information regarding development is not known at this time. (See Dublin Municipal Code chapter 8.32 [Planned Development regulations and amount of specificity required at Stage 1 and Stage 2].) Such information will be known at the Stage 2 Planned Development, which is the appropriate time for crafting a transportation demand program.

Response 10.14.c: I-580 Impacts and Mitigation Measures. The comment states the mitigation measures of the Revised DSEIR for impacts to I-580 and I-680 are not effective mitigation measures because they do not require financial commitments toward regional transportation solutions. The comment suggests two regional mitigations that should be required: increased financial contributions toward construction of high occupancy vehicle (HOV) lanes on I-580 and/or increased funding for improved transit opportunities.

As noted in the Revised DSEIR, in the year 2025 cumulative buildout with the Project, freeway segments on I-580 and I-680 in the Project area will operate at unacceptable levels of service during both the AM and PM peak hours. (Supplemental Impact TRAFFIC 11, page 3.6-23.) The Revised DSEIR notes that the Eastern Dublin Specific Plan includes widening of I-580 to provide a fifth auxiliary lane between Tassajara Road and Fallon Road and that efficiency improvements, such as HOV lanes, and expanded public transportation could be added to the corridor but little or no additional capacity is planned for single-occupant vehicles. It then identifies actions to encourage alternative modes of travel, including advocating HOV lanes on I-580 by, among other things, supporting the advancement of funding priority of the HOV lanes on I-580 through the Tri-Valley Transportation Council. The Revised DSEIR also summarizes the mitigation measures of the Eastern Dublin EIR that remain applicable to the Project (page 3.6-24) which include participation in a Transportation Systems Management program, which would include strategies to reduce single-occupant vehicles (Mitigation Measure 3.3/20) and payment of the TVTD Fee (Mitigation Measures 3.3/3.0 and 3.3/5.0).

As noted on page 3.6-24 of the Revised DSEIR, the City Council has adopted a Tri-Valley Transportation Development (TVTD) Fee for future developments within the City. The TVTD Fee Strategic Expenditure Plan identifies eleven planned projects as being the most regionally significant, including installation of HOV lanes on I-580 between Tassajara Road and Vasco Road. This HOV project has been given priority for funding with revenues from the TVTD Fee program. Thus, although the TVTD Fee program may not collect enough in fee revenues to fully pay for construction of all of the eleven planned projects, the Tri-Valley Transportation Council (TVTC) has allocated \$8.0 million in TVTD Fee funds to the I-580 HOV project.

In September 2001, the City adopted Resolution No. 168-01 supporting the I-580 Smart Corridor Management Plan that was previously approved by the I-580 Smart Corridor Policy Advisory Committee. The Plan supports the phased implementation of a Ramp Metering Plan on I-580 from I-880 to the Altamont Pass. The member jurisdictions of the I-580 Smart Corridor project, including Dublin, Livermore, Pleasanton, and Alameda County, are committed to petition the Metropolitan Transportation Commission (MTC) and Caltrans to elevate the priority funding for the next phase of the I-580 Smart Corridor project to

implement a coordinated system of ramp metering on I-580. The Smart Corridor Management Plan includes adaptive signal timing, transit priority systems and incident management in addition to freeway ramp metering.

The commentor also notes that the City of Livermore has adopted a regional component to its local traffic impact fee to provide funding to finance regional transportation and transit improvements beyond that required by TVTD fees.

As discussed above, the Project will be required to pay for its proportionate share of impacts to I-580 improvements, by payment of TVTD Fees. The Project will also pay its proportionate share toward transit improvements in the Tri-Valley Area (which includes Livermore) by payment of the TVTD Fee; one of the improvements to be funded by the TVTD Fees is express bus service in the Tri-Valley area. (See Resolution 89-98, adopting TVTD Fee [available in the City Clerk's office].) Livermore's adoption of a regional component to provide additional sources of funding for regional transportation and transit improvements is noted. CEQA does not require mitigation beyond a project's impact, as suggested by the comment.

The issue of funding for Caltrans' planned improvements to I-580 was adequately addressed in the Eastern Dublin EIR and the Revised DSEIR. As described above, the City is an active participant in the development and funding of regional transportation mitigations, in compliance with adopted Eastern Dublin mitigation measures.

Through the Eastern Dublin EIR and the Revised DSEIR, the City has provided adequate analysis and mitigation of freeway impacts, encouraging a multi-faceted approach to mitigation and maintaining fee programs to fund regional improvements. CEQA does not require more.

Because certain freeway segments on I-580 and I-680 would operate at unacceptable levels of service at cumulative buildout with the Project, a statement of overriding considerations will need to be adopted.

Response 10.15.a: The comment states that it is unclear how the Resource Management Plan for the Project Area (required by Supplemental Mitigation Measure SM-BIO-1) will be reviewed by the public if development projects are submitted on a project-by-project basis.

As described in SM-BIO-1, the RMP must address all individual properties within the Project Area, must apply all the specific mitigation measures in the EDEIR and Revised DSEIR, and must be completed and submitted to the City prior to the submittal to the City for discretionary review any specific development proposal for any property within the Project Area. Each development proposal within the Project Area involving discretionary City

review will be subject to environmental review, and the public will have the opportunity to review the RMP as part of that process.

Response 10.15.b: The comment states that application of mitigation measures through the RMP will have ripple effects on the Project that have not been analyzed. Examples cited in the comment, and the City's response to such examples, are as follows:

Response 10.15.b.1: Comment's Example: The Project cannot achieve the avoidance, preservation and management of sensitive resources requirements because it only includes 76.9 acres of open space. More open space will be needed, calling into question the feasibility of the proposed general plan designations, circulation plan, other infrastructure needs and the location of neighborhood parks.

Response: The 76.9 acre figure cited in the comment refers only to designated open space, consisting generally of streams and associated riparian corridors. The Project also includes approximately 270 acres of rural residential lands which are an important source of open space, approximately 40 acres of neighborhood and community parks, and will include open space within many of the implementing projects. In some cases, the parks are sited along or near designated open space corridors, whereby each use complements the other and increases the continuity of open spaces. To the extent that many of the open space uses will also be habitat areas, the location of habitat/open space and development areas will be further refined through the RMP review. Implementing projects will then build the RMP open space/habitat areas into specific development projects through the Stage 2 Development Plans and tentative maps. With the flexibility provided in the PD-Planned Development zoning district, the City expects that implementing development will have maximum opportunity to accommodate both development and open space/habitat uses.

Response 10.15.b.2: Comment's Example: Two special-status plants (Congdon's tarplant and San Joaquin sparscale) were found in the Project Area but their locations were not disclosed. If substantial populations of special-status plants are found, avoidance may require altering circulation patterns, locations of parks, and residential or commercial development.

Response: Please refer to Response 10.15.g which addresses special-status plants within the Project Area and the measures necessary to mitigate impacts to these species. Response 10.15.b.1 addresses addresses flexibility to site protective and development uses through the PD zoning.

Response 10.15.b.3: Comment's Example: While Supplemental Mitigation Measure SM-BIO-5 calls for complete avoidance of the drainage near Fallon

Road, the proposed general plan designations show intensive development occurring in or adjacent to this drainage. A small and inadequate buffer of approximately 50 feet is proposed for portions of this drainage only, while no buffer is proposed for other portions. Complying with this mitigation measures will require a substantial project redesign.

Response: SM-BIO-5 recognizes the biological importance of this area and calls for avoiding the Fallon Road drainage from Fallon Road upstream to its terminus or limiting impacts to bridge crossings that could be built over the drainage. See also response 10.15.b.1.

Response 10.15.b.4: Comment's Example: Implementation of SM-BIO-12 for red-legged frogs will have substantial effects on the Project, as only 76.9 acres of open space are currently proposed, more will be necessary to implement SM-BIO-12, and that could affect circulation, and locations of parks and other land uses.

Response: See response 10.15.b.1 regarding implementation of Eastern Dublin EIR and Revised DSEIR mitigation measures, including SM-BIO-12.

Response 10.15.b.5: Comment's Example: Supplemental Mitigation Measures SM-BIO-13 requires avoidance of red-legged frog (RLF) habitat, including 300-500 foot buffers on each side of stream habitat. It appears that all streams in the Project Area provide suitable RLF habitat. Therefore, buffers shown in the Revised DSEIR should be expanded to be 600 to 1,000 feet for all streams. This would substantially reduce the available land for development and infrastructure, affecting circulation, parks and general plan designations.

Response: Contrary to the comment, not all streams within the Project Area provide suitable RLF habitat. The Project Area contains intermittent and ephemeral drainages whose hydrologic characteristics vary depending on the size of the watershed and source of water. Those stream segments where water persists in pools or in spring-fed reaches of streams that have intermittent or perennial flow can support RLF. The ephemeral stream segments where water is present only during and immediately after rain storms do not support RLF. These areas essentially have the same habitat characteristics as other upland habitat for red-legged frog. The buffer called for in SM-BIO-13 applies to those streams that provide aquatic habitat for RLF. See also Response 10.15b.1 regarding implementation of Eastern Dublin EIR and Revised DSEIR mitigation measures. The location and widths of buffers will be refined through the RMP.

Response 10.15.b.6: Comment's Example: Locations of special-status invertebrates is unknown because surveys have not been conducted. If found, Supplemental Mitigation Measures SM-BIO-16 calls for protection of habitat, which could affect infrastructure, circulation, neighborhood parks and general plan designations.

Response: If special-status invertebrates are found in the Project Area, then SM-BIO-16 provides mitigation options, including on-site preservation, on-site habitat creation, or off-site habitat preservation/creation consistent with resource agency standards. See also response 10.15b.1 regarding implementation of SM-BIO-16 through the RMP and subsequent development projects.

Response 10.15.b.7: Comment's Example: Supplemental Mitigation Measure SM-BIO-37 calls for protection and enhancement of burrowing owl habitat. Presumably burrowing owls occur in the flatter areas of the southern portion of the Project Area, where the most intensive development is to occur. Implementation of this measure could cause substantial changes to the project description, affecting circulation, neighborhood parks and general plan designations.

Response: The Revised DSEIR noted that a burrowing owl had been observed in the northeastern portion of the Project Area in October 2000. More recently a burrowing owl was observed in the southern portion of the Project Area in October 2001 (Sycamore, 2002), as shown on revised Figure 3.3-B. See response 10.15.b.1 regarding implementation of mitigation measures through the RMP and subsequent development projects.

Response 10.15.c: The comment states that additional regulatory requirements, such as the Endangered Species Act (ESA) and the federal Clean Water Act (CWA), will substantially affect the Project's feasibility and environmental effects. The Revised DSEIR mitigation measures have not been "tested" with state and federal regulatory agencies to see if they would meet their standards. Specifically, application of the ESA may result in a substantial increase in protection of biological resources, reducing the amount or changing the location of development. Also, the comment states that the effect of the Project on critical habitat for the red-legged frog has not been evaluated. Finally, the comment states that the development of individual properties within the Project Area would require a CWA Section 404 permit, and a 404(b)(1) alternatives analysis,

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East Dublin Properties
FIGURE 3.3-B
 Sensitive Species in the Eastern Dublin Area

- LEGEND**
- ◆ San Joaquin Kit Fox Den
 - California Red-legged frog
 - △ Golden Eagle Nest
 - △ California Tiger Salamander
 - Burrowing Owl
 - ◡ Tricolored Blackbird
 - Congdon's Tar Plant
 - San Joaquin Spearscale

Base Map:
 Topo! 2001 National Geographic Holdings

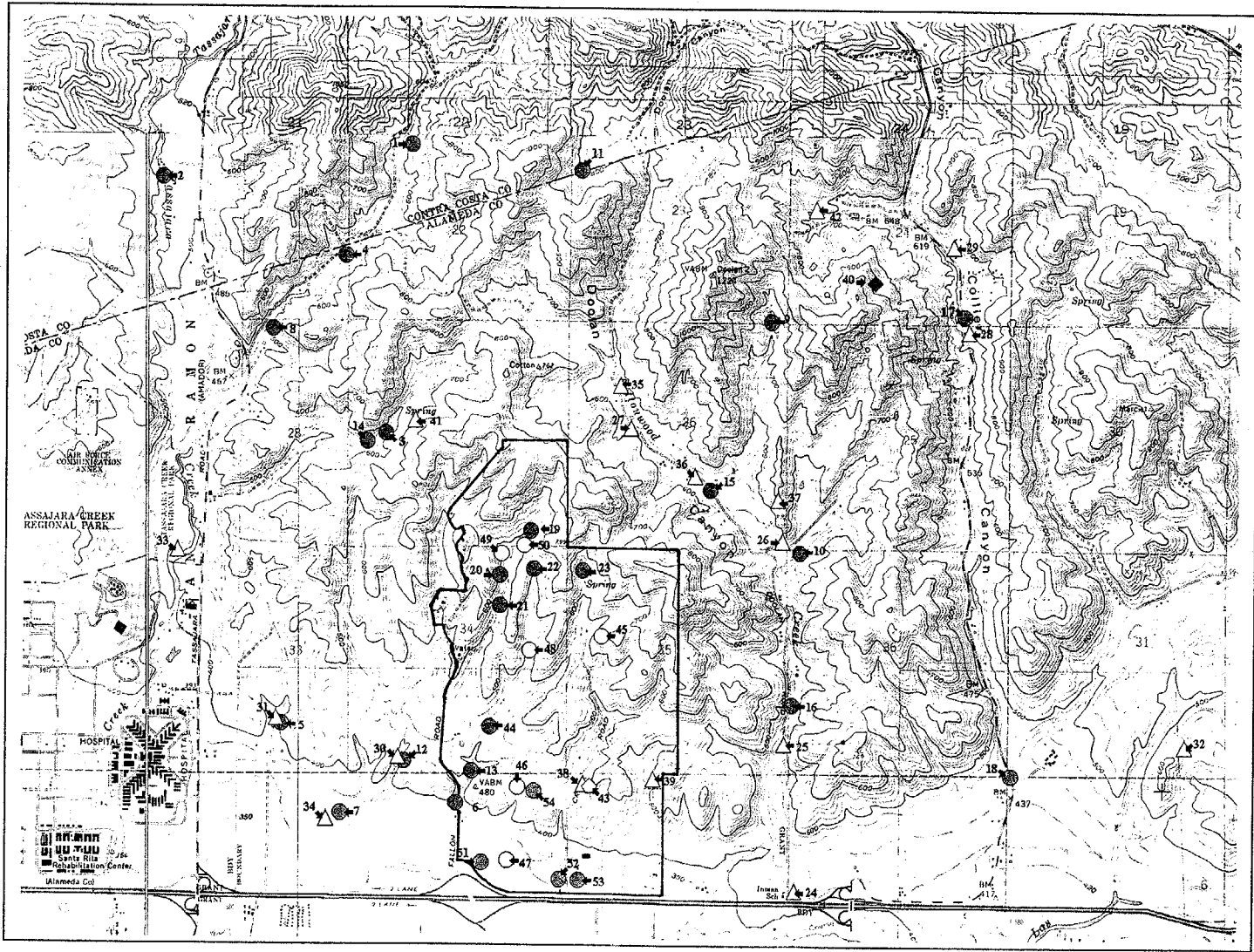


Figure 3.3-B: Site Vicinity for East Dublin Properties Stage 1 Development Plan and Annexation, East Dublin, Alameda County, California
 Occurrences of Special-Status Animal Species
 Sycamore Associates LLC, 2002

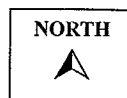


Table 3.3.3.
California Red-legged Frog Reported Occurrences
in the Vicinity of the East Dublin Properties

Figure Reference	Description of Sighting	Date of Occurrence	Source
1	Impoundment 0.9 mi E of Tassajara Rd and 0.35 mi N of Alameda- Contra Costa County line.	1992	CNDDB (2000)
2	Tassajara Creek, 0.15 mi E of Tassajara Rd and ~0.5 mi N of Alameda/Contra Costa County line.	1992	CNDDB (2000)
3	Unnamed tributary to Tassajara Creek, 0.8 mi E of Tassajara Rd and 2 mi N of I-580.	1998	CNDDB (2000)
4	Unnamed eastern tributary of Tassajara Creek, just south of Alameda/Contra Costa County line, north of Pleasanton.	1998	CNDDB (2000)
5	Stock pond on unnamed tributary to Arroyo Las Positas, 0.35 mi E of Tassajara Rd and 0.7 mi N of I-580.	2000	H.T. Harvey & Associates (2000b)
6	Pond along W edge of Fallon Rd 0.4 mi N of I-580.	2000	H.T. Harvey & Associates (2000b)
7	Spring cistern on unnamed tributary to Arroyo Las Positas, 0.4 mi W of Fallon Rd and 0.4 mi N of I-580.	2000	H.T. Harvey & Associates (2000b)
8	Unnamed eastern tributary to Tassajara Creek, 0.3 mi S of Alameda/Contra Costa County line and 0.2 mi E of Tassajara Rd.	1989	Eastern Dublin GPA- SP-EIR (1992)
9	Stock pond on unnamed eastern tributary to Cottonwood Creek, midway between Doolan and Cottonwood canyons, ~2.5 mi N of I-580.	1989	Eastern Dublin GPA- SP-EIR (1992)
10	Unnamed eastern tributary to Cottonwood Creek, ~1.6 mi N of I-580 and 0.15 mi NE of Doolan Rd.	1989	Eastern Dublin GPA- SP-EIR (1992)
11	Impoundment on Alameda/Contra Costa County line, ~0.3 mi W of Cottonwood Creek.	1989	Eastern Dublin GPA- SP-EIR (1992)

12	Stock pond on unnamed tributary to Arroyo Las Positas 0.6 mi NW of junction of Fallon Rd and I-580, E of Dublin.	1989	Eastern Dublin GPA- SP-EIR (1992)
13	Stock pond on unnamed tributary to Arroyo Las Positas 0.65 mi N of junction of Fallon Rd and I-580, E of Fallon Rd.	2000	Gary Beeman, pers. comm.
14	Unnamed eastern tributary to Tassajara Creek, 0.9 mi S of Alameda/Contra Costa County line and 0.7mi E of Tassajara Rd.	1989	Eastern Dublin GPA- SP-EIR (1992)
15	2.1 mi N of I-580 on Doolan Rd.	1993	Gary Beeman, pers. comm.
16	Cottonwood Creek in Doolan Canyon ~ 0.9 mi N of I-580.	1992	Gary Beeman, pers. comm.
17	Collier Canyon Rd ~ 2.5 mi N of I-580.	1992	Gary Beeman, pers. comm.
18	Collier Creek at entrance to Las Positas College.	2000	CNDDDB (2000)
19	Western drainage of Fallon Enterprises, Property, ~1.6 mi N of I-580.	2001	Sycamore Associates (2001a)
20	Western drainage of Fallon Enterprises, ~1.4 mi N of I-580.	2001	Sycamore Associates (2001a)
21	Western drainage of Fallon Enterprises, ~1.3 mi N of I-580.	2001	Sycamore Associates (2001a)
22	Unmarked drainage of Fallon Enterprises, ~1.4 mi N of I-580.	2001	Sycamore Associates (2001a)
23	Spring at head of central drainage of Braddock and Logan Group Property, ~ 1.35 mi N of I-580.	2001	Sycamore Associates (2001a)
44	Numerous breeding individuals located on central portion of Jordan Ranch in east Dublin.	2000	Zentner & Zentner (2000)

Table 3.3.4.
California Tiger Salamander Reported Occurrences
in the Vicinity of the East Dublin Properties

Figure Reference	Description of Sighting	Date of Occurrence	Source
24	Vicinity of intersection of Doolan Rd and Collier Rd.	1992	CNDDB (2000)
25	Doolan Rd, 0.7 mi N of I-580, NW of Livermore.	1992	CNDDB (2000)
26	Along Doolan Rd, 1.5 mi N of I-580, NW of Livermore.	1992	CNDDB (2000)
27	Along Doolan Rd, 2.5 mi N of I-580, NW of Livermore.	1992	CNDDB (2000)
28	Along Collier Canyon Rd, 2.5 mi N of I-580, NW of Livermore.	1992	CNDDB (2000)
29	Along Collier Canyon Rd, 3 mi N of I-580, NW of Livermore.	1992	CNDDB (2000)
30	0.6 mi NW of junction of Fallon Rd and I-580, E of Dublin. (1998)	1998	CNDDB (2000)
31	Stock pond 0.8 mi NNE of intersection of Tassajara Rd and I-580, E of Dublin.	1998	CNDDB (2000)
32	1.2 mi NW of I-580 and North Livermore Avenue interchange, N of Livermore.	1998	CNDDB (2000)
33	W of Tassajara Creek, 0.6 mi N of Santa Rita County Rehabilitation Center, N of Dublin.	1997	CNDDB (2000)
34	Stock pond along unnamed tributary to Arroyo Las Positas, ~ .35 mi N of I-580 and midway between Fallon and Tassajara Rds.	2000	H.T. Harvey & Associates (2000b)
35	Along Doolan Rd, 2.7 mi N of I-580, NW of Livermore.	1993	Gary Beeman, pers. comm.
36	Along Doolan Rd, 2.1 mi N of I-580, NW of Livermore.	1992	Gary Beeman, pers. comm.
37	Abandoned swimming pool off Doolan Rd ~ 1.8 mi N of I-580	1993	Gary Beeman, pers. comm.
38	Quarry pond on W side of Croak Rd., Anderson Property, ~.5 mi N of I-580.	2001	Sycamore Associates (2001d)
39	Ground squirrel burrow in the northeast corner of the Branaugh property	2001	Sycamore Associates (2001d)

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Table 3.3.5
San Joaquin Kit Fox, Golden Eagle, Tricolored Blackbird
Colony and Burrowing Owl Reported Occurrences
in the Vicinity of the East Dublin Properties

Figure Reference	Description of Occurrence	Date of Occurrence	Source
40	Unconfirmed San Joaquin kit fox den in Collier Canyon, ~ 2mi N of I-580.	1975	The Habitat Restoration Group (1992)
41	Active golden eagle nest in a eucalyptus, SE of unnamed tributary to Tassajara Creek, 0.9 mi E of Tassajara Rd and 2 mi N of I-580.	1989 through present	Sue Townsend pers. Comm..
42	Golden eagle nest, along western tributary to Collier Canyon Creek, ~ 3 mi N of I-580.	Date unknown	Gary Beeman, pers. Comm..
43	Tricolored blackbird colony in freshwater marsh in a quarry pond located on the Andersen Property.	1999	Sue Townsend & Colleen Lenihan pers. Comm 2000
45	Burrowing owl individual observed on ground, adjacent to cluster of burrows on south portion of Croak property in east Dublin.	2001	Briones, Wood and Geier pers. comm. 2001
46	Burrowing owl individual observed next to burrow on northern border of the Tseng property in east Dublin.		Sycamore Associates LLC 2002b

Table 3.3.6.

Congdon's Tarplant and San Joaquin Spearscale Reported Occurrences
Within the East Dublin Properties

47	San Joaquin Spearscale on south-central portion of the Tseng property in east Dublin..	2001	Sycamore Associates LLC 2002a
48	San Joaquin Spearscale located southern border of the Mandeville property in east Dublin.	2001	Sycamore Associates LLC 2002a
49	San Joaquin Spearscale located on central portion of the Mandeville property in east Dublin.	2001	Sycamore Associates LLC 2002a
50	San Joaquin Spearscale located on central portion of the Mandeville property in east Dublin.	2001	Sycamore Associates LLC 2002a
51	Congdon's tarplant located on southwest corner of Tseng property in east Dublin.	2001	Sycamore Associates LLC 2002c
52	Congdon's tarplant located on southeast corner of Tseng property in east Dublin.	2001	Sycamore Associates LLC 2002c
53	Congdon's tarplant located southern border of Righetti property in east Dublin	2001	Sycamore Associates LLC 2002c
54	Congdon's tarplant located on northern portion of Tseng property in east Dublin.	2001	Sycamore Associates LLC 2002c

References

Sycamore Associates LLC. 2002a. Botanical Assessment of the Bankhead, Mandeville, and Croak Properties, Part of the East Dublin Properties, Alameda County, California. January.

Sycamore Associates LLC. 2002b. Habitat Assessment for the Burrowing Owl, Tseng and Righetti Properties, Part of the East Dublin Properties, Alameda County, California. February.

Sycamore Associates LLC. 2002c. Re: Botanical Surveys at the Tseng, Righetti, Campbell, Branaugh and Anderson Properties. Memo from Chris Thayer to David Moser. March 20.

Zentner & Zentner. 2000. *Tassajara Creek Subdivision Red-legged Frog Cumulative Impacts Analysis*. February.

Personal Communications

Briones, K. Wildlife Biologist, Sycamore Associates LLC. Burrowing owl observation during reconnaissance-level survey. October 4, 2000.

and that the Revised DSEIR has not demonstrated that the Project is the "least environmentally damaging practicable alternative" pursuant to Section 404.

Please refer to Response 4.4 for a discussion of the application of state and federal regulatory requirements to the development of individual properties within the Project Area. The mitigation measures were developed and/or updated to reflect the latest agency recommendations as noted in Response 10.15b.1. Similarly, regarding "testing" the mitigation measures with state and federal agencies, the City developed the Revised DSEIR mitigation measures to be generally consistent with state and federal resource agency mitigation recommendations, in so far as such recommendations are applicable to the conditions which exist within the Project Area. Regarding red-legged frog, the Revised DSEIR specifically analyzes the recent designation of critical habitat. Revised DSEIR, p. 3.3-18. Regarding CWA Section 404 permits, individual property owners will have to obtain Section 404 permits if the specific Stage 2 development plans they propose in the future involve the fill of "waters of the United States." If such fill would occur, the determination of whether a Section 404(b)(1) alternatives analysis would be required would depend upon the type of 404 permit that is used. That determination, as well as the determination that such fill represents the least environmentally damaging practicable alternative, are solely within the discretion of the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency, and are not within the scope of the City's authority.

Response 10.15.d: The comment states that the level of analysis of biological impacts in the Revised DSEIR is "inconsistent with the spirit" of program level EIRs, that the DSEIR defers preparation and analysis of basic information contrary to the CEQA Guidelines, that the DSEIR contains only basic and easily-obtainable information, and that as a result EIRs will be required for every subsequent development proposal within the Project Area.

The Revised DSEIR is a program-level environmental impact report. It is intended to update the 1993 Eastern Dublin EIR, itself a program EIR, with respect to the Project and the Project Area. The actions the City may take upon completion of this Revised DSEIR are annexation of the Property, rezoning the Property, and approval of a Stage 1 Planned Development plan which assigns general land use designations to various properties and establishes a conceptual master infrastructure plan, as depicted in Revised DSEIR Figures 2-G and 2-H. Thus, the Revised DSEIR properly analyzes potential environmental impacts at a program level appropriate for the approvals sought. Consequently, detailed biological information for each of the properties within the Project Area is not necessary for this program-level EIR. Approval of the actions described above would not constitute approval for any specific development. Before development of any of the properties included in the Project Area can occur, detailed development proposals must later be prepared by property owners and

approved by the City. Those specific development proposals will be subject to additional CEQA environmental review (the form of which will depend on the specifics of such development proposals) that must analyze on a property-specific basis the proposed development and any associated environmental impacts, all at a level of detail that is greater than for this program-level review.

Nevertheless, at this point in time the City is aware that some property owners within the Project Area have conducted biological surveys of their properties. Based on such survey reports that are available to the City, the City knows that certain biological resources occur at some locations within the Project Area, though the location of all biological resources throughout the Project Area is not known at this time. Based on this information, which is addressed in the Revised DSEIR, the City has concluded that the potential exists for such biological resources to be affected by development that would be the subject of later applications and environmental review. As a result, even though not required of a program EIR, this Revised DSEIR establishes the mitigation requirements and standards that would apply to all such impacts. Thus, rather than failing to meet the requirements of the CEQA Guidelines, or deferring the gathering of information and analysis of such information, this Revised DSEIR significantly exceeds what is required by incorporating information and analysis which is not necessary for this document but which is nevertheless available. The City also notes that the biological information addressed in the Revised DSEIR is not "basic and easily-obtainable" but includes extensive property-specific surveys, undertaken by property owners at significant cost.

Response 10.15.e: The comment states that key biological data are missing and are necessary to allow adequate review under CEQA, and that it is inadequate to acknowledge a potential impact without describing at least the general level and location of that impact. The comment then provides several examples of so-called missing data.

Please refer to Response 10.15.d. As explained there in detail, property-specific biological data is not necessary for this program level EIR, but to the extent such information exists and is available to the City, it has nevertheless been included and analyzed in this Revised DSEIR. As a result, the Revised DSEIR is more detailed and specific than required concerning the presence of sensitive biological resources within the Project Area, the potential for impacts to such resources as a result of detailed development proposals to be developed later for individual properties within the Project Area, and mitigation requirements for such impacts. For each of the examples discussed in the comment, the Revised DSEIR describes known information, identifies potential impacts, and prescribes specific mitigation measures for such impacts. Complete surveys for all sensitive biological resources on all properties within the Project Area are neither available nor required for this Revised DSEIR. With respect to the comment example of the tri-colored blackbird, the City cannot locate quoted language that

is alleged to be inconsistent with the discussion on page 3.3-9. In any event, the City acknowledges that, as explained at 3.3-9, a breeding colony is in fact present in the southern portion of the Project Area. Please also refer to the related discussion at page 3.3-24 (Supplemental Impact BIO 11).

Response 10.15.f.1: The comment states that the biological analysis claims to rely on ongoing surveys, and must instead include and reference all information on which the analysis is based.

The Revised DSEIR biological analysis is based on the information described and referenced in the document. The results of surveys that have not yet occurred were not considered in the analysis; the document merely describes the fact that additional surveys will occur in the future.

Response 10.15.f.2: The comment also states that the Revised DSEIR fails to quantify the impacts to seasonal wetlands and seasonal streams, and fails to describe the quality and location of seasonal wetlands that will be filled.

Please refer to Response 10.15.d. Based on the information available to date, which information and resulting analysis exceeds that required for this program level EIR, the City has knowledge that seasonal wetlands and seasonal streams exist within the Project Area, and may be affected by development of individual properties within the Project Area. Since no specific development proposals for such individual properties have been developed or presented to the City, the City cannot quantify or otherwise describe the actual impacts that will occur in the future. Such analysis will be performed in the future in the context of the City's consideration of specific development proposals for such individual properties, which proposals will be subject to additional CEQA environmental review.

Response 10.15.f.3: The comment mentions that the impact analysis of the Revised DSEIR fails to identify indirect impacts to sensitive habitats through the degradation in water quality.

Contrary to the comment, the Eastern Dublin EIR does identify impacts to botanically sensitive habitats through increased sedimentation or spoil depositions affecting stream flow patterns (i.e. degradation of water quality) in section IM 3.7/C. The Eastern Dublin EIR identified 14 mitigation measures to reduce the impacts associated with the degradation of water quality. These mitigation measures include: MM 3.5/54, 3.5/55, 3.7/6.0, 3.7/7.0, 3.7/8.0, 3.7/9.0, 3.7/10.0, 3.7/11.0, 3.7/12.0, 3.7/13.0, 3.7/14.0, 3.7/15.0, 3.7/16.0, 3.7/17.0, 3.5/54, and 3.5/55. Through the discussion contained in IM 3.7/C, and the incorporation of the above listed mitigation measures, the Eastern Dublin EIR adequately evaluated potential impacts to seasonal wetlands and intermittent streams. Also see responses 6.3 and 6.5.

Response 10.15.f.4: The comment states that the impact analysis for direct and indirect habitat loss provides no basis for evaluating whether the impact is significant.

Please refer to Response 10.15.f.2.

Response 10.15.f.5: The comment states that Supplemental Mitigation Measure SM-BIO-1, which requires development of a Resource Management Plan (RMP), improperly defers mitigation. The comment also states that certain specific aspects of the RMP should be provided.

Although the RMP itself will not be prepared until a later date, the substantive mitigation standards for each anticipated impact to sensitive biological resources are identified in the EDEIR and Revised DSEIR. As explained in SM-BIO-1, the RMP must apply and comply with all of these specific mitigation measures. Consequently, the Revised DSEIR does not defer the formulation of mitigation measures. With respect to specific aspects of the RMP, they are set forth both in SM-BIO-1, and in each of the EDEIR and Revised DSEIR biological mitigation measures.

Response 10.15.g: First, the comment notes that the Revised DSEIR states that Congdon's tarplant and San Joaquin spearscale were found within the Project Area but their locations were not disclosed. Second, the comment states that the proposed mitigation for palmate-bracted bird's beak or Livermore Valley tarweed (if they are found in the Project Area) is inadequate, given the apparent rarity of those species. Third, the comment notes that the term "fails to establish" is not defined in Supplemental Mitigation Measure SM-BIO-4. Fourth, the comment states that the feasibility of SM-BIO-4 cannot be evaluated because the Revised DSEIR does not evaluate whether suitable off-site locations exist that contain special-status plants. Finally, the comment asserts that because of the lack of data on the occurrence of special-status plants on the site and the inadequacy of proposed mitigation measures, impacts to special-status plants remain significant.

Reports on the results of rare plant surveys were in preparation at the time the Revised DSEIR was prepared. Survey results are now available and the locations where Congdon's tarplant and San Joaquin spearscale were observed are shown on Revised Figure 3.3-B. With respect to the bird's beak or tarweed, the City agrees with the comment. If found in the Project Area, such populations would be required to be preserved on-site. Accordingly, Supplemental Mitigation Measure SM-BIO-3 is revised to read in its entirety as follows:

SM-BIO-3: Once presence is determined for a special status plant species, areas supporting the species should be avoided to the extent feasible,

except that any observed population(s) of palmate-bracted bird's beak or Livermore Valley tarweed must be preserved and protected in perpetuity.

With respect to SM-BIO-4, the term "fails to establish" means that the target plant species is growing within less than 50% of the designated mitigation area and the number of individual plants is less than 75% of the number of individuals inventoried at the disturbance site after five years. Regarding the feasibility of SM-BIO-4, please refer to Response 10.15.h.2.

Regarding the significance of impacts to special-status plants, for the reasons discussed in the Responses above, it is the City's position that the impact discussion for special-status plants is adequate, and that the potential impacts to special-status plants will be less than significant with implementation of the EDEIR and Revised DSEIR mitigation measures. Please also refer to Responses 10.15.f.2 and 10.15.f.3 regarding the availability in general of biological data.

Response 10.15.h.1: The comment states that the analysis of impacts to botanically sensitive habitats is inadequate because of the lack of data on the location, extent and quality of these habitats, and the lack of analysis of indirect effects.

Please refer to Responses 10.15.f.2 and 10.15.f.3

Response 10.15.h.2: The comment states that the Revised DSEIR fails to demonstrate that Supplemental Mitigation Measure SM-BIO-6 is feasible.

SM-BIO-6 establishes a standard that must be met in order for development to occur. If a specific development proposal within the Project Area cannot meet that mitigation standard, then the proposal must be revised to either avoid the impact (*see* SM-BIO-5), or reduce the impact so that compliance with the mitigation standard can be achieved. Otherwise, the proposed development may not occur. Thus, by definition the mitigation measure is feasible.

Response 10.15.h.3: The comment states that because of a lack of appropriate data on existing conditions, an inadequate impact analysis, and inadequate mitigation measures, impacts to botanically sensitive habitat remain potentially significant.

It is the City's position that the analysis of potential impacts to botanically sensitive habitats is adequate for this program-level EIR, and that implementation of the EDEIR mitigation measures (3.7/6.0 and 3.7/7.0) and the Revised DSEIR Supplemental Mitigation Measures (SM-BIO-5 through SM-BIO-8) would reduce such impacts to a less than significant level.

Response 10.15.i: The comment states that the Revised DSEIR fails to adequately evaluate the impact of the project on San Joaquin kit fox in light of recent

mitigation policies of agencies such as the U.S. Fish and Wildlife Service (USFWS), and evidence that kit fox used the Project Area in the past and could potentially use it in the future. The comment also states that the Revised DSEIR does not provide clear mitigation for loss of kit fox habitat in light of the results of kit fox surveys.

As discussed in the Revised DSEIR (pages 3.3-6 and 3.3-7), despite numerous surveys and intensive efforts to detect kit fox in the Project Area vicinity, no kit fox have been detected. Based on this information, and the lack of any sightings within the Project Area, their potential to occur within the Project Area or in the vicinity of the Project Area is considered to be low. Recommendations made by the USFWS at other locations, which presumably include or are closer to actual kit fox sightings than the Project Area, are noted but based on available information appear not to be relevant to the Project Area. The City also notes that it did not receive any comments from the USFWS on the Revised DSEIR. Consequently, the Revised DSEIR identified no new or increased impacts to kit fox beyond those identified in the EDEIR, and thus proposes no specific habitat protection mitigation other than updating the adopted San Joaquin Kit Fox Protection Plan to reflect the latest resource agency protocols (Revised DSEIR p. 3.3-17). The City notes, however, that habitat protections likely to result from implementation of the Revised DSEIR mitigation measures for the loss of tiger salamander and red-legged frog upland habitat would in effect also mitigate for any loss of potentially suitable kit fox habitat. This is because the upland habitat generally consists of grasslands, which are also suitable kit fox habitat. With respect to the pre-construction surveys, the purpose is to ensure that there is no take of any individual kit fox during the construction process, in the unlikely event that a kit fox comes to be located within the Project Area. If a kit fox was found occupying a den, then avoidance measures found in the USFWS Standard Recommendations for the Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance (1999) would be followed to prevent take (See SM-BIO-9, 10).

Response 10.15.j.1: The comment states that new data of red-legged frog (RLF) locations within the Project Area should be included. The comment also states that the Project Area is "wholly within the Mount Diablo Core Area of critical habitat designated for the CRLF" by the USFWS. The comment further states that the Project will likely fill waters of the United States and thus require a Clean Water Act Section 404 fill permit from the U.S. Army Corps of Engineers, which in turn will trigger consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act (ESA) due to the designation of the Project Area as RLF critical habitat. Finally, the comment states that changes required by USFWS may necessitate substantial changes to the Project.

Revised Figure 3.3-B has been updated to include all known observations of red-legged frogs from the Project Area. The quoted passage from the comment is in error, as it confuses "critical habitat" with recommendations made in the USFWS Draft Recovery Plan for the California red-legged frog. As correctly noted on pages 3.3-5 and 3.3-18 of the Revised DSEIR, the Project Area is within the East Bay-Diablo Range Critical Habitat Unit (Unit 15), and also is within the Mount Diablo Core Area (Core Area 23) of the South and East San Francisco Bay Recovery Unit (#4) proposed in the Draft Recovery Plan. These are separate designations. With respect to fill of waters of the U.S., the Project does not involve any fill, as the Project does not involve or approve any specific development. The Project is limited to annexation, rezoning, and approval of a general Stage 1 development plan for the Project Area. Before any development or any fill of waters of the U.S. can occur, owners of individual properties within the Project Area will thereafter have to develop detailed Stage 2 development proposals for their property (which proposals will be subject to City discretionary review and additional CEQA environmental review). The specifics of those detailed development proposals will determine whether any fill of waters of the U.S. will occur. Since Supplemental Mitigation Measure SM-BIO-5 requires avoidance of all such waters to the extent feasible, it is possible that no fill of waters of the U.S. will occur. Should fill of such waters be necessary, that fill must be permitted through the Army Corps of Engineers. Given the critical habitat designation referred to above, in such circumstance the Corps would be required to comply with Section 7 of the ESA, and engage in a formal consultation with USFWS.

Response 10.15.j.2: The comment states that the purpose of the SM-BIO-11 requirement that RLF surveys be done following USFWS protocol is unclear.

The purpose of requiring RLF surveys within the Project Area to follow the USFWS survey protocol is to ensure that a standard scientific approach, crafted by the regulatory agency with responsibility for the RLF, is implemented, in order to ensure that credible data regarding RLF presence or absence is generated. That is important because the results of those surveys will determine whether other RLF Supplemental Mitigation Measures (SM-BIO-12 through SM-BIO-15) are triggered. The survey results will also be important for any federal permitting involving the USFWS that may be required by any individual property within the Project Area. See generally, Response 4.4.

Response 10.15.j.3: The comment states that key components of the RMP should be included as part of the Project.

Please refer to Response 10.15.f.

Response 10.15.j.4: The comment says that all areas of suitable RLF habitat should be identified at this time, and states that all streams within the Project

Area provide suitable RLF breeding habitat, and thus all streams in the Project Area must have a buffer zone of 600 to 1,000 feet pursuant to SM-BIO-13, which is not consistent with the riparian open space corridors depicted in Figures 2-F and 2-G.

Not all properties within the Project Area have been surveyed for RLF, so it is not possible at this time to identify all areas of suitable RLF habitat. Please refer to Response 10.15.d for a more detailed discussion of this point. With respect to the statement that all streams in the Project Area provide RLF breeding habitat, please refer to Response 10.15.b.5. The hydrologic characteristics of drainages within the Project Area vary, with some containing suitable RLF breeding habitat while others do not. Regarding the 100-foot stream corridor buffers identified in the Revised DSEIR, the comment is correct in noting that such buffers differ from those called for in Supplemental Mitigation Measure SM-BIO-13. The Revised DSEIR impact analysis concludes that the identified stream corridors would not adequately protect RLF. That is why, in turn, SM-BIO-13 imposes a greater buffer requirement.

Response 10.15.j.5: The comment states that Figure 2-G depicts a trail to be built within the 100-foot wide riparian corridor, which is inconsistent with SM-BIO-13.

Please refer to Response 10.15.j.4, above. SM-BIO-13 calls for 300- to 500-foot-wide buffers on each side of streams that provide red-legged frog aquatic habitat. Trails are identified in SM-BIO-13 as an allowed use within such buffer areas, so long as they have only minor impacts. Due to the width of these setbacks, trails can be designed which would only have minor impacts on the riparian, aquatic habitat. The land use designations and location of trails and roadways in the Revised DSEIR are general in nature, and do not reflect specific design proposals for any property within the Project Area. The location of any trails will be subject to the mitigation measures in the EDEIR and Revised DSEIR. The City agrees that any trail located near identified RLF habitat should be built outside of the woody riparian or wetland areas.

Response 10.15.j.6: The comment interprets the Revised DSEIR to say on page 3.3-6 that the entire Project Area provides suitable red-legged frog dispersal habitat, and states that there is no discussion of the impact of the loss of dispersal habitat or mitigation for such impact.

The RLF discussion on page 3.3-6 notes that suitable dispersal habitat is present within the Project Area, but does not say that all upland areas constitute RLF dispersal habitat. The amount of RLF dispersal habitat present throughout the Project Area will be included in the RMP. (SM-BIO-12). Please refer to Response 10.15.d regarding the status of biological surveys generally. RLF dispersal habitat is a function of the presence of suitable aquatic habitat, the distance between

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suitable aquatic habitat areas, and adjacent land uses. Page 3.3-18 of the Revised DSEIR also contains a discussion of RLF habitat use, identifying upland dispersal habitat as being present within the Project Area, and that Project Area development could impact dispersal habitat. Mitigation Measure SM-BIO-14 addresses mitigation for loss of red-legged frog habitat. This measure is intended to cover the loss of all red-legged frog habitat, including aquatic, adjacent upland, and dispersal corridors habitat.

Response 10.15.j.7: The comment states that as proposed, the Project would eliminate the RLF population on site, and that implementation of SM-BIO-13 would require a major redesign.

See Response 10.15b.1 regarding implementation of mitigation measures. Future development proposals must comply with the mitigation measures in the Eastern Dublin EIR and Revised DSEIR, which will mitigate for impacts to RLF. See also Supplemental Mitigation Measures SM-BIO-11 through SM-BIO-15.

Response 10.15.j.8: The comment states that the Revised DSEIR fails to demonstrate that Supplemental Mitigation Measure SM-BIO-14 is feasible.

Please refer to Response 10.15h.2.

Response 10.15.j.9: The comment states that because the impact discussion is inadequate and the Specific Plan is inconsistent with the proposed mitigation measures, the impact to RLF remains potentially significant.

For the reasons discussed in the Responses above, it is the City's position that the impact discussion for RLF is adequate, that the Specific Plan is not inconsistent with the mitigation measures, and that the potential impacts to RLF will be less than significant with implementation of the EDEIR and Revised DSEIR mitigation measures.

Response 10.15.k: The comment states that key components of the RMP should be included as part of the current project, and that the Revised DSEIR fails to demonstrate that Supplemental Mitigation Measure SM-BIO-19 is feasible.

With respect to the RMP, please refer to Response 10.15f.5. With respect to the feasibility of SM-BIO-19, please refer to Response 10.15h.2 regarding future development project compliance with mitigation standards.

Response 10.15.l: The comment notes that the Revised DSEIR does not state whether the tri-colored blackbird breeding site would be affected by the development plan or what the significance of this would be if it were affected. The comment also states that Supplemental Mitigation Measures SM-BIO-38 and SM-BIO-42 appear to contradict each other.

The plan depicted in Figure 2-G of the Revised DSEIR would result in the loss of the tri-colored blackbird breeding site, eliminating them as a breeding species from the Project Area. This would be a significant impact as previously identified in the EDEIR. The Revised DSEIR contains four mitigation measures (SM-BIO-38 to 41) designed to avoid impacts to tri-colored blackbirds (and other passerines) during the nesting season. If habitat is going to be removed, SM-BIO-38 ensures that removal will not be during the nesting season. It is intended to avoid direct impacts to nesting passerines (i.e., actual nesting attempts) by removing nesting substrate (trees, shrubs, cattail/tules) prior to the beginning of the nesting season. If habitat is going to be removed, SM-BIO-42 also ensures that the Project will create compensatory habitat to offset the lost habitat, and that the RMP include and reflect the compensatory mitigation.

Response 10.15.m: The comment states that key components of the RMP should be prepared at this time.

Please refer to Response 10.15.f.5.

Response 10.15.n: The comment states that because of the inadequacy of the impact analysis and mitigation measures, the impact to tricolored blackbirds remains potentially significant.

For the reasons discussed in the Responses above, it is the City's position that the impact analysis and mitigation measures are adequate, and thus the impact to tricolored blackbirds with implementation of the mitigation measures will be less than significant.

Response 10.15.o: The comment states the project will have cumulative impacts which could be mitigated through Dublin's participation in regional habitat planning efforts such as a Habitat Conservation Plan (HCP), which could provide comprehensive compliance with state and federal laws relating to biological resources.

A regional Habitat Conservation Plan ("HCP") prepared pursuant to Section 10 of the federal Endangered Species Act, 16 U.S.C. § 1539, is one method by which impacts to biological resources could be mitigated. However, the preparation of a regional HCP in this area has not begun, and is not likely to begin in the near future. Once started, the regional HCP process usually takes at least 3-5 years to complete. As a result, a regional HCP is not an available option for purposes of this Project. Instead, this Revised DSEIR identifies specific mitigation measures which would mitigate impacts to biological resources, and require full compliance with federal and state laws relating to biological resources.

Response 10.15.p: The comment states that the biological resource mitigation measures do not reduce the direct and indirect effects of the Project to a level below significance, and as a result supplemental cumulative impacts BIO1, BIO2 and BIO5 remain significant. The comment also states that participation in or contribution to regional habitat planning could mitigate such cumulative impacts.

For the reasons discussed in the Revised DSEIR and in these Responses, it is the position of the City that implementation of the EDEIR and Revised DSEIR biological mitigation measures will reduce the identified impacts to a level less than significant, and thus the identified cumulative impacts are also reduced to a level less than significant. With respect to the possible use of a regional habitat planning effort to mitigate impacts from the Project, please refer to Responses 4.2 and 10.15.o.

Response 10.16: The commentor states that the Revised DSEIR, in acknowledging differing demand figures for water use in Eastern Dublin since 1993, fails to consider the impacts of increased use of recycled water. The commentor also states that it is concerned with the potential for groundwater pumping to supply the project area.

The Revised DSEIR acknowledges that DSRSD has decreased its estimates for potable water demand in Eastern Dublin and increased its estimates for the use of recycled water. DSRSD asserts that this is due to the addition of a golf course in Dublin Ranch and additional park acreage, which increases recycled water demand and decreases potable demand, and an overall decrease in residential densities in Eastern Dublin. However, none of the changes took place within the Project area. Thus, the amount of water demand (both potable and recycled) is unchanged in the Project area, and there is no supplemental impact on water supply from the proposed Project. Furthermore, as noted in the discussion on salt loading, Zone 7 considers the use of recycled water in the Project area to have little to no impact on salt loading on the main basin. It is not clear why the commentor is concerned with the potential for groundwater pumping to serve the project area. Mitigation Measures 3.5/24.0 – 40.0 in the Eastern Dublin EIR fully mitigate the potential for overdraft of the groundwater basin from development of the Project area.

Response 10.17: Comment states that no salt management plan has been implemented and therefore mitigation measure requiring coordination with any Zone 7 salt mitigation requirements are meaningless. Also see response 6.1.

Comment further states the Revised DSDEIR states the current LAVWMA facility lacks disposal capacity and therefore relying upon the LAVWMA facility for piping of salty brine is inappropriate.

It is acknowledged that the Revised DSDEIR states the current LAVWMA facility lacks additional capacity. The Revised DSDEIR continues to state the a new parallel LAVWMA facility is currently in the design and contract phase and the new facility will have adequate capacity to serve all of the wastewater disposal needs of the project, including piping of salty brine from salt mitigation. Additionally, mitigation measures from the Eastern Dublin EIR ensure that development will not take place if there is insufficient wastewater disposal capacity.

Comment also states the Revised DSEIR contain contradictory statements because the Revised DSEIR still states possible impacts occur from the use of recycled water for landscape irrigation as shown on page 3.7.2. The comment also states that potential for localized salt loading exist due to greater quantities of recycled water for use at golf courses and parks.

The Revised DSEIR states that the use of recycled water was identified as a potential impact, however implementation of mitigation measure 3.5/20 of the Eastern Dublin EIR reduced the impact to less than significant. Contrary to the comment, no other impacts from the use of recycled water for landscape irrigation exist.

The proposed project, as depicted in the project description of the Revised DSEIR, is consistent with the Eastern Dublin Specific Plan and General Plan. Therefore, the amount of parkland and irritable landscaping that will result from the proposed project is consistent with the amount anticipated by the Eastern Dublin Specific Plan and General Plan project. Additionally, as part of the Zone 7 Salt Management Program, modeling tools were utilized, based upon the land uses contained within the Eastern Dublin Specific Plan and General Plan, to calculate salt loading inputs to, and exports from, the main groundwater basin. This model formed the basis of the Salt Management Policy Goals for offsetting salt loading.

Because the amount of parkland and irritable landscaping is the same as the prior project, no additional recycled water application will be necessary, which will result in the identical salt loading impacts as anticipated by the Eastern Dublin EIR and the subsequent studies based upon the land use assumptions within that document. No additional recycled water use analysis is necessary, due to the fact of the proposed project and the prior project are consistent.

Response 10.18: The commentor suggests that the information in the Eastern Dublin EIR and the Revised DSEIR show that there is a disposal capacity shortfall of between 19.75 and 21.6 MGD.

The commentor's calculation relies on a demand assumption that is based on the maximum capacity of the DSRSD treatment plant in Stage 6 of the planned

staged expansion (36 MGD) that was set forth in DSRSD's master plan for treatment plant expansion, which was taken from MM 3./9.0 in the Eastern Dublin EIR. DSRSD's current wastewater treatment expansion project is Stage 4 of its master planning; according to DSRSD's Capital Improvement Plan for Fiscal Years ending 2002 through 2011, Stage 5 improvements are not expected to take place until 2011 or later. (p. 38.) Thus, the 36 MGD capacity in the treatment plant is simply a potentiality to serve future flows. Furthermore, the Eastern Dublin EIR specifically noted that these expansions depended on available disposal capacity. (Eastern Dublin EIR, Appendix 6, p. A6-13.) Thus, there is no disposal capacity shortfall. DSRSD's current planned treatment plant expansions are nowhere near 36 MGD. When the second LAVWMA pipeline is completed, it will include sufficient capacity to serve the Project area at buildout. LAVWMA's expansion project was planned to include sufficient capacity for buildout of existing general plans, including development in Eastern Dublin pursuant to the Eastern Dublin Specific Plan and the Eastern Dublin General Plan Amendment. (Amended and Restated Joint Exercise of Powers Agreement for the Livermore-Amador Valley Water Management Agency, dated July 21, 1997, § 15.6.)

The commentor states that the Major Infrastructure Plan fails to show where recycled water storage facilities would be constructed or how many storage facilities would be needed. The Major Infrastructure Plan included with the RDSEIR (Figure 2-L) shows Infrastructure facilities located on-site and the required off-site connections. However, the recycled water storage facility (Zone 2), which will serve the Project Area, is located off-site. Therefore, the location of the storage facility on the Major Infrastructure Plan is not specifically shown. The off-site recycled water storage facility is currently under construction on the Dublin Ranch property and will be completed by the end of the year.

The DSRSD Master plan has analyzed the need for necessary Water, Recycled Water, and Sewer facilities to serve the build out of the Eastern Dublin Specific Plan and General Plan. The DSRSD Master plan has determined that the Dublin Ranch water storage facility tank will be adequate to serve the Project Area's recycled water needs.

The commentor also states that the Programmatic Water Service Analysis does not support the projected demand for recycled water at the levels that would be required given the disposal-capacity estimates described earlier in this response. The comment incorrectly assumes that there is a disposal capacity shortfall of between 19.75 and 21.6 MGD.

Response 10.19. The commentor states that the Project EIR must evaluate safety and noise impacts according to the state DOT handbook before the Stage 1 Development Plan establishing land uses, including school sites, is approved. The comment further states that a new Master Plan is being prepared for the

airport and should be the basis for the EIR analysis. The comment finally states that the "Future Study Area" designation should be removed.

See Response 10.8 for discussion of the APA area. The Project has been evaluated based on existing adopted plans. The proposed rezoning designation is consistent with the Dublin General Plan and the Eastern Dublin Specific Plan which specifically considered potential compatibility issues for future development in the APA. The City, therefore, declines to revise the land use designation. As noted in the Project Description, the junior high school site encroaching into the APA has been moved out of the APA consistent with ALUC policies. See Responses 2.1 and 2.2 regarding school site evaluations and ALUC referrals, respectively.

Response 10.20: Any interpretation of the relationship between emissions and resulting ambient air quality requires consideration of more than emissions magnitude alone. There is no inconsistency in noting that the Tri-Valley subbasin of the Bay Area Air Basin is heavily influenced by upwind sources closer to the bay, and that congestion on I-580 and other area roadways is also of concern.

The non-attainment pollutants in the Tri-Valley area are ozone and particulate matter. Ozone has traditionally received the greatest planning emphasis. Ozone is created by chemical reactions between reactive organic gases (ROG) and nitrogen oxides (NO_x). The typical reaction time is two to four hours. The vehicular pollutants released near the bay in the morning commute are converted to ozone by noon when they blow toward Altamont Pass and the Central Valley beyond. However, a substantial fraction of the emissions released along the I-580 Corridor during the morning hours are not converted into photochemical smog (ozone) until they reach Tracy or beyond. The critical airshed for the Tri-Valley is in Hayward, San Leandro, Oakland, or even San Francisco. To the extent that westward morning commuting adds to emissions and congestion in those upwind areas, it does incrementally impact the project area. However, those emissions released within the City of Dublin itself impact air quality well outside the local community.

The suggested mitigation strategies are potentially effective on a regional scale when implemented on a uniform basis. Because major air quality issues are regional in nature, no single project that encourages alternative modes of transportation or subsidizes bus service for its residents will measurably affect air quality. The social or economic costs of mitigation to future project residents produces no tangible air quality benefit to those paying the costs. Individual development projects should promote or facilitate opportunities for mitigation such as providing rights-of-way for transit, pre-wiring garages for eventual electric vehicle charging or incorporating enhanced telecommunications access to encourage home-based employment. A single project cannot, however

measurably affect its own air quality environment because the healthfulness of the air is governed by patterns of land use, transportation, meteorology and chemistry that can not be measurably altered by actions within any single community.

Response 10.21: The comment states that peak flood flows have increase in downstream locations, particularly in the Arroyo de la Laguna at Bernal Avenue in Pleasanton. The commentor states that the Revised DSEIR should have evaluated the projects contribution to the cost of regional flood control facilities and necessary improvements.

Zone 7 completed a Special Drainage Area 7-1 program update of channel improvement cost by Schaaf & Wheeler Consulting Civil Engineers dated June 30, 2000. The report took into consideration the increase of peak flood flows of all storm drainage channels within Zone 7. This drainage basin covers all of eastern Alameda County. Including the Project area. It identified the peak flows, cost estimates of needed mitigations of all channels, and fees needed to be collected in order to mitigate the needed improvements.

Zone 7 has implemented the new fee strcture, which went into effect on December 10, 2001. Mitigation for impacts from increase in flows from the proposed project onto flood control facilities downstream are handled through the collection of appropriate drainage fees from the Special Drainage Area 7-1 program. The fees collected will fund the required improvements.

Response 10.22: The comment stated that the 1993 Eastern Dublin EIR did not analyze potential impacts to Isabel Parkway/SR 84 and that the Revised DSEIR should have assessed Project traffic impacts to this roadway, and identified mitigation measures and fair-share contributions toward the SR 84 Corridor Improvement project between I-580 and I-680.

The Revised DSEIR did analyze Project traffic impacts to SR 84 in its future alignment configuration, and the results of this LOS analysis were summarized in Tables 3.6-7, 3.6-8 and 3.6-9. As shown in these tables, the project-related volume increases are either very small in magnitude or, in many cases, negative. This is because, due to the location of the Project, SR 84 is not expected to serve as a primary access route to the Project in a manner similar to I-580, I-680, Dublin Boulevard and other surface streets. In the case of negative volume changes, traffic reductions are possible with the development of the proposed Project as background traffic in the Tri-Valley Transportation Model may be reassigned to other locations as new traffic is introduced to the roadway network. The reassigned background traffic may be replaced with less Project traffic resulting in overall reductions.

Based on the findings of the Revised DSEIR and the above information, the proposed Project would not have a significant traffic impact on SR 84 and, hence, no mitigation measures or fair-share contributions toward the SR 84 Corridor Improvement project are required of the Project.

Response 10.23: The comment notes that the 1993 Eastern Dublin EIR indicates that the City does not maintain 5 acres of parkland per 1,000 residents and the addition of new housing has changed this condition. The RDSEIR should have assessed potential effects of Dublin residents seeking to use LARPD facilities due to inadequate local facilities.

As noted in the response to Comment letter 8.6, the City of Dublin acknowledges that on a city-wide basis, less than the City goal of providing 5 acres of parkland per 1,000 residents is met. However, the proposed Project includes approximately 5.7 acres of park per 1,000 residents, substantially exceeding City requirements.

See Response 8.13 regarding the potential for residents of the proposed project using LARPD facilities. Briefly, the response, notes that both adequate parks currently are and would be provided within and adjacent to the Project area and that LARPD facilities are located a substantial and inconvenient distance from City of Dublin park facilities, so that any future use of LARPD facilities by Dublin residents would be less-than-significant.

Response 10.24: The comment states that the Revised DSEIR should have analyzed the effects of electrical transmission constraints in the Tri-Valley region and the effect of PG&E's bankruptcy filing.

The Revised DSEIR addressed this issue in depth. (See pp. 3.7-9-3.7-10 ["Supplemental Impact UTS 3: Local Electrical Distribution Constraints"].) Two mitigation measures were proposed to remedy the impacts of potentially unreliable utilities. The comment's proposed mitigation measure would only partially mitigate the impact, while Supplemental Mitigation Measure UTS-3, requiring a will serve letter from PG&E prior to subdivision or Site Development Review approvals, ensures that development will not be approved if transmission capacity is insufficient.

Response 10.25. The comment states that the capacity of regional permitted solid waste disposal facilities has changed significantly since 1993 and that cumulative solid waste disposal should have been further assessed.

Contrary to the comment's statements, the Revised DSEIR analyzed cumulative solid waste disposal, i.e., "whether rapid development in the Tri-Valley area would have a significant impact on the availability of solid waste services." (pp. 3.7-7, -8). Based on the City's franchise agreement for solid waste disposal, and on

recently approved expansion of the Altamont landfill, no supplemental significant impacts were identified for solid waste disposal capacity due to rapid development in the Tri-Valley. Furthermore, the density of the Project is the same as anticipated in the 1993 Eastern Dublin approvals and would not have any greater contribution to cumulative solid waste impacts than previously assumed. No additional assessment is required.

Response 10.26. The comment states that the Revised DSEIR does not analyze the growth-inducing potential of the Project beyond the project site and within the Future Study Area, and instead relies on the EDEIR for this analysis.

The Eastern Dublin EIR analyzed growth-inducing effects of the original GPA project which proposed urban development beyond the Sphere of Influence and through Doolan Canyon (pp. 5.0-14, -15). Significant growth-inducing impacts were identified for the original GPA, mostly from extension of public services that could lead to growth outside the GPA project site. A significant and unavoidable impact was identified for the proposed water distribution system based on its growth inducing impacts. (Resolution 53-93, p. 71, Impact 3.5/T).

The Eastern Dublin EIR also addressed growth inducement for the Reduced Planning Area alternative that was later adopted by the City with some modifications. The EIR noted that this alternative could also have growth-inducing effects beyond the alternative area because urban land uses at the easterly edge of the area adjoined unincorporated open space/agricultural lands. (p. 4-9). The May 4, 1993 Addendum certified as part of the Eastern Dublin EIR further addressed whether the Reduced Planning Area as modified would require additional environmental review, and concluded that it would not. The Eastern Dublin EIR adequately addressed the growth-inducing impacts of the GPA and Specific Plan project as approved. The impacts were fully considered by the City when it approved the General Plan Amendment and Specific Plan and adopted overriding considerations for this and other significant unavoidable impacts of future development in Eastern Dublin. The annexation/prezoning Project is consistent with the 1993 approvals and raises no new issues beyond the previous EIR analysis. No additional review of growth-inducing impacts is required.

Furthermore, as noted in the Revised DSEIR, no land use development studies have been initiated nor considered in the Future Study Area beyond the Project area since that designation was adopted with the 1993 approvals. As also noted in the Revised DSEIR, the only study pending in the Future Study Area is a GPA study initiated by the City to remove the Future Study Area from Dublin's planning area. If approved, the GPA would remove any City land use designation from the area, leaving future planning for the area to the County. Based on the above discussion, the Eastern Dublin EIR provides sufficient

information and analysis for an informed decision on the growth-inducing impacts of the current Project.

Response 10.27. The comment states that the Revised DSEIR fails to analyze other alternatives that could reduce potential impacts and improperly rejects alternatives previously suggested by the comment, including variations on reduced density and/or reduced development area alternatives.

It is well-established CEQA law that the City is not required to consider every possible alternative to the Project. Rather, a reasonable range of alternatives must be considered, sufficient to permit a reasonable choice among alternatives as far as environmental aspects are concerned. The reasonable range of alternatives should foster informed decision-making and public participation. An EIR is not deficient if it excludes other potential alternatives from its analysis so long as it discusses a reasonable range of alternatives.

The Eastern Dublin EIR provided a reasonable range of alternatives for potential future development and buildout of the East Dublin area. As described on page 4-1 of the Revised DSEIR, the Eastern Dublin EIR analyzed four alternatives, the No Project Alternative, the Reduced Planning Area Alternative, the Reduced Land Use Intensities Alternative and the No Development Alternative. The City Council considered these alternatives and adopted a modified version of the Reduced Planning Area Alternative that provided for development of a substantially reduced area, leaving substantially more open space and agricultural area than the original Eastern Dublin project. At that time, the comment described this alternative as environmentally superior with "less urban sprawl while not reducing overall intensities of land use" and further allowing "buildout of the General Plan Amendment within the current SOI for Dublin". The comment further noted that adoption of that alternative "explicitly allows for the preservation of Doolan Canyon" as a community separator. (See October 26, 1992 letter from City of Livermore, Letter 17 contained in the Eastern Dublin Final EIR, Volume III, Responses to Comments on the DEIR).

As a supplement to the Eastern Dublin EIR, the Revised DSEIR need not reinvent the reasonable range of alternatives that was already identified and considered in the Eastern Dublin EIR. Instead, the Revised DSEIR identified a new Mitigated Traffic Alternative responding directly to the potential for new significant supplemental traffic and air quality impacts identified in the Project Initial Study.

The comment suggests that a reduced density alternative and a reduced development area alternative be considered in the Revised DSEIR. The City considered these alternatives for inclusion in the Revised DSEIR, but determined them inappropriate for further analysis, as explained in the Revised

DSEIR on pages 4-16 to 4-17. The comment's suggested 25% reduced density alternative is essentially the same reduction in density analyzed in the Mitigated Traffic Alternative. The comment's suggested reduction of the development area is similar to the development that would occur under the No Project/ECAP Alternative. Numerous variations on the same theme need not be discussed especially when, as in this case, the relative advantages and disadvantages of other alternatives can be assessed reviewing alternatives already analyzed. See Revised DSEIR at pages 4-16 and 4-17.

The comment suggests analysis of an alternative that accommodates growth in existing in-fill areas and Dublin Ranch. Such an alternative is not consistent with any of the City's current planning documents for the area and would require an extensive replanning effort before such an alternative could be implemented. An EIR is not required to discuss alternatives which are remote and speculative, i.e., unlikely as a practical matter to be capable of implementation. In addition, this alternative would not fulfill the City's objectives for Eastern Dublin, including, among others, to implement the comprehensive land use plan adopted in 1993 and to implement the City's long-term programmatic planning approach for Eastern Dublin. As such, further discussion of this alternative is not warranted.

Further, alternatives are also not required to address each impact. CEQA requires that alternatives "avoid or substantially lessen one or more of the significant effects" of a project (CEQA Guidelines Section 15126.6(c)). There is no authority requiring alternatives for each and every significant impact. Nor is there any authority for comment's suggestion that at least one of the alternatives must include components that respond to all impact areas.

Finally, the comment asserts that annexation of the rural residential areas and the Future Study Area (presumably meaning the APA) is contrary to LAFCO policy and therefore an alternative must be considered deleting these areas from the annexation request. This assertion is without merit. The decision of whether the requested annexation is appropriate is a planning decision to be made by the City Council and LAFCO. The EIR is required to assess the environmental impacts associated with the proposal so that the decision maker can make an informed decision; it is not required to analyze the policy merits of the Project. The Eastern Dublin EIR and the Revised DSEIR provide sufficient information to allow the decision makers to make an informed decision on the Project.

The alternatives considered in the Eastern Dublin EIR, as updated and supplemented by the Revised DSEIR, provide a reasonable and comprehensive range of alternatives with the potential of reducing environmental impacts and permit the City Council and LAFCO to make an informed decision and to identify ways that significant environmental effects may be avoided.

Response 10.28: These issues are discussed in response to specific comments above. Preservation of biological resources and interconnection with regional habitat planning efforts are addressed in responses to comments 10.5 and 10.15, above. Sustainable development and affordable housing are addressed in responses to comment 10.10; transportation and transit issues are addressed in responses to letters 3 and 5, and comment 10.14, above. Agricultural and open space issues are addressed in response to comments 10.2, 10.13, and 10.27, above.



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San Francisco Bay Chapter

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100 Civic Plaza, Dublin, CA 94568

**Comments on the Revised Draft Supplemental Environmental Impact Report
for the East Dublin Properties (SCH # 2001 052144)**

February 27, 2002

The Sierra Club San Francisco Bay Chapter provides these comments on the City of Dublin's (Dublin) Revised Draft Supplemental Environmental Impact Report (RDSEIR) for the proposed East Dublin Properties Stage 1 Development Plan and Annexation Project.

The Sierra Club wishes to raise the following issues:

- *Lack of a full and adequate project description;* | 11.1
- *Deferral of key studies and information generation, adequate analysis of impacts and development of mitigation measures,* although the project virtually assures the conversion of the project area to development; | 11.2
- *Changed circumstances,* which invalidate a significant amount of the RDSEIR's reliance on the 1993 EIR for East Dublin General Plan Amendment (EDGPA); | 11.3
- *Inadequate impacts analysis,* including failure to identify all potentially significant impacts, both project-related and cumulative, and failure to recommend feasible mitigation measures and alternatives capable of avoiding or reducing these impacts; and, | 11.4
- *Inadequate discussion of alternatives.* | 11.5

The RDSEIR, like its predecessors, remains flawed under CEQA. An EIR must provide enough analysis and detail about environmental impacts to enable decision-makers to make intelligent judgments in light of the environmental consequences of their decisions. In this case, the RDSEIR fails to provide sufficient information to enable informed decision-making by the City and participation by the public. Much important information remains improperly omitted or deferred until a later date in violation of CEQA; what information is provided remains vague and flawed. | 11.6

Thank you for the opportunity to comment on the RDSEIR for this project.

Sincerely,

Mike Daley
Conservation Director

Responses to Letter 11: Sierra Club San Francisco Bay Chapter

Response 11.1: Project description adequacy issues are addressed in response to comment 10.5, above.

Response 11.2: Deferral of studies, and adequacy of analysis and mitigations are addressed in response to comments 10.7, 10.8, and 10.11 through 10.25, above.

Response 11.3: Changed circumstances issues are addressed in response to comment 10.9, above.

Response 11.4: See response to comment 11.2, above.

Response 11.5: See response to comment 10.27, above.

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Letter 12

February 28, 2002

VIA FEDERAL EXPRESS

Mr. Eddie Peabody, Jr.
Director of Community Development
City of Dublin
100 Civic Plaza
Dublin, CA 94568

Re: *Comments on Revised Draft Supplemental EIR for the East Dublin
Properties Stage 1 Development Plan and Annexation Project dated
January 2002 - SCH No. 2001052114*

Dear Mr. Peabody:

On behalf of property owners within the East Dublin Project Area, thank you for this opportunity to comment on the Revised Draft Supplemental EIR (also referred to herein as "document" or "Revised DSEIR") for the East Dublin Properties proposal to further implement the City's long-term planning goals for the East Dublin area ("Project"). First and foremost, we commend the City on its environmental analysis for this Project. We believe that the Revised DSEIR provides a detailed and thorough analysis of the additional potential significant impacts and changed circumstances surrounding the Project as required by CEQA, and we note that the City has made several beneficial clarifications in the Revised DSEIR regarding the relationship between the past planning approvals and the current planning Project. We agree with the City's interpretation that CEQA does not mandate additional or duplicative review once impacts have been addressed in a previously certified EIR. As one of the property owners, our comments seek to clarify a few points and fine tune certain discussion items to better assist the public's understanding of the Project.

1.0 INTRODUCTION

□ Action on this annexation and planning Project is an important step toward implementing the City's long-term planning goals, policies and programs for Eastern Dublin. As noted in the Revised DSEIR, the ultimate development of Eastern Dublin requires multiple layers of discretionary land use approvals, from the actions already undertaken, to future permit level approvals. The Project's furtherance of the City's long-range plans for developing the area within the City's approved Sphere of Influence and its programmatic planned approach cannot be overstressed.

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12.1 (cont)

The approach undertaken in the Revised DSEIR ensures that the impacts resulting from the implementation of the City's long-range plans are examined, while properly deferring examination of specific Project-level impacts until sufficient detail is known and meaningful analysis can be undertaken. This approach has the advantage of promoting the consideration of regional impacts that might be overlooked in a case-by-case examination of a particular development proposal (within the Project area) alone. It also allows the City to focus on broad policy alternatives and programmatic mitigation, while promoting the flexibility needed to address individual, particularized impacts and mitigation measures when additional project-level review and project-specific mitigation is most appropriate. We commend the City's approach and disagree with those public comments from third parties that suggest that a project-level examination is necessary at this phase. The City's approach avoids duplicative considerations and premature or speculative analysis and helps focus the analysis required so that this Project, and its resultant impacts, are adequately reviewed and addressed.

We also agree with the City's description of the role of this Revised DSEIR, as it relates to the previous EIR and the Initial Study prepared for the Project. In the Introduction, the City notes that many categories of potential impacts were analyzed in the Initial Study and determined not to require additional analysis in a supplemental EIR. This analysis was based on a detailed review of the Project and the previous EIR, with references to the relevant mitigation measures it set forth. The Initial Study is an important accompaniment to the Revised DSEIR and we agree with the City's characterization of the importance of the examination undertaken in the Initial Study.

We appreciate the City's extensive efforts to propose additional mitigation measures, where necessary, to address the newly identified significant, unavoidable impacts of this Project. As set forth in the Revised DSEIR and supporting studies, the benefits of undertaking this Project to implement the previous planning undertaken in the General Plan Amendment outweigh the identified unavoidable impacts.

■ Section 1.2, Scope of the Supplemental EIR (page 1-2).

In many parts of the Revised DSEIR and in the previously certified EIR, the City examined each factor that LAFCO must consider in approving the annexation. This Revised DSEIR examines the issues required by recent legal changes in LAFCO's annexation laws, provides a thorough analysis of the Project's consistency with each LAFCO policy and factor (whether considered an "environmental impact" or not) as well as the environmental impacts associated with the annexation. This cannot be stated plainly enough. And the point could be further stressed in the introduction to avoid confusion and to address comments the City has received on the previous EIR.

12.2

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2.0 PROJECT DESCRIPTION

▣ Project Applications – Pre-Zoning to PD Planned Development District and Stage 1 Development Plan (page 2-7).

The DSEIR provides a beneficial description of the applications associated with this Project to assist entities reviewing the document in understanding the programmatic nature of the actions to be undertaken. With regard to pre-zoning, the City has noted that the General Plan does not require a Specific Plan be developed at this time. More importantly, because of the nature of the land uses planned for the Project's 1,120 acre parcel, the pre-zoning that is being undertaken actually better assists in intelligently planning for development of the Project Area and ensuring that potential issues are addressed. This is another point that should be stressed even further in the Revised DSEIR. The pre-zoning sets forth guidelines for future development and, in combination with the specified mitigation and other actions undertaken for the Project, pre-zoning in the manner specified will ensure that development in the Project area is undertaken in a manner consistent with applicable policies and regulations in the City's planning documents.

12.3

▣ Section 2.6, Current Project: Eastern Dublin Property Owners Annexation and Prezoning: Land Uses, Densities, and Intensities (Page 2-9) and Table 2.4-2 (Page 2-5). The Future Study Area, designated for purposes of the Revised DSEIR as Rural Residential/Agriculture, is consistent with the General Plan and Specific Plan. These Plans recognized the practical fact that the East Dublin Specific Plan process needed to continue to completion yet also respected the fact that the later-in-time Livermore Airport Plan and its Protection Plan might recommend against residential development in that area. As such, the City artfully crafted the East Dublin Specific Plan to have a safety valve for such an event, which in fact did occur. Therefore, the area was automatically designated for minimal development to ensure the safety the Airport Plan seeks. We agree with the statement in the Revised DSEIR that any proposed future development of that area other than as Rural Residential/Agriculture would require additional City approvals and environmental documentation to ensure that the purposes behind such Plans are met and preserved.

12.4

3.0 ENVIRONMENTAL SETTING, IMPACTS, MITIGATION MEASURES

▣ Section 3.3, Biological Resources

We commend the City on its analysis of impacts to biological resources. We believe the City in its responses to comments should underscore that the mitigation measures prescribed will ensure that impacts are fully mitigated at this stage in the Project's development.

12.5

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■ Section 3.7, Water, Water Supply Litigation.

This document provides a beneficial update of the status of the challenges to DSRSD's water analysis. As noted, the Revised Water Service Analysis is now final and there are no additional issues associated with the litigation. We appreciate the City's efforts to update this analysis in the Revised DSEIR. The City's explanation of how DSRSD and the City have been cooperatively engaged in facilities planning for Dublin is particularly helpful and will assist LAFCO in their necessary consideration of the adequacy of water supplies and services for the Project area.

12.6

APPENDIX

We concur with the inclusion of the analysis on jobs and housing in the Project area in the appendix. This analysis explains how this Project will effectively lower the imbalance of jobs and housing in the City. It also provides support, along with other discussions in this document and previous analyses, for the conclusion that this Project will assist in meeting regional housing goals as well for the area. To assist others in locating and understanding this analysis, we recommend that a discussion or reference be included in the body of the DSEIR.

12.7



Again, we thank you for the opportunity to comment on this Revised DSEIR. The City has undertaken a thorough and extensive environmental review process and provided extensive public comment opportunities.

Respectfully submitted,


Michael Patrick Durkee

KLD

Responses to Letter 12: Allen Matkins

Response 12.1: The commenter notes that the proposed Project is an important step in implementing a long-term planning program in Eastern Dublin. This will require multiple layers of discretionary approvals and the furtherance of long-range plans within the City's Sphere of Influence cannot be overstressed.

The approach taken in the RSDEIR includes analysis of known impacts with further analysis of more detailed impacts anticipated to occur at future requests for individual entitlements are made to the City.

The commenter agrees with the description of the proposed Project.

The City of Dublin acknowledges this comment and no further action is required.

Response 12.2: In regard to the scope of the RDSEIR, LAFCO annexation requirements are fully addressed and analyzed as well as potential environmental impacts. This comment is acknowledged and no further analysis is needed.

Response 12.3: The project description provided in the RDSEIR provides a beneficial description of the acts to be undertaken. The City notes that a Specific Plan is not required at this point in the overall entitlement process and that the proposed pre-zoning assists in the intelligent planning of the area.

The City of Dublin acknowledges this comment. No further action is required.

Response 12.4: The Future Study Area and Rural Residential/Agriculture is consistent with the General Plan and Specific Plan, recognizing the existence of the Livermore Airport and the need for a Protection Plan. The commenter agrees with the statement in the RSDEIR that any proposed future development of the APA area other than as Rural Residential/Agriculture would require additional approvals and further environmental review.

The City of Dublin acknowledges this comment. No further action is required.

Response 12.5: In regard to the Biological Resources section of the RSDEIR, the commenter commends the City for the analysis of biological resources. The City of Dublin acknowledges this comment. No further action is required.

Response 12.6: The RSDEIR provides a beneficial update of the challenges to DSRSD's water analysis. The Revised Water Service analysis is now final and there are no additional issues related to litigation. The City of Dublin acknowledges this comment. No further action is required.

Response 12.7: The commenter concurs with the inclusion of the population, housing and jobs discussion in the appendix of the RSDEIR. This section describes how the proposed Project would effectively lower the imbalance of jobs and housing in the City. The City of Dublin acknowledges this comment. No further action is required.

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Letter 13

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March 1, 2002

Planning Department
City of Dublin
100 Civic Plaza
Dublin, CA 94583

RE: Revised Draft Supplemental Environmental Impact Report for
East Dublin Properties Stage 1 Development Plan &
Annexation, SCH #2001052114.

To Whom it May Concern:

This letter is written on behalf of Citizens for Balanced Growth, Inc. ("CBG") and Preserve Area Ridgeland's Committee ("PARC"), Inc. to comment on the above-referenced RDSEIR. CBG and PARC would like to commend Dublin on its decision to revise and recirculate the previous SEIR for this project. Unfortunately, however, while the RDSEIR has addressed some of the points raised by CBG, PARC, and other commenters, the document remains notably deficient in several aspects. For this reason, CBG and PARC must again ask that the SEIR be revised and recirculated.

FAILURE TO ADEQUATELY IDENTIFY AND DISCUSS IMPACTS

The RDSEIR clarifies that it, like the 1993 East Dublin EIR, is a programmatic document. However, this does not allow it to ignore potentially significant impacts, or to totally put off their analysis to a future time. As discussed in *City of Antioch v. City Council of City of Pittsburg* (1986) 187 Cal.App.3d 1325, 1337, even an EIR prepared at an early stage of a project must analyze the most likely development scenarios at an appropriate level of detail, including likely expected impacts. The RDSEIR fails to adequately meet this standard.

1. The project fails to identify and analyze impacts related to annexation. As noted in the City of Livermore's comment letter on the RDSEIR, Dublin appears to take as a given that annexation will occur, and fails to analyze the impacts from annexation *per se*. As has long been noted (see, e.g., *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263), annexation consists of more than just moving an imaginary line. It has real consequences and impacts. This is particularly true here because since certification of the 1992 EIR, Alameda County has fundamentally changed its land use policies for the East Dublin area. Under Measure D, passed in November 2000, much if not all of this area, if left unincorporated, would remain in agricultural use. The RDSEIR does analyze a no project

13.1

13.2

13.3

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alternative that posits the project area remaining unincorporated. However, it still assumes that major portions of that area would be developed at similar if not greater densities than in the proposed project. That assumption depends on another unstated assumption - that the developed area would be annexed into appropriate service districts for water and sewer service. This assumption is unwarranted. In reality, the no project alternative would, in all likelihood, be more similar to the "no development" alternative discussed in the RDSEIR. While a small amount of commercial and residential development might occur in areas adjacent to Dublin, without annexation to the City, annexation to the service districts (and the development that would ensue thereafter) would be far less likely. The analysis needs to be revised to reflect this reality.

13.3
(cont.)

2. The RDSEIR underestimates project impacts. As pointed out in Livermore's comment letter, the RDSEIR's impact analysis assumes residential development will occur to the midpoint of allowable density. However, it provides no justification for this assumption. Unless the City is proposing density controls that will cap overall development density, the RDSEIR must assume that development will occur to the density allowed by the project plan. All impacts associated with project density (e.g., traffic, air quality, water, sewage, etc.) are accordingly underestimated. The project and/or RDSEIR need to be revised to either institute appropriate density controls or reanalyze impacts assuming build out to the full extent of allowable density. As Livermore also points out, this same unwarranted assumption also applies to analysis of cumulative impacts from development of the Eastern Dublin area.

13.4

CBG and PARC also concur with the remainder of Livermore's analysis of unstated or understated project impacts.

ALTERNATIVES ANALYSIS

CBG and PARC, in their comment letter on the DSEIR, which, along with the earlier comment letter on the NOP for the SEIR, are incorporated herein by this reference, identified several project alternatives that the SEIR needed to consider. The RDSEIR has failed to study any of these alternatives. Instead, it dismisses them by noting that they would require extensive amendments to the Dublin General Plan, and are therefore outside the scope of the project. This is not an adequate excuse.

13.5

CEQA requires that and EIR contain an analysis of a reasonable range of project alternatives, particularly alternatives that could reduce or avoid the project's significant impacts. Further, alternatives need to be considered even if they would not fully meet the project sponsor's stated purpose. Nor is there anything in CEQA that says that an alternative need not be considered if it would

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require additional actions by the lead agency beyond those proposed in the preferred alternative.

In this case, CBG and PARC have proposed two "smart growth" project alternatives. One would increase densities within the current City of Dublin and avoid any further expansion of city boundaries. The other would provide for a smaller but higher density project. The RDSEIR dismisses both alternatives as requiring changes in General Plan policies. As noted, this is not an adequate excuse. An EIR may refuse to study an alternative if it provides evidence that the alternative is infeasible. However, the fact that an alternative might require amending general plan policies does not per se make it infeasible.

The RDSEIR also asserts, without providing any supporting data, that a reduced size/high density alternative would have increased traffic impacts, presumably because traffic would be concentrated on a smaller number of streets. This ignores the well-documented fact that public transit works better with higher density projects. Indeed, one limitation to public transit identified in the RDSEIR is the limited availability of public transit in the project area. A smaller but higher density project, coupled to policies requiring, for example, employer-funded transit passes for employees and transit stops convenient to high density housing developments, would result in far greater availability of public transit and much higher levels of public transit use than are assumed in the analysis of the preferred alternative. The result of this greater public transit use would be a decrease, not an increase, in traffic impacts associated with a "smart growth" alternative. In short, the RDSEIR's summary rejection of any "smart growth" alternative is improper and a violation of CEQA.

DETAILED DISCUSSION OF IMPACTS & MITIGATION

The following section discusses in more detail the deficiencies in the DSEIR's discussion of project impacts and their mitigation.

1) land use, housing and population - see comments in CBG/PARC's comment letter on the NOP for the SEIR; these comments have not been addressed adequately in the DSEIR.

2) agricultural impacts - the RDSEIR's analysis, like that in the DSEIR, concludes that while portions of the project area contain class I or II soils, irrigation is not feasible. The report acknowledges that these parts of the project area will be in close proximity to major recycled water lines (Figure 2-J), but asserts that because recycled water will be priced similarly to drinking quality water, it will be unaffordable. The RDSEIR does not, however, provide any evidence to demonstrate that this will necessarily be the case. In other water Districts, like East Bay MUD, the price for recycled water has intentionally

13.5
(Cont.)

13.6

13.7

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been set below that of potable water to encourage recycled water use. Further, DSRSD, the recycled water provider, has every incentive to maximize recycled water use because it will reduce the need to export wastewater through LAVWMA's limited pipeline capacity. For these reasons, it cannot be concluded a priori, as the RSDEIR attempts to do, that use of recycled water for crop irrigation is infeasible. Further, the financial viability of irrigation obviously depends on the value of the crop to be reduced. The RDSEIR does not consider what crops might be attractive to grow on prime agricultural lands directly adjacent to a major urban market. However, vegetable crops or flowers are both high value crops that could justify a relatively high cost of production. IN short, the RDSEIR has failed to show that irrigation of these lands is infeasible. The EIR therefore needs to be revised to consider the removal from use of these prime agricultural lands.

13.7
(cont.)

3) Air Quality and Traffic Impacts - CBG and PARC continue to believe that the RDSEIR fails to adequately consider mitigation measures to reduce air quality and traffic impacts. This has already been discussed in CBG/PARC's prior comment letters.

13.8

4) Impacts on Biological Resources - The RDSEIR relies heavily on the future preparation of a Resource Management Plan (RMP) to mitigate expected biological impacts. It then falls back on the excuse that, because it is a programmatic EIR, it may rely on that future study as mitigation. This is incorrect. While a programmatic EIR need not identify in detail each specific mitigation measure that may be undertaken at the project level, it must, at the very least, commit itself to full mitigation. The RDSEIR fails to meet this standard. Over and over again the RDSEIR attaches hedge words like "where feasible" to the proposed future mitigation to be based on the RMP. The RDSEIR goes on to repeatedly find adequate mitigation. But, what if the avoidance or mitigation is NOT found feasible? The RDSEIR refuses to commit itself to avoiding or fully mitigating impacts. It is quite conceivable, indeed, given Dublin's past history, almost predictable, that when the project level analysis is completed, Dublin will find that implementation of the RMP to a level necessary to fully avoid or mitigate project impacts is "infeasible". As noted in *Sacramento Old City Assn. v. City Council* (1991) 229 Cal.App.3d 1011, 1028-1029, at the program level, a commitment to full mitigation at the project level will suffice. However, if it is not possible to assure feasible mitigation, the project impact must be identified as significant. Dublin must choose one of these two options. It must either commit itself to fully implementing the RMP, including dropping projects whose impacts cannot be avoided or mitigated, or acknowledge a significant impact.

13.9

13.10

Utilities - water, wastewater & electricity - As in its earlier comments letters, CBG/PARC still find the RDSEIR's analysis inadequate. Specifically with regard to the water

13.11

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serivde analysis done by DSRSD, Dublin relies on the advisory decision of the mediator in that dispute. However, CBG will shortly be filing a motion in Sacramento County Superior Court challenging the adequacy of that water service analysis and requesting that DSRSD rescind it and prepare instead an accurate water service analysis. That analysis would show that there are not sufficient long-term reliable supplies to serve this project. While the result of this litigation remains to be seen, CBG and PARC expect that if it is successful, Dublin will further revise its SEIR in light of those changed circumstances.

13.11
(cont.)

CBG and PARC look forward to reviewing a further revised EIR that responds fully to these comments.

Most sincerely,



Stuart M. Flashman

Responses to Letter 13: Law Offices of Stuart Flashman

Response 13.1: See response to comment 10.1, above, and specific comments below. The Eastern Dublin EIR was a program level EIR, and this Revised DSEIR, which supplements that document, is also a program level document. The Project is not individual development projects in the East Dublin area, but rather is the implementation of the City's long-range plans for development of the East Dublin area pursuant to the General Plan and Specific Plan. This programmatic approach ensures that the impacts of implementation of the City's long-range plans are examined. As noted in the RDSEIR, "[a]dditional environmental review of individual development projects within the annexation and rezoning area may be required prior to the granting of additional land use entitlements." (Id.) This approach is consistent with the use of a Program EIR for subsequent implementing activities pursuant to CEQA Guidelines section 15168(c).

Response 13.2: Annexation is identified in the Project Description of the Revised DSEIR as a part of the project assessed in that document. The physical impacts of annexation are considered to be the same as the impacts of development of the proposed EDPO project.

Response 13.3: Comment noted. The No Project Alternative represents development under existing plans and policies (East County Area Plan). If no development were to occur, project impacts would not occur, and environmental conditions would be similar to those described in the setting sections of the EIR.

Response 13.4: See response to City of Livermore comment 10.11a.

Response 13.5: See response to City of Livermore comment 10.27a.

Response 13.6: See response to City of Livermore comments 10.11a, b, and c.

Response 13.7: See response to City of Livermore comment 10.13.

Response 13.8: The comment states that the DSEIR concludes that air quality and traffic impacts beyond those identified in the 1992 EIR cannot be further mitigated to a significant extent, and feels that the DSEIR puts off consideration of mitigation measures intended to reduce use of single occupancy vehicles (SOV) and encourage use of carpools and public transit to the Stage 2 Development Plan.

Further mitigations of Project traffic impacts beyond those identified in the Eastern Dublin EIR are, in fact, included in the DSEIR. These mitigation

measures are identified in the DSEIR to the best extent possible to mitigate traffic impacts beyond those identified in the Eastern Dublin EIR.

See also responses to specific comments 10.14 and 10.20, above, and responses to comment letters 3 and 5, above.

Response 13.9: First, the comment states that the Revised DSEIR improperly relies on a future study (the Resource Management Plan or "RMP" required by Supplemental Mitigation Measure SM-BIO-1) to mitigate biological impacts. Second, the comment questions whether the proposed Supplemental Mitigation Measures are feasible, and states that the Revised DSEIR refuses to commit itself to avoiding or fully mitigating impacts.

As explained in detail in Responses 10.15.b.1 and 10.15.d, the Revised DSEIR is a program-level document that is not required to be based on comprehensive biological survey information for every property within the Project Area, but which nevertheless does analyze such survey information to the extent it is presently available. Relying on such information, the Revised DSEIR acknowledges that certain biological resources likely exist within the Project Area, that future development of properties within the Project Area (which development proposals will be developed in the future by individual property owners and submitted to the City for discretionary review and additional CEQA environmental review) have the potential to affect those biological resources, and establishes specific mitigation requirements and standards for such impacts. The Resource Management Plan required by SM-BIO-1 is one such mitigation requirement. It requires that before any development application for any property in the Project Area can be reviewed and approved by the City, a Resource Management Plan must be prepared that encompasses all properties in the Project Area. Under the terms of SM-BIO-1, the Resource Management Plan must address specific topics, and must provide for mitigation that satisfies certain specific standards. Specifically, as the DSEIR's discussion of SM-BIO-1 states, the Resource Management Plan must incorporate the specific Biological Resources mitigation measures listed in the EDEIR and in the Revised DSEIR itself. As a result, SM-BIO-1 does not defer mitigation, but instead establishes the specific mitigation requirements and standards applicable to all properties within the Project Area based on the mitigation standards identified in the Eastern Dublin EIR and Revised DSEIR. This will ensure that a unified, coherent approach is taken throughout the Project Area to implement the biological resource mitigation measures identified in the EDEIR and the Revised DSEIR. It is the City's position that this mitigation measure thereby completely addresses and mitigates to less than significant the anticipated biological resource impacts.

Response 13.10: With respect to demonstrating the feasibility of the Supplemental Mitigation Measures, please refer to Responses 10.15.h.2, 10.15.j.8 and 10.15.k. As explained in those Responses, compliance with the mitigation

measures is mandatory. As a result, development of individual properties within the Project Area must comply with the mitigation measures (whether through avoidance of the biological resource in question, or mitigation according to the mitigation measures for unavoidable impacts), or development will not be allowed.

Additionally, all mitigation measures conditioned with "where feasible" or an equivalent qualifier are accompanied with a mitigation specifying measures to be undertaken if the primary measure is not feasible.

Response 13.11: Please see response to City of Livermore comment 10.16. Long term planning for utility service is the responsibility of DSRSD and PG&E (or state regulators) and is beyond the scope of this DSEIR. The "will serve" letter is the principal control imposed as mitigation because the City is not responsible for providing utility service. The City must rely on DSRSD and PG&E fulfilling their responsibilities to provide adequate utility service to their customers. Because of the utility providers' obligations to provide utility service, the City must also presume that the "other half" of the project will eventually be completed. Accordingly, the analysis suggested by the comment is unnecessary. See also responses to DSRSD letter (letter 7) and City of Livermore comments 10.16 - 10.18.

III. Summary of Changes to Revised DSEIR Text

On page 3.3-15, item 4 under the comprehensive and detailed plan for managing biological resources in SM-BIO-1 is amended to read as follows:

4. To the greatest extent feasible, and consistent with applicable mitigation measures and regulatory requirements, impacts to sensitive biological resources shall be avoided, and such resources shall be preserved and managed on-site (i.e., within the Project area); in so doing, to the greatest extent feasible such resources shall be preserved in a manner that preserves connections to biologically sensitive areas beyond the Project Area boundary.

Item 4 on p. 3.3-14 of the Revised DSEIR is revised to address the Western pond turtle as follows:

4. Special Status amphibians and reptiles: California red-legged frog, California tiger salamander, and Western pond turtle.

On page 3.3-17, Supplemental Mitigation Measure SM-BIO-3 is revised to read in its entirety as follows:

SM-BIO-3: Once presence is determined for a special status plant species, areas supporting the species should be avoided to the extent feasible, except that any observed population(s) of palmate-bracted bird's beak or Livermore Valley tarweed must be preserved and protected in perpetuity.

The following four tables are added to Section 3.3 Biological Resources:

Table 3.3-3.
California Red-legged Frog Reported Occurrences
in the Vicinity of the East Dublin Properties

Figure Reference	Description of Sighting	Date of Occurrence	Source
1	Impoundment 0.9 mi E of Tassajara Rd and 0.35 mi N of Alameda- Contra Costa County line.	1992	CNDDDB (2000)
2	Tassajara Creek, 0.15 mi E of Tassajara Rd and ~0.5 mi N of Alameda/Contra Costa County line.	1992	CNDDDB (2000)
3	Unnamed tributary to Tassajara Creek, 0.8 mi E of Tassajara Rd and 2 mi N of I-580.	1998	CNDDDB (2000)
	Unnamed eastern tributary of Tassajara	1998	CNDDDB

4	Creek, just south of Alameda/Contra Costa County line, north of Pleasanton.		(2000)
5	Stock pond on unnamed tributary to Arroyo Las Positas, 0.35 mi E of Tassajara Rd and 0.7 mi N of I-580.	2000	H.T. Harvey & Associates (2000b)
6	Pond along W edge of Fallon Rd 0.4 mi N of I-580.	2000	H.T. Harvey & Associates (2000b)
7	Spring cistern on unnamed tributary to Arroyo Las Positas, 0.4 mi W of Fallon Rd and 0.4 mi N of I-580.	2000	H.T. Harvey & Associates (2000b)
8	Unnamed eastern tributary to Tassajara Creek, 0.3 mi S of Alameda/Contra Costa County line and 0.2 mi E of Tassajara Rd.	1989	Eastern Dublin GPA- SP-EIR (1992)
9	Stock pond on unnamed eastern tributary to Cottonwood Creek, midway between Doolan and Cottonwood canyons, ~2.5 mi N of I-580.	1989	Eastern Dublin GPA- SP-EIR (1992)
10	Unnamed eastern tributary to Cottonwood Creek, ~1.6 mi N of I-580 and 0.15 mi NE of Doolan Rd.	1989	Eastern Dublin GPA- SP-EIR (1992)
11	Impoundment on Alameda/Contra Costa County line, ~0.3 mi W of Cottonwood Creek.	1989	Eastern Dublin GPA- SP-EIR (1992)

12	Stock pond on unnamed tributary to Arroyo Las Positas 0.6 mi NW of junction of Fallon Rd and I-580, E of Dublin.	1989	Eastern Dublin GPA- SP-EIR (1992)
13	Stock pond on unnamed tributary to Arroyo Las Positas 0.65 mi N of junction of Fallon Rd and I-580, E of Fallon Rd.	2000	Gary Beeman, pers. comm.
14	Unnamed eastern tributary to Tassajara Creek, 0.9 mi S of Alameda/Contra Costa County line and 0.7mi E of Tassajara Rd.	1989	Eastern Dublin GPA- SP-EIR (1992)
15	2.1 mi N of I-580 on Doolan Rd.	1993	Gary Beeman, pers. comm.
16	Cottonwood Creek in Doolan Canyon ~ 0.9 mi N of I-580.	1992	Gary Beeman, pers. comm.
17	Collier Canyon Rd ~ 2.5 mi N of I-580.	1992	Gary Beeman, pers. comm.
18	Collier Creek at entrance to Las Positas College.	2000	CNDDDB (2000)
19	Western drainage of Fallon Enterprises, Property, ~1.6 mi N of I-580.	2001	Sycamore Associates (2001a)
20	Western drainage of Fallon Enterprises, ~1.4 mi N of I-580.	2001	Sycamore Associates (2001a)

21	Western drainage of Fallon Enterprises, ~1.3 mi N of I-580.	2001	Sycamore Associates (2001a)
22	Unmarked drainage of Fallon Enterprises, ~1.4 mi N of I-580.	2001	Sycamore Associates (2001a)
23	Spring at head of central drainage of Braddock and Logan Group Property, ~ 1.35 mi N of I-580.	2001	Sycamore Associates (2001a)
44	Numerous breeding individuals located on central portion of Jordan Ranch in east Dublin.	2000	Zentner & Zentner (2000)

Table 3.3.4.
California Tiger Salamander Reported Occurrences
in the Vicinity of the East Dublin Properties

Figure Reference	Description of Sighting	Date of Occurrence	Source
24	Vicinity of intersection of Doolan Rd and Collier Rd.	1992	CNDDB (2000)
25	Doolan Rd, 0.7 mi N of I-580, NW of Livermore.	1992	CNDDB (2000)
26	Along Doolan Rd, 1.5 mi N of I-580, NW of Livermore.	1992	CNDDB (2000)
27	Along Doolan Rd, 2.5 mi N of I-580, NW of Livermore.	1992	CNDDB (2000)
28	Along Collier Canyon Rd, 2.5 mi N of I-580, NW of Livermore.	1992	CNDDB (2000)
29	Along Collier Canyon Rd, 3 mi N of I-580, NW of Livermore.	1992	CNDDB (2000)
30	0.6 mi NW of junction of Fallon Rd and I-580, E of Dublin. (1998)	1998	CNDDB (2000)
31	Stock pond 0.8 mi NNE of intersection of Tassajara Rd and I-580, E of Dublin.	1998	CNDDB (2000)
32	1.2 mi NW of I-580 and North Livermore Avenue interchange, N of Livermore.	1998	CNDDB (2000)
33	W of Tassajara Creek, 0.6 mi N of Santa Rita County Rehabilitation Center, N of Dublin.	1997	CNDDB (2000)
34	Stock pond along unnamed tributary to Arroyo Las Positas, ~ .35 mi N of I-580 and midway between Fallon and Tassajara Rds.	2000	H.T. Harvey & Associates (2000b)
35	Along Doolan Rd, 2.7 mi N of I-580, NW of Livermore.	1993	Gary Beeman, pers. comm.
36	Along Doolan Rd, 2.1 mi N of I-580, NW of Livermore.	1992	Gary Beeman, pers. comm.

37	Abandoned swimming pool off Doolan Rd ~ 1.8 mi N of I-580	1993	Gary Beeman, pers. comm.
38	Quarry pond on W side of Croak Rd., Anderson Property, ~.5 mi N of I-580.	2001	Sycamore Associates (2001d)
39	Ground squirrel burrow in the northeast corner of the Branaugh property	2001	Sycamore Associates (2001d)

Table 3.3.5

San Joaquin Kit Fox, Golden Eagle, Tricolored Blackbird
Colony and Burrowing Owl Reported Occurrences
in the Vicinity of the East Dublin Properties

Figure Reference	Description of Occurrence	Date of Occurrence	Source
40	Unconfirmed San Joaquin kit fox den in Collier Canyon, ~ 2mi N of I-580.	1975	The Habitat Restoration Group (1992)
41	Active golden eagle nest in a eucalyptus, SE of unnamed tributary to Tassajara Creek, 0.9 mi E of Tassajara Rd and 2 mi N of I-580.	1989 through present	Sue Townsend pers. Comm.
42	Golden eagle nest, along western tributary to Collier Canyon Creek, ~ 3 mi N of I-580.	Date unknown	Gary Beeman, pers. Comm.
43	Tricolored blackbird colony in freshwater marsh in a quarry pond located on the Andersen Property.	1999	Sue Townsend & Colleen Lenihan pers. Comm 2000
45	Burrowing owl individual observed on ground, adjacent to cluster of burrows on south portion of Croak property in east Dublin.	2001	Briones, Wood and Geier pers. comm. 2001
46	Burrowing owl individual observed next to burrow on northern border of the Tseng property in east Dublin.		Sycamore Associates LLC 2002b

Table 3.3.6.
Congdon's Tarplant and San Joaquin Spearscale Reported Occurrences
Within the East Dublin Properties

47	San Joaquin Spearscale on south-central portion of the Tseng property in east Dublin..	2001	Sycamore Associates LLC 2002a
48	San Joaquin Spearscale located southern border of the Mandeville property in east Dublin.	2001	Sycamore Associates LLC 2002a
49	San Joaquin Spearscale located on central portion of the Mandeville property in east Dublin.	2001	Sycamore Associates LLC 2002a
50	San Joaquin Spearscale located on central portion of the Mandeville property in east Dublin.	2001	Sycamore Associates LLC 2002a
51	Congdon's tarplant located on southwest corner of Tseng property in east Dublin.	2001	Sycamore Associates LLC 2002c
52	Congdon's tarplant located on southeast corner of Tseng property in east Dublin.	2001	Sycamore Associates LLC 2002c
53	Congdon's tarplant located southern border of Righetti property in east Dublin	2001	Sycamore Associates LLC 2002c
54	Congdon's tarplant located on northern portion of Tseng property in east Dublin.	2001	Sycamore Associates LLC 2002c

References

- Sycamore Associates LLC. 2002a. Botanical Assessment of the Bankhead, Mandeville, and Croak Properties, Part of the East Dublin Properties, Alameda County, California. January.
- Sycamore Associates LLC. 2002b. Habitat Assessment for the Burrowing Owl, Tseng and Righetti Properties, Part of the East Dublin Properties, Alameda County, California. February.
- Sycamore Associates LLC. 2002c. Re: Botanical Surveys at the Tseng, Righetti, Campbell, Branaugh and Anderson Properties. Memo from Chris Thayer to David Moser. March 20.
- Zentner & Zentner. 2000. *Tassajara Creek Subdivision Red-legged Frog Cumulative Impacts Analysis*. February.

On pages 3.6-7 and 3.6-8 of the Revised DSEIR, the paragraph entitled *Freeways* is revised to read as follows.

Freeways. Freeway impacts are significant if the amount of traffic is increased substantially beyond the levels anticipated in the Eastern Dublin EIR so as to exceed Alameda County Congestion Management Agency (ACCMA) standards for the LOS Monitoring Program. ACCMA has established LOS standard of E for the Congestion Management Program (CMP) roadway network, except where F was the level of service originally measured, in which case the standard shall be F. Although the LOS E standard was established for the purpose of monitoring existing level of service conditions for the Alameda County CMP Designated Roadway System, this standard provides a standard of significance for determining potential project environmental impacts on adjacent freeway systems within Alameda County.

In the project area, ACCMA has identified I-580, I-680, SR 84, Dublin Boulevard, Tassajara Road/Santa Rita Road and Fallon Road/El Charro Road as the Metropolitan Transportation System (MTS) routes that are subject to the CMP Land Use Analysis Program requirements. Since the City's standard is LOS D for Dublin Boulevard, Tassajara Road and Fallon Road, the LOS E standard (except where F is the level of service without Project traffic, in which case the standard is F) is applicable only to freeways.

In addition to LOS roadway standards, ACCMA guidelines also specify that any proposed project generating 100 PM peak hour trips over existing conditions must conduct a traffic analysis of the project using the Countywide Transportation Model for the base years 2005 and 2020. However, the guidelines also allow for other transportation models / projections to be used and Year 2025 must be compared to the Countywide Transportation Model to ensure that the more conservative of the two traffic projections are used for CEQA purposes. Discussions with ACCMA staff in November 2000 indicate that Year 2025 analysis using the Tri-Valley Transportation Model is appropriate to use for the proposed Dublin Transit Center project (Draft EIR for Dublin Transit Center, SCH No. 20001120395 [July 2001], available at City of Dublin). Additional discussions with ACCMA staff in August 2001 confirmed that Year 2005 and 2025 analysis for the proposed Project can be done using the generally more conservative traffic volumes from models other than the Countywide Transportation Demand Model. Therefore, the use of the generally more conservative Year 2025 Tri-Valley Transportation Model to analyze impacts of the proposed Project should be appropriate. Compared to the

Countywide Transportation Demand Model, the Tri-Valley Transportation Model represents a more specific and focused travel demand-forecasting tool for the Tri-Valley area of Alameda County.

On page 3.6-27 of the Revised DSEIR the reference to "Figure 2-I" is corrected to read "Figure 2-K."

The following items are added to 6.2 References:

Sycamore Associates LLC. 2002a. *Botanical Assessment of the Bankhead, Mandeville, and Croak Properties, Part of the East Dublin Properties, Alameda County, California.* January.

Sycamore Associates LLC. 2002b. *Habitat Assessment for the Burrowing Owl, Tseng and Righetti Properties, Part of the East Dublin Properties, Alameda County, California.* February.

Sycamore Associates LLC. 2002c. *Re: Botanical Surveys at the Tseng, Righetti, Campbell, Branaugh and Anderson Properties.* Memo from Chris Thayer to David Moser. March 20.