

CHAPTER 1

Summary

A. Introduction

Pursuant to Section 15123 of the California Environmental Quality Act (CEQA) Guidelines (CEQA *Guidelines*), this chapter provides a brief summary of the proposed Niles Gateway Mixed-Use Project and its potential environmental consequences. This chapter is intended to summarize in a stand-alone section the proposed project described in Chapter 3 (Project Description), the impacts and mitigation measures discussed in Chapter 4 (Environmental Setting, Impacts, and Mitigation Measures), and the alternatives analysis presented in Chapter 5 (Alternatives).

This Environmental Impact Report (Draft EIR) has been prepared to evaluate the anticipated environmental effects of the project in conformance with the provisions of CEQA and the CEQA *Guidelines*. The lead agency, the City of Fremont (City), is the public agency that has the principal responsibility for implementing the project, which includes the proposed General Plan Amendment, Rezoning, Vesting Tentative Tract Map, and other related approvals (referred to collectively hereafter as the project or proposed project).

B. Project Description

The project site is located at 37899 Niles Boulevard in the northeastern portion of the City of Fremont. The parcel is generally triangular in shape and flat in topography. The frontage of the northeastern part of the site is on the west side of Niles Boulevard before it makes a 90-degree turn eastward towards Mission Boulevard. A dead-end 0.73-acre segment of Niles Boulevard continues southward from the 90-degree turn along the remainder of the site's eastern edge.

The project site contains remnants of the former Henkel/Schuckl Cannery and was used for a variety of industrial land use activities including a foundry, cannery, herbicide manufacturing, metal treatment, and chemical manufacturing between the early 1900s and 2002. All structures associated with the previous industrial uses were demolished in 2009 and remnants of the building foundations are all that remain. Debris piles containing soil, broken paving materials, and discarded items still remain throughout the site. Vehicular access to the site is currently from Niles Boulevard. Curb, gutter, and sidewalk are located along the northern portion of the project frontage with Niles Boulevard. The project site south of the 90-degree turn of Niles Boulevard is accessed from the roadway that continues south from Niles Boulevard and dead-ends at the Alameda Creek Trail. Vegetation on the site generally consists of ornamental trees and shrubs located around the perimeter and weedy vegetation within the center of the site.

The proposed project would include development of a vacant 6.07-acre parcel with two types of buildings consisting of 95 dwelling units and 7,333 square feet of non-residential uses. The 95 dwelling units would consist of 82 townhomes and 13 “Creative-Retail-Artist-Flex-Tenancy” (CRAFT) units. The 7,333 square feet of non-residential uses would consist of 5,883 square feet of retail/restaurant uses and 1,450 square feet of community center space. In total, 187,773 square feet of building floor area is proposed to be developed on the site. Northbound Niles Boulevard would be re-stripped to accommodate a new left turn pocket lane at a new project driveway, at the north end of the site on Niles Boulevard, which would connect to a private street (Street A) that would encircle the project site and connect with Niles Boulevard at the 90-degree turn. As part of the project, the City would vacate the portion of Niles Boulevard south of the 90-degree turn.

A total of 94 new surface parking spaces would be established, including 25 new diagonal parking spaces on Niles Boulevard along the frontage of the CRAFT building, 65 parallel parking spaces on the west and east side of the project site along Street A, and four off-street spaces in a parking lot in the townhome area. Each CRAFT unit and townhome would have enclosed parking spaces (one to two spaces in each unit’s garage), providing 188 additional spaces. Collectively, 282 new parking spaces would be provided .

The project would require a General Plan Amendment to change the land use designation from Service Industrial (Special Study Area) to Town Center and Medium Density Residential and a Rezoning of the existing parcel from I-S (Service Industrial) with an Historical Overlay District (HOD) to Planned District P-2014-0338 (HOD). The proposed project would also require the following entitlements: a Vesting Tentative Tract Map, Private Street, General Conformity Finding for a General Street Vacation, Tree Removal Permit, and Preliminary Grading Plan.

C. Environmental Review Process

Pursuant to the requirements of the CEQA, a notice was issued by the City on January 23, 2018, indicating its intent to prepare this EIR. That “Notice of Preparation” initiated a 30-day period during which residents, stakeholders, and public agencies were invited to submit comments on the scope of topics that should be studied in the EIR. A scoping meeting was held on February 12, 2018 to provide additional opportunity for comment. The 30-day scoping period for the project remained open through February 22, 2018.

The City, as lead agency, determined that preparation of an EIR was necessary for the proposed project because there was “substantial evidence that the proposed project may have a significant effect on the environment.” The Initial Study Checklist prepared for the project concluded that all resource topics evaluated under CEQA, except two, would have less-than-significant impacts with recommended mitigation measures. The two topics that required further investigation are aesthetic resources (visual character), and transportation and traffic. These topics are further studied in this EIR.

This Draft EIR is available for a 45-day public review period as indicated on the Public Notice of Availability of this document, which ends on July 9, 2018. The purpose of public review of the Draft EIR is to receive comments on the adequacy of the document in addressing adverse

physical effects of the project. Following the close of the public review period, the City will provide a summary of the comments received and responses to those comments, along with any necessary changes to the Draft EIR. This Draft EIR is being circulated to relevant local, regional and/or state agencies, and to interested organizations and individuals who may wish to review and comment on the report.

During the public review period, written comments on the adequacy of the Draft EIR may be submitted to the City of Fremont at the following address:

David Wage
City of Fremont
Planning Division
39550 Liberty Street
Fremont, CA 94538

Written comments may also be submitted via email to dwage@fremont.gov with “Niles Gateway Mixed-Use Project Draft EIR” noted in the subject line.

Responses to all substantive comments received on the adequacy of the Draft EIR and submitted within the specified review period will be prepared and included in the Responses to Comments/Final EIR. Prior to approval of the project, the City of Fremont must certify the Final EIR and adopt a Mitigation Monitoring and Reporting Program for mitigation measures identified in the EIR (including those identified in the Initial Study), in accordance with the requirements of California Public Resources Code (PRC) Section 21001.

D. Proposed Project Impacts

Potentially significant environmental impacts of the proposed project are summarized in **Table 1-1**. This table identifies the impacts identified in the EIR, as well as the less-than-significant impacts with recommended mitigation measures identified in the Initial Study (see **Appendix A**). No mitigation measures were identified in the EIR because, effects related to aesthetics and transportation were found to be less than significant, with the exception of cumulative traffic, which was determined to be a significant and unavoidable impact that could not be mitigated. This table lists impacts and mitigation measures in two major categories: significant impacts that would remain significant even with mitigation (significant and unavoidable), and significant impacts that could be mitigated to a less than significant level (significant but mitigable). Refer to **Appendix A** for a summary of impacts found in the Initial Study to be less than significant.

For each significant impact, the table includes a summary of mitigation measure(s) and an indication of level of significance after implementation of mitigation measures. A complete discussion of the aesthetic and transportation and traffic impacts are provided in Chapter 4, *Environmental Setting, Impacts, and Mitigation Measures* of this EIR.

Table 1-1 indicates that:

- Temporary construction-related air quality impacts would be mitigated to a less-than-significant level;
- Impacts related to hazards and hazardous materials would be mitigated to a less-than-significant level;
- Impacts related to noise would be mitigated to a less-than-significant level;
- Impacts to transportation and traffic under Cumulative plus Project conditions would be significant and unavoidable; and
- All other impacts related to the physical environment would be less than significant and would not require implementation of mitigation measures.

E. Alternatives

Chapter 5 of this EIR analyzes a range of reasonable alternatives to the proposed project. Per CEQA *Guidelines* Section 15126.6, the lead agency identified the following reasonable range of project alternatives to be addressed in this EIR:

- No Project Alternative
- Alternative 1: 86-Unit Reduced Density Alternative
- Alternative 2: 75-Unit Reduced Density Alternative

The Alternatives discussion of this EIR was prepared in accordance with Section 15126.6 of the CEQA *Guidelines* and identifies alternatives that are capable of eliminating or reducing significant adverse effects associated with the proposed project while feasibly attaining most of the basic objectives. A 60-Unit Reduced Density Alternative and an Off-Site Location Alternative were also considered, but ultimately rejected. All three alternatives would reduce the significant and unavoidable cumulative impact related to traffic. This EIR concludes that Alternative 2 (75-Unit Reduced Density Alternative) would be the “environmentally superior” alternative because, due to the reduction in residential units in comparison to the proposed project, it would eliminate the significant-and-unavoidable impact related to cumulative intersection operations and would also further reduce less-than-significant impacts on other resource topics while meeting the basic objectives of the project.

F. Issues of Concern

The main issues of concern regarding the proposed project include potential impacts on visual character, and transportation and traffic. These issues are fully addressed in Chapter 4, *Environmental Setting, Impacts, and Mitigation Measures*.

Other issues mentioned during the scoping period following release of the NOP include school capacity; hazardous materials; water quality and drainage; groundwater; noise and vibration impacts from trains; impacts to the Niles community character; concern regarding the density, building height, and visual character of the development; air quality and dust impacts to sensitive

receptors; biological resources; seismic impacts; population growth; and adequacy of the Initial Study.

A summary table of the NOP comments is included in **Appendix B** of this EIR. The summary table in **Appendix B** provides brief responses to comments or references where the issues were addressed in the Initial Study or EIR. Some comments received in response to the NOP raised questions multiple times with respect to the same issue. The environmental issues raised during the public scoping period were considered by the City during the preparation of the EIR. Although responses to NOP scoping period comments do not require written responses under CEQA, clarification and/or additional information is provided in Chapter 1, *Introduction* for issues that were raised multiple times.

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

Environmental Impact	Mitigation Measures	Level of Significance after Mitigation
EIR		
Aesthetics		
Impact 4.A-1: The proposed project would change the existing visual character of the project site and vicinity but would not substantially degrade the existing visual character or quality of the site and its surroundings.	None required	Less than Significant
Impact 4.A-2: The proposed project, combined with cumulative development in the Niles Historic Overlay District, would not potentially result in a significant adverse aesthetic impact.	None required	Less than Significant
Transportation and Traffic		
Impact 4.B-1: Development facilitated by the proposed project would increase traffic volumes on the area roadway network, but would not exceed the capacity of the existing circulation system, based on the applicable measures of effectiveness..	None required	Less than Significant
Impact 4.B-2: The proposed project, combined with cumulative development, including past, present, and reasonably foreseeable future development, would result in significant cumulative traffic impacts, as the intersection of Mission Boulevard (SR-238)/Niles Boulevard and Niles Canyon Road is projected to operate at LOS F under no project conditions, and the addition of project-generated traffic would cause the average control delay at this intersection to increase by more than four seconds per vehicle.	None feasible	Significant and Unavoidable
Impact 4.B-3: The project would add traffic to Congestion Management Program facilities (roadway segments on the Metropolitan Transportation System [MTS]), but would not cause operations to drop to LOS F, or increase the freeway v/c ratio by 0.05 or greater on segments already forecast to operate at LOS F.	None required	Less than Significant
Impact 4.B-4: Development facilitated by the proposed project would not substantially increase hazards due to a design feature or incompatible uses, based on an analysis of the site access, driveway operation, sight distance, circulation, parking, and intersection queue length.	None required	Less than Significant
Impact 4.B-5: Development facilitated by the proposed project would not result in inadequate emergency access.	None required	Less than Significant
Impact 4.B-6: Development facilitated by the proposed project would increase traffic volumes on the area roadway network, affecting the performance of public transit and non-motorized travel modes (i.e., pedestrians and bicyclists).	None required	Less than Significant

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Environmental Impact	Mitigation Measures	Level of Significance after Mitigation
INITIAL STUDY (Less than Significant Impacts with Mitigation)		
Air Quality		
4.3b. Violate any air quality standard or contribute substantially to any existing or projected air quality violation.	Mitigation Measure AIR-1: Toxic Air Contaminants and PM2.5. During construction activities, the project applicant shall require that all off-road diesel-powered construction equipment greater than 50 horsepower meet United States Environmental Protection Agency Tier 4 Final off-road emissions standards. A copy of each unit's certified tier specification shall be provided to the City of Fremont at the time of grading permit issuance. During all construction activities, off-road diesel-powered equipment may be in the "on" position not more than eight hours per day. There are no time restrictions for non-diesel equipment.	Less than Significant
4.3c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).	Implement Mitigation Measure AIR-1: Toxic Air Contaminants and PM2.5	Less than Significant
4.3d. Expose sensitive receptors to substantial pollutant concentrations.	Implement Mitigation Measure AIR-1: Toxic Air Contaminants and PM2.5	Less than Significant
Hazards and Hazardous Materials		
4.8d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment.	Mitigation Measure HAZ-1: Updated Risk Management Plan. An updated Risk Management Plan and revised land use conditions for the project site shall be submitted to RWQCB for their review and approval prior to issuance of grading or building permits for site development. Documentation of RWQCB approval of the updated Risk Management Plan and revised land use conditions shall be submitted to the City of Fremont Community Development Department prior to issuance of building permits.	Less than Significant
Noise		
4.12a. Exposure of persons to or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.	Mitigation Measure NOI-1: Building Design Requirements to Reduce Residential Noise Exposure. To reduce the potential for future noise exposure increases on the project site, the following measures shall be included in plans submitted for building permits: <ul style="list-style-type: none"> • Forced-air mechanical ventilation, satisfactory to the local building official, shall be provided for all residential units to allow occupants to keep the windows closed to control noise. • All east, north, and south facing facades in the 20 northernmost townhomes nearest the railroad tracks and Niles Boulevard shall achieve an outdoor to indoor noise reduction of at least 37 dBA in bedrooms and 32 dBA in other rooms with an adequate margin of safety. Windows and doors of these building facades shall be sound rated. The specific noise control treatments shall be determined during final design and approved by the City prior to issuance of a building permit. Mitigation Measure NOI-2a: Daytime Noise Reduction Measures. To reduce daytime noise impacts due to construction, the applicant shall require construction contractors to implement the following measures:	Less than Significant
4.12d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.		

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Environmental Impact	Mitigation Measures	Level of Significance after Mitigation
	<ul style="list-style-type: none"> • Equipment and trucks used for project construction shall use the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically-attenuating shields or shrouds, wherever feasible). • Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible; this could achieve a reduction of 5 dBA. Quieter procedures, such as use of drills rather than impact tools, shall be used whenever feasible. • Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible. <p>Mitigation Measure NOI-2b: Site-Specific Noise Attenuation Measures. To further mitigate extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant to achieve a fence line noise level of no greater than 75 dBA. Prior to commencing construction, a plan for implementation of such measures shall be submitted for review and approval by the City Building and Safety Division of the Community Development Department to ensure that maximum feasible noise attenuation would be achieved. These attenuation measures shall include as many of the following control strategies as necessary:</p> <ul style="list-style-type: none"> • Erect temporary noise barriers around the construction site, particularly along the eastern boundary of the site to shield the adjacent buildings and other sensitive receptors. Moveable sound barrier curtains can provide 15 dBA of sound attenuation (INC, 2014); and • Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site. 	