Appendix B

Comments Received in Response to the NOP

ESA

Summary of Scoping Comments
Niles Gateway Mixed-Use Project

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
Correspondence Submitted by Email		
Individuals		
Aragon, Julie (1) (2/20/2018)	Concerned that the project would change the character of Niles	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Believes the density is too high	Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
	Concerned with traffic and egress	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned with building height blocking views of the hills	Section 4.1 (Aesthetics) of the Initial Study (Appendix A) addresses the comment.
Aragon, Julie (2) (2/20/2018)	Concerned with the CRAFT land use and limited small business success leading to empty storefronts	This comment does not address environmental issues that require analysis in the EIR.
	Address Land Use Planning in EIR	Section 4.10 (Land Use and Planning) of the Initial Study (Appendix A) addresses the comment. See also Response 1 in Chapter 2 (Introduction) of this EIR.
Aragon, Mark (1) (2/20/2018)	Concerned with the CRAFT land use and limited small business success leading to empty storefronts	This comment does not address environmental issues that require analysis in the EIR.
	Address Land Use Planning in EIR	Section 4.10 (Land Use and Planning) of the Initial Study (Appendix A) addresses the comment. See Response 1 in Chapter 2 (Introduction) of this EIR.
Aragon, Mark (2) (2/20/2018)	Concerned that the project would change the character of Niles	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Believes the density is too high	Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
	Concerned with traffic and egress	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned with building height blocking views of the hills	Section 4.1 (Aesthetics) of the Initial Study (Appendix A) addresses the comment.
Arias, Marlou (2/8/2018)	Concerned with flooding under the bridge overpass during storms	Section 4.9 (Hydrology and Water Quality) of the Initial Study (Appendix A) addresses the comment. The project is subject to the NPDES C.3 requirements of the Municipal Regional Stormwater NPDES Permit and Alameda Countywide Clean Water Program. All site drainage would be routed to the storm drains or to bioretention basins. The Tentative Map is also subject to review by the Alameda County Public Works Agency for grading and drainage.
	Concerned with school capacity	Section 4.14 (Public Services) of the Initial Study (Appendix A) addresses the comment.
	Concerned with traffic and emergency access	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
Bucci, Nicholas (2/21/2018)	Concerned with traffic and traffic safety, specifically at intersections J/2nd and J/3rd - recommends closing 3rd street to Niles Gateway through traffic	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned with traffic safety at the project main entrance and proposed left turn lane	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	States that the limited number of guest parking spots are inadequate	This comment does not address environmental issues that require analysis in the EIR.
	Need to address construction impacts to Alameda Creek watershed in EIR	Section 4.9 (Hydrology and Water Quality) of the Initial Study (Appendix A) addresses the comment. The project sponsor is required to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) to protect and reduce impacts to water quality and receiving waters.
	Concerned with historic resources and HARB design review	Sections 4.5 (Cultural Resources) and 4.17 (Tribal Cultural Resources) of the Initial Study (Appendix A) addresses impacts to historic, archaeological, and tribal cultural resources. Section 4.A (Aesthetics) evaluates the proposed project as it relates to the Niles Design Guidelines and Regulations.
	Concerned with project impacts on Niles Elementary and overcrowding in schools	Section 4.14 (Public Services) of the Initial Study (Appendix A) addresses the comment.
Buggy, Maureen (2/9/2018)	Concerned with project impacts on Niles Elementary	Section 4.14 (Public Services) of the Initial Study (Appendix A) addresses the comment.
	Concerned with impacts on traffic, wants fewer units	Section 4.B (Transportation and Traffic) and Chapter 5 (Alternatives) of this EIR address the comment.
	States the project would affect endangered species and plants	Section 4.4 (Biological Resources) of the Initial Study (Appendix A) addresses the comment.
	States there are archaeological artifacts that need to be taken care of	Section 4.5 (Cultural Resources) and 4.17 (Tribal Cultural Resources) of the Initial Study (Appendix A) addresses the comment. The project is subject to standard development requirements (Fremont Municipal Code Chapter 18.218) which reflects state requirements related to subsurface discovery of cultural resources.
	Proposes that entrance should be moved to the end of the side road parallel to the railroad tracks	Moving the entrance to the end of the side road would not meet the Fire Department's policy for emergency vehicle access or neighborhood egress. For a project of more than 60 residential units, two standard ingress-egress connections are required.
Cain, Julie (2/19/2018)	Requests a comprehensive EIR - states that aesthetics, transportation/traffic, mandatory findings of significance, hazards and hazardous materials, air quality and noise were identified for in-depth study	See Response 1 in Chapter 2 (Introduction) of this EIR.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
	States the Initial Study is inadequate for the analysis of population growth and police services	This comment does not address environmental issues that require analysis in the EIR.
	Concerned about school capacity at Niles Elementary and traffic generation related to driving students to other schools	See Response 2 in Chapter 2 (Introduction) of this EIR.
	States the Initial Study is inadequate for the analysis of cultural resources since no subsurface study was completed	Section 4.5 (Cultural Resources) and 4.17 (Tribal Cultural Resources) of the Initial Study (Appendix A) addresses the comment. The project is subject to standard development requirements (Fremont Municipal Code Chapter 18.218) which reflects state requirements related to subsurface discovery of cultural resources.
	Concerned about the amount of impervious surface and toxins on the site	Section 4.9 (Hydrology and Water Quality) of the Initial Study (Appendix A) addresses the comment. See Response 7 in Chapter 2 (Introduction) of this EIR.
	Concerned about the Alameda Creek wildlife corridor and the biological survey that did not document eagles in the vicinity	See Response 6 in Chapter 2 (Introduction) of this EIR regarding migratory and nesting birds. The Initial Study (Appendix A) acknowledges the Alameda Creek as a corridor that facilitates wildlife movement (page 46). The Initial Study (Appendix A) concludes that the project site itself is highly disturbed, urban uses and infrastructure on three sides preclude the site from serving as an effective movement corridor, and the proposed project would not affect wildlife use of the Alameda Creek corridor (page 50).
	States that density and character should be studied under land use and requests comprehensive study of alternatives including reduced density and design	Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
	Requests a project design alternative that is endorsed by HARB that takes into account contextual architecture in the design	Section 4.A (Aesthetics) evaluates the proposed project as it relates to the Niles Design Guidelines and Regulations.
	Provides examples of architectural details	This comment does not address environmental issues that require analysis in the EIR.
	States that 13 new businesses would not be sustainable and questions whether or not live/work units were banned in the City	This comment does not address environmental issues that require analysis in the EIR.
Caster, Deni (1) (2/16/2018)	Requests a new Noise and Vibration Study as part of the EIR that studies the impact of freight train noise and vibration on the project	Section 4.12 (Noise) of the Initial Study (Appendix A) addresses the comment.
	Concerned about project walls/fencing bouncing train noise onto existing residential development	Section 4.12 (Noise) of the Initial Study (Appendix A) was analyzed pursuant to the CEQA Guidelines, and impacts were determined to be less than significant or less than significant with mitigation measures incorporated. See Response 5 in Chapter 2 (Introduction) of this EIR regarding the purpose of CEQA and evaluating the project's impact on the environment, rather than with the environment's impact on a project and its users or residents.
Caster, Deni (2) (2/16/2018)	Expresses concern over project's proximity to Alameda Creek and the regional trail and comments from EBRPD from a previous project at the site	Construction-related impacts of the proposed project are analyzed in the Initial Study. The Initial Study did not identify any significant impacts to Alameda Creek. The City sent the NOP for the currently proposed project to EBRPD.
	Requests consultation with Alameda County Public Works Agency to address stormwater and flooding under the train overpass	The project sponsor is required to complete and submit a Drainage Review Checklist to Alameda County Public Works Agency prior to issuance of building permits by the City. Section 4.9 (Hydrology and Water Quality) of the Initial Study (Appendix A) addresses stormwater drainage.
Caster, Deni (5/6/2018)	Expresses concern over rubble in the areas that will be developed.	See Response Response 5 in Chapter 2 (Introduction) of this EIR regarding seismic instability and the presence of rubble.
	Requests that trenching be done to a 30' depth around the site to confirm that it was solid ground, and not rubble.	See Response Response 5 in Chapter 2 (Introduction) of this EIR regarding the presence of rubble.
	Expresses concern about the safety and integrity of the buildings that will be raised on project site	See Response Response 5 in Chapter 2 (Introduction) of this EIR regarding the seismic review of the project.
	Attached correspondence from ACWD and RWQCB regarding the former Pacific State Steel site cleanup and associated slag deposits and groundwater issues	See Response Response 5 in Chapter 2 (Introduction) of this EIR regarding slag deposits. See Response 7 in Chapter 2 (Introduction) of this EIR regarding hydrology and groundwater.
Corsi, Rose (2/21/2018)	States that the project would not match the existing building character of Niles	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Concerned about traffic impacts	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned with CRAFT units not being used as designed for artists	This comment does not address environmental issues that require analysis in the EIR.
	States that new bioretention systems would bring dangerous levels of runoff to groundwater	Section 4.9 (Hydrology and Water Quality) of the Initial Study (Appendix A) addresses stormwater drainage. See Response 7 in Chapter 2 (Introduction) of this EIR regarding hydrology and groundwater.
	Concerned about significant impacts related to hazardous soils	Section 4.8 (Hazards and Hazardous Materials) of the Initial Study (Appendix A) addresses this comment.
Coulthard, Steven Keith (2/15/2018)	Supports the project as proposed	This comment does not address environmental issues that require analysis in the EIR.
	Expresses pleasure over the new business and restaurant opportunity the project brings	This comment does not address environmental issues that require analysis in the EIR.
Cruz, Corie (2/21/2018)	Concerned the project will change the neighborhood character	Section 4.A (Aesthetics) of this EIR addresses the comment.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
	Concern over the project density	Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
	Concerned with traffic and egress	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned with building height blocking views of the hills	Section 4.1 (Aesthetics) of the Initial Study (Appendix A) addresses the comment.
Cruz, Jessie (2/21/2018)	Concerned that lack of a permanent structure at the corner of Chase Court and the site will allow future modifications creating a throughway to Chase Court	See Response 4 in Chapter 2 (Introduction) of this EIR.
Daulton, Robert (2/21/2018)	Requests a comprehensive EIR	See Response 1 in Chapter 2 (Introduction) of this EIR.
	States the project would significantly impact the protected Historic Overlay District and the Alameda Creek, as well as the community's infrastructure, businesses, traffic, and schools	Section 4.A (Aesthetics) of this EIR addresses the comment regarding the HOD. Sections 4.9 (Hydrology and Water Quality), 4.14 (Public Services), and 4.18 (Utilities and Service System) address comments regarding infrastructure and schools.
	Wants the project considered under the Niles Design Guidelines and Regulations as an integrated part of the Historic Overlay and the Commercial Core	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Concerned about scenic impacts adjacent to the Alameda Creek Trail	Section 4.1 (Aesthetics) of the Initial Study (Appendix A) addresses the comment.
	Requests additional biological analysis in the EIR due to redevelopment of former industrial use next to steelhead habitat	A list of special-status species that may occur in the project area was compiled as part of the characterization of the local setting (Appendix B of the Initial Study). As stated on page 47 of the Initial Study (Appendix A), "as the proposed project would not directly disturb Alameda Creek, the banks, corridor or its associated habitat, species with potential to occur in those environments are not discussed further in this analysis."
	Concerned about soil stability and former contamination	Sections 4.6 (Geology, Soils, and Seismicity) and 4.8 (Hazards and Hazardous Materials) of the Initial Study (Appendix A) address the comment.
	Concerned about site runoff into Alameda Creek	Section 4.9 (Hydrology and Water Quality) of the Initial Study addresses the comment.
	Requests separation of living and retail spaces	Chapter 5 (Alternatives) of this EIR evaluates no residential above the CRAFT building along Niles Boulevard.
	Concerned with train noise and vibration on residents	Section 4.12 (Noise) of the Initial Study (Appendix A) addresses the comment.
	Concerned with project density and requests a reduced density alternative be studied	Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
	Concerned with traffic impacts and site access	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
Drake, Carol (2/21/2018)	Requests a comprehensive EIR that includes analysis regarding population, traffic, schools, fire protection, endangered species, archaeological artifacts, and community beauty	See Response 1 in Chapter 2 (Introduction) of this EIR.
Elliott, Ken (2/15/2018)	Opposed to the project	This comment does not address environmental issues that require analysis in the EIR.
Esparza, Anthony (2/15/2018)	States that the limited number of guest parking spots and general parking spots are inadequate	This comment does not address environmental issues that require analysis in the EIR. A discussion of parking is provided for informational purposes in Chapter 3.
	Concern over lack of commercial loading zones	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Suggests widening the tunnel and road for better flow of traffic	Section 4.B (Transportation and Traffic) of this EIR analyzes potential impacts to study intersections and segments.
	Suggests the site would be better suited as a large grocery store	Comment noted. The project site is identified in the General Plan as a Special Study Area, which promotes residential and mixed-uses.
Grantham, Sandra (1) (2/11/2018)	Concerned about the height of the proposed buildings	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Concerned about the front facade being compatible with the other buildings in historic downtown Niles and suggests adding brick	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Concerned about traffic impacts and requested clarification about parking spaces	Section 4.B (Transportation and Traffic) of this EIR addresses the comment. Chapter 3 (Project Description) describes two of the CRAFT units would have one parking space, while the remaining units (93 units) would have two parking spaces each.
Grantham, Sandra (2) (2/14/2018)	Concerned about significant impacts related to population growth	Section 4.13 (Population and Housing) of the Initial Study (Appendix A) addresses the comment.
	Expressed support regarding the project not connecting to Chase Court	This comment does not address environmental issues that require analysis in the EIR.
Harvey, Jan (1) (2/20/2018)	Concerned about success of live-work units	This comment does not address environmental issues that require analysis in the EIR. Note that the latest plans clarify that no live-work units are proposed. The CRAFT units are separate from the commercial space.
	Concerned about traffic impacts and density	Section 4.B (Transportation and Traffic) and Chapter 5 (Alternatives) of this EIR address the comment.
Harvey, Jan (2) (2/20/2018)	Concerned about project impact on community character	Section 4.A (Aesthetics) of this EIR addresses the comment.
	States that bald eagles are present and requests further biological study around Alameda Creek	See Response 6 in Chapter 2 (Introduction) of this EIR.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
Harvey, Jan (3) (2/21/2018)	Requests that EIR include extensive seismic evaluation. Concerned about seismic impacts related to height and density, and urges reevaluation of design with lower density and shorter buildings	See Response 5 in Chapter 2 (Introduction) of this EIR.
	Concerned about traffic impacts related to new school children	See Response 2 in Chapter 2 (Introduction) of this EIR.
Jacobs, Dave (1) (2/8/2018)	Requests a comprehensive EIR that includes analysis regarding population, traffic, schools, fire protection, endangered species, archeological artifacts, and community beauty	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Concerned about the EBRPD and Ohlone Tribe not being consulted with	Per state requirements (AB52), the City notified all Native American Tribes listed on the contact list provided by the Native American Heritage Commission (NAHC) to provide an opportunity for early Tribal consultation (see Section 4.17, Tribal Resources, of the Initial Study). EBRPD received notification of the currently proposed project.
	Concerned about project proximity to the Alameda Creek Trail and bald eagles	See Response 6 in Chapter 2 (Introduction) of this EIR.
	Concerned about traffic impacts to Mission Boulevard and increased school children commutes	See Response 2 in Chapter 2 (Introduction) of this EIR.
	Concerned with project density and impacts related to population growth and increased traffic	Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
	Concerned about impacts to aesthetics and community beauty	Section 4.A (Aesthetics) of this EIR addresses the comment.
Jacobs, Dave (2) (2/13/2018)	Concerned with noise and vibration impacts from trains	Section 4.12 (Noise) of the Initial Study (Appendix A) addresses the comment.
	Concerned with existing site upkeep and weeds	This comment does not address environmental issues that require analysis in the EIR.
Jaynes, Lorna (2/19/2018)	Expresses concern over the project's impacts regarding light and glare and requests that the EIR address the issue further	The site was previously developed and used for industrial activities between the 1990s and 2002, which would have required lighting. As stated on page 27 of the Initial Study, the project site is located in an urban environment with existing sources of light and glare associated with nearby land uses and streets. The proposed project would be required to comply with the development standards and requirements in the City's Zoning Ordinance (Chapter 18.45.030(c) for all commercial and mixed-use districts and Chapter 18.90.030(c) for all residential districts), which requires that all exterior light sources be designed so as not to create significant glare on adjacent properties through the use of concealed source and/or downcast light fixtures.
Kerns, Nancy and Sarah (2/21/2018)	Requests a comprehensive EIR	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Concern regarding risks from dust from haul trucks and contaminated soil	Section 4.8 (Hazards and Hazardous Materials) of the Initial Study (Appendix A) addresses the comment. Site remediation efforts have been completed, with RWQCB approving the remediation report in 2016. Mitigation Measure HAZ-1: Updated Risk Management Plan requires that land use conditions are met prior to issuance of building permits. Mitigation Measure AIR-1 and standard development requirements would reduce construction-related fugitive dust emissions.
	Concerned with traffic impacts from school commutes and emergency access	See Response 2 in Chapter 2 (Introduction) of this EIR regarding traffic impacts from school commutes. Section 4.B (Transportation and Traffic) of this EIR addresses emergency access.
	Concerned about aesthetic impacts and the historic district	Section 4.A (Aesthetics) of this EIR addresses the comment.
Kiehn, David (2/16/2018)	States that the information regarding the scoping meeting was not clear on the notice	The NOP was prepared in accordance with Section 15082 of the CEQA Guidelines.
	Concern regarding aesthetics and the historic nature of the area	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Concern about traffic and emergency access	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
LaGraffe, Donna (2/21/2018)	Requests a comprehensive EIR	See Response 1 in Chapter 2 (Introduction) of this EIR.
Lanferman, Susan (2/11/2018)	Concerned about existing traffic and congestion	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	States that schools have inadequate capacity to support the project and would create additional traffic congestion	See Response 2 in Chapter 2 (Introduction) of this EIR.
	Requests a comprehensive EIR	See Response 1 in Chapter 2 (Introduction) of this EIR.
Layden, Catherine (2/20/2018)	Requests a comprehensive EIR	See Response 1 in Chapter 2 (Introduction) of this EIR.
Mayer, Vickie (2/20/2018)	Requests further study regarding aesthetics and a reduced density project keeping with current Niles aesthetic and Niles Design Guidelines.	Section 4.A (Aesthetics) of this EIR addresses the comment. Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
	Concerned that the initial study states "no other sensitive receptors within 1000 feet of the project site", even though there are sensitive receptor groups are represented in houses abutting the property on the end of Second Street	See Response 3 in Chapter 2 (Introduction) of this EIR.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
	Concerned with air quality and dust impacts to species around Alameda Creek	CEQA does not require air quality and dust impact analysis on species. The significance thresholds for air quality are established to protect human health. The project is subject to standard development requirements (Fremont Municipal Code Chapter 18.218) for construction-related dust emissions, which would prevent dust and debris from entering the Creek in substantial enough volumes to be a hazard to wildlife.
	Concerned about impacts on biological resources including bald eagles and the proposed trees to be planted being high biogenic emitters	See Response 6 in Chapter 2 (Introduction) of this EIR.
	Concerned about seismic impacts related to height	See Response 5 in Chapter 2 (Introduction) of this EIR.
	Concerned about enforcement of Air Quality BMPs to protect from hazardous dust	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Concerned about impacts to land use and requests that the project not be zoned as mixed-use or to be considered part of the Commercial Core Area	Comment noted. Chapter 5 (Alternatives) of this EIR evaluates a No Project Alternative.
	Concerned with noise impacts from trains and noise during construction	Section 4.12 (Noise) of the Initial Study (Appendix A) addresses the comment.
	Concerned with impacts to fire and police services and public services receiving adequate funding	Section 4.14 (Public Services) of the Initial Study (Appendix A) addresses the comment. The project a new development and subject to development impact fees to offset impacts on public facilities and services.
	Suggests a larger green space on the project site to reduce impacts to recreation	Section 4.15 (Recreation) of the Initial Study (Appendix A) addresses the comment.
	Concerned with impacts to traffic including the left turn and suggests a roundabout	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
McIntyre, Cynthia (2/13/2018)	Concerned regarding traffic impacts	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
Morgan, Sally (2/16/2018)	Expresses concern regarding impacts of historical value, traffic, pollution, aesthetics, schools, fire protection, and hazards	Historical resources, air quality, public services, and hazards and hazardous materials are addressed in the Initial Study (Appendix A). Section 4.A (Aesthetics) and Section 4.B (Transportation and Traffic) of this EIR address the comment.
	Expresses concern regarding project proximity to Alameda Creek and consultation with EBRPD	Construction-related impacts of the proposed project are analyzed in the Initial Study. The Initial Study did not identify any significant impacts to Alameda Creek. EBRPD received notification of the currently proposed project.
	Concerned with impacts to traffic	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
Neves, Mary (2/15/2018)	Expresses opposition to the project and traffic impacts	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Suggests using the site as open space	Comment noted. The project site is identified in the General Plan as a Special Study Area, which promotes residential and mixed-uses. Section 2, Project Description, of the Initial Study also identifies the current land use and zoning for the site as Service Industrial/Light Industrial.
Powell, Michelle (2/21/2018)	Requests a comprehensive EIR	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Concerned with impacts to population	Section 4.13 (Population and Housing) of the Initial Study (Appendix A) addresses the comment.
	Requests a lower density alternative to be studied	Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
	Concerned about traffic, parking, and traffic safety issues	Section 4.B (Transportation and Traffic) of this EIR addresses the comment. A discussion of parking is provided for informational purposes in Chapter 3.
	Suggests that the City of Union City's recent neighborhood parking study should be consulted	Section 4.B (Transportation and Traffic) of this EIR and the analysis has been prepared in accordance with Appendix G of the CEQA Guidelines. A discussion of parking is provided for informational purposes in Chapter 3.
	Requests a train noise and vibration study	Section 4.12 (Noise) of the Initial Study (Appendix A) addresses the comment.
	Requests that the traffic study include the safety and effects of the parking plan	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned about the width of project interior streets for sanitation and emergency access	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Expresses concern over the project's compatibility with the City's Niles Design Guidelines and Regulations and the requirements of the Historic Overlay District	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Requests a comprehensive EIR that includes analysis regarding traffic, parking, historic and biological resources, air quality, earthquake/fault risks, and impacts to the view shed, Alameda Creek, Alameda Creek trail, and surrounding neighborhoods	See Response 1 in Chapter 2 (Introduction) of this EIR.
Randolph, Linda (1) (2/21/2018)	Requests the further study of Aesthetic Impacts, and Traffic and Transportation Impacts	Section 4.A (Aesthetics) and Section 4.B (Transportation and Traffic) of this EIR addresses this comment.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
	Requests that a comprehensive EIR be compiled including further study of the following issues: Air Quality, Biological Resources, Geology, Soils and Seismic, Greenhouse Gas Emissions, Water Quality, water availability during drought conditions, Land Use Planning, Noise and Vibration, Population and Housing, Public Services, and Recreation.	See Response 1 in Chapter 2 (Introduction) of this EIR.
Randolph, Linda (2) (2/21/2018)	Concerned with the project impacting the community character of Niles	Section 4.A (Aesthetics) of this EIR addresses the comment.
	States that the density is too high	Comment noted. Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
	Concerned with impacts to traffic and egress	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned with building height blocking views of the hills	Section 4.1 (Aesthetics) of the Initial Study (Appendix A) addresses the comment.
Savage, Megan (2/20/2018)	Expresses opposition to the project	Comment noted. This comment does not address environmental issues that require analysis in the EIR.
Torre, Sterling (2/13/2018)	Expresses opposition to the project	Comment noted. This comment does not address environmental issues that require analysis in the EIR.
	Concerned with traffic and population impacts	Section 4.B (Transportation and Traffic) of this EIR and Section 4.13 (Population and Housing) of the Initial Study (Appendix A) address this comment.
Usselman, Marcie (2/21/2018)	Expresses opposition to the project and requests a comprehensive EIR	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Concerned with traffic impacts	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned with impacts to schools and overcrowding	See Response 2 in Chapter 2 (Introduction) of this EIR.
Organizations		
Protect Niles (Renee Guild) (2/21/2018)	Requests that the EIR include a lower density alternative of 60 residential units to be analyzed	Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
	Expresses concern over the proposed mixed-use land designation and states that is in direct conflict with the Niles Design Guidelines	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Requests that the EIR study an alternative plan that separates the commercial and residential uses of the development and complies with the Niles Design Guidelines	Chapter 5 (Alternatives) of this EIR evaluates alternatives with no residential uses in the building fronting Niles Boulevard.
	Concerned about future modifications creating a throughway to Chase Court and requests a permanent structure or fenced children's play area to avoid	See Response 4 in Chapter 2 (Introduction) of this EIR.
	Concerned about issues related to hydrology and water quality including flooding under the Niles Boulevard underpass during storms, hazardous soil affecting water quality of runoff, and storm drain maintenance	See Response 7 in Chapter 2 (Introduction) of this EIR.
	Requests that the City order the developer to construct story poles and netting and project identification signs erected at the elevations the developer proposes, so that the community can see the impacts on the viewsheds - provided a policy of the Town of Los Gatos regarding the use of story poles	This comment does not address environmental issues that require analysis in the EIR. The policy of another jurisdiction is not applicable to the City of Fremont. There is no such regulation or policy within the City of Fremont. It would be up to the project applicant whether they would voluntarily implement this.
	Concern regarding emergency access to the site	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	States that the Niles Design Guidelines and Regulations are applicable to this project, and the project should be subject to the strictest interpretations of the guidelines	Section 4.A (Aesthetics) evaluates the proposed project as it relates to the Niles Design Guidelines and Regulations.
	States that the zoning ordinance is inadequate with respect to light and glare, and that this should be addressed in the EIR	The comment makes an assertion but does not provide evidence that the project "will substantially increase light and glare.". As stated in Section 4.1 (Aesthetics) of the Initial Study (Appendix A), the impact analysis concluded less than significant for light and glare, through compliance with the applicable The proposed project would be required to comply with the development standards and requirements in the City's Zoning Ordinance (Chapter 18.45.030(c) for all commercial and mixed-use districts and Chapter 18.90.030(c) for all residential districts), which requires that all exterior light sources be designed so as not to create significant glare on adjacent properties through the use of concealed source and/or downcast light fixtures. The adequacy of the zoning ordinance is not a CEQA issue.
	Provided examples of infractions related to air quality and storm water management during previous work at the site	Infractions related to previous work at the site are not relevant to environmental issues that require analysis in the EIR.
	The initial study states "no other sensitive receptors within 1000 feet of the project site", even though there are sensitive receptor groups within this distance of the site. Requested that EIR survey residents to understand what mitigation strategies would work.	See Response 3 in Chapter 2 (Introduction) of this EIR.
	Agree with Potential Significant Impact 4.1.c) and request adding 4.1.d): Create a new source of substantial light or glare which would adversely affect daytime or nighttime views in the area	See Response 1 in Chapter 2 (Introduction) of this EIR.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
	Requests that the EIR address all aesthetic impacts from the project as a series of potentially significant impacts	Section 4.1 (Aesthetics) in the Initial Study (Appendix A) determined that impacts related to scenic resources and light and glare would be less than significant. Impacts to visual character were determined potentially significant and carried forward for further analysis in the EIR pursuant to Section 15063 of the CEQA Guidelines.
	States that the project is proposed to be located contiguously adjacent to the existing Commercial Core, and will be a de facto part of the District's commercial core. The Initial Study's Summary fails to note that the Project is identified in the Planning documents as Town Center. Note that there are significant discrepancies of the proposed Project with the Niles Design Guidelines and Regulations as they have been applied to the Town Center in Niles.	Section 4.A (Aesthetics) of this EIR addresses the comment regarding consistency with the Niles Design Guidelines and Regulations. The Town Center General Plan Land Use Designation is a designation that applies throughout the City of Fremont, and not synonymous with the Niles Commercial Core. Section 2, Project Description, in the Initial Study identifies the existing General Plan designation (Service Industrial) and zoning (Light Industrial with Historic Overlay District) for the site.
	Claims the Niles Gateway Project is not compatible with the prior Additions to the Town of Niles, which established a now-historic pattern of lot size and road ways, including alleys	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Concerned that the proposed project's three story attached residential units are certainly not compliant with the existing pattern of architecture, generally Craftsman	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Notes that Town Center – Pedestrian (TC-P) zoning in Niles, which is the current zoning of the entirety of the Niles Commercial Core, lists Live-Work as a "Use Not Allowed". Where Live-Work units are allowed, as in Town Center – Transition (TC-T), a zoning not currently identified in Niles, the Live-Work units are not permitted to face main roads. The great majority of the Niles Gateway Live-Work (CRAFT) units are proposed to face Niles Boulevard.	Section 4.10 (Land Use and Planning) of the Initial Study (Appendix A) addresses the comment. The project does not include live-work units.
	Requests that the Niles Gateway project be subject to the strictest interpretations of the existing Niles Design Guidelines and Regulations.	Section 4.A (Aesthetics) evaluates the proposed project as it relates to the Niles Design Guidelines and Regulations.
	Claims that the architectural designs submitted for the Initial Study have not mitigated the substantive problems with the previous design as noted by the Fremont Historical Architecture Review Board	Section 4.A (Aesthetics) evaluates the proposed project as it relates to the Niles Design Guidelines and Regulations.
	Claims that planned building heights present a significant degradation to the view of the surrounding hillsides for any homes located adjacent or nearly so in the surrounding neighborhood	Section 4.1 (Aesthetics) of the Initial Study (Appendix A) addresses scenic resources.
	Concerned that the project's adjacency to Alameda Creek degrades the scenic and aesthetic experience of the creek side trail	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Concerned that the proposed buildings in the proposed design are contemporary and do not fit in with the character and context of Niles	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Concerned that there is already excessive light pollution and glare in the Niles District and the project will substantially increase the glare and light pollution. The City's current zoning ordinance is wholly inadequate with respect to light and glare and this proposed development should not exacerbate the current light problems. Requests that light and glare from the proposed project be addressed in the aesthetics section of the EIR.	Section 4.1 (Aesthetics) of the Initial Study (Appendix A) addresses light and glare impacts.
	Requests a Potentially Significant Impact finding for 4.3.b); 4.3.c); and 4.3.d) related to Air Quality	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Requests that the EIR address specific and stiff penalties for infractions of the proposed mitigation measures during construction	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Concerned about infractions from a previous project specifically related to storm water management and noncompliance in some of these areas resulting in an increase in airborne particulate matter	Infractions related to previous work at the site are not relevant to environmental issues that require analysis in the EIR. The proposed project's impacts to hydrology and water quality and air quality are addressed in the Initial Study (appendix A).
	Concerned about trucks hauling uncovered soil onto the public roadways were observed during another project	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Requests that the EIR address protection and mitigation for avoidance of debris, soil, etc. being blown into the creek, potentially contaminating the water and harming fish and aquatic birds	Section 4.9 (Hydrology and Water Quality) of the Initial Study (Appendix A) addresses construction- and operation-related storm water impacts.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
	Disagrees that there are no sensitive receptors within 1000 feet of the proposed site. Requests that the EIR do a survey of the residents of the surrounding community at the end of Niles Blvd., 2nd and 3rd Streets to determine the age and health of the bordering populations and to better understand what mitigation strategies would be most effective for these populations.	See Response 3 in Chapter 2 (Introduction) of this EIR.
	Requests a hotline for complaints during construction	Construction-related complaints can be directed to the Department of Building Inspection. The project is subject to standard development requirements (Fremont Municipal Code Chapter 18.218) for construction-related emissions. This includes the project sponsor or its contractor posting a publicly visible sign with the phone number and person to contact regarding dust complaints. This contact is required to respond and take corrective action within 48 hours.
	Requests daily Air Quality reports be submitted during the construction of the project so residents abutting the project, particularly "sensitive receptors" can take precautionary measures such as limiting outdoor exposure if necessary	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Requests Potentially Significant Impact finding for 4.4.a); 4.4.b); 4.4.d); 4.4.e); 4.4.f) related to Biological Resources	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Concerned that the Project will have a Potentially Significant Impact on the efforts to restore Steelhead Trout	Section 4.4 (Biological Resources) of the Initial Study (Appendix A) addresses the comment, as the proposed project would not directly disturb Alameda Creek, the banks, corridor or its associated habitats, species with potential to occur in those environments.
	States that Project documents do not address the presence of Bald Eagles on the site	See Response 6 in Chapter 2 (Introduction) of this EIR.
	States that the Project has the potential to degrade the quality of the environment and substantially reduce the habitat of a fish or wildlife species, and cause a fish or wildlife population to drop below self-sustaining levels and that treatment of the storm water discharge needs additional description and peer review	Section 4.4 (Biological Resources) of the Initial Study (Appendix A) addresses the comment.
	Requests that the variety of proposed trees and their biogenic volatile compound emittance be considered in an EIR	This comment does not address environmental issues that require analysis in the EIR.
	Requests that the EIR evaluate the possible effect on the local Bald Eagle population	See Response 6 in Chapter 2 (Introduction) of this EIR.
	Requests that the EIR evaluate measures to address altering established roosting and/or foraging sites of bald eagles	See Response 6 in Chapter 2 (Introduction) of this EIR.
	States that bald eagle take must not exceed 5% of the local area population	See Response 6 in Chapter 2 (Introduction) of this EIR.
	Requests that the EIR study ways to address buffer zones between new construction and bald eagle nesting sites and that the Bald Eagle Management Guidelines are followed	See Response 6 in Chapter 2 (Introduction) of this EIR.
	Requests a Potentially Significant Impact finding for 4.5.a); and 4.5.b) regarding Cultural Resources and Tribal Cultural Resources	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Requests a subsurface archaeological investigation	Section 4.5 (Cultural Resources) of the Initial Study (Appendix A) addresses the comment. The project is subject to standard development requirements (Fremont Municipal Code Chapter 18.218) which includes requirements related to subsurface discovery of cultural resources.
	Requests a Potentially Significant Impact finding for 4.6.a)i); 4.6.a.ii); 4.6.a)iii); 4.6.a)iv); and 4.6.c) regarding Geology, Soils and Seismicity	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Requests consideration of the Mission Fault in the analysis	See Response 5 in Chapter 2 (Introduction) of this EIR.
	Requests that the EIR address the Potentially Significant Impact of an earthquake on the buildings and roadways of the proposed development and require that the buildings, roadways and all infrastructure be built to the maximum earthquake standards	See Response 5 in Chapter 2 (Introduction) of this EIR.
	Concerned about soil instability related to former use as an unregulated landfill. Requests that a thorough examination of the deep soil structure of the site be conducted with trenching to 20 feet, in order to determine the existence of underlying rubble	Sections 4.6 (Geology, Soils, and Seismicity) and 4.8 (Hazards and Hazardous Materials) of the Initial Study (Appendix A) address the comment.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
	Concerned about landslides due to a difference in elevation between the existing end of 2nd Street and the proposed elevation of A Street that may require retaining walls to prevent landslides.	Section 4.6 (Geology, Soils, and Seismicity) of the Initial Study (Appendix A) addresses the comment.
	Requests a Potentially Significant Impact finding for 4.7.a); and 4.7.b) regarding GHG Emissions	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Concerned that the project's operational vehicle trip generation emissions estimates may be underestimated in the Initial Study	The comment does not provide information as to why vehicle trips emissions may be underestimated.
	States that the project proposes to exceed 2016 Title 24 building energy efficiency requirements by 25% and SB 350, the Clean Energy and Pollution Reduction Act passed in 2015, calls for a doubling of energy efficiency savings in end-uses of electricity and natural gas by 2030	SB 350 requires a doubling of energy efficiency standards for building constructed in 2030 and later years. The proposed project will be constructed from 2019 through 2021, and will therefore not be subject to the most aggressive energy efficiency requirements of SB 350. However, all buildings constructed at the project site would need to comply with the latest building energy efficiency standards in effect at the time of construction. This includes any and all standards adopted by the CEC to comply with SB 350. Although the project was modeled to assume that buildings would exceed the 2016 Title 24 building energy efficiency requirements by 25%, the buildings would need to comply with the latest building energy efficiency standards in effect at the time of construction. For example, when the CEC adopts the Title 24 building energy efficiency standards in 2019, they will apply to all new construction after January 1, 2020. Therefore, all buildings built after 2020 at the project site will be required to comply with the 2019 standards.
	Requests that the EIR incorporate evaluation of conformance with the newer goals of SB 350 and the State of California's GHG emission-reduction targets	See above.
	Requests that the buildings be built to conform to the latest energy efficiency building standards, not the 2016 Energy Efficiency Building Standards	See above.
	Concerned about the lack of Electric Vehicle charging stations planned for the CRAFT buildings and the residential units. Requests that EV charging stations be added to the proposed development and that the EIR evaluate their impact.	This comment does not address environmental issues that require analysis in the EIR.
	Requests that alternatives to the use of natural gas for heating and cooking should be evaluated in the EIR to examine whether the project can achieve zero-net building emissions	The discussion of alternatives shall focus on alternatives to the project or its location which are capable or avoiding or substantially lessening any significant effects of the project (CEQA Guidelines Section 15126.6(b)). The proposed project would result in significant and unavoidable cumulative traffic impacts (Section 4.B of this EIR). Thus, alternatives evaluated a reduced density configuration of less units in the same area. Emissions from the project are analyzed in Section 4.7 (Greenhouse Gas Emissions) of the Initial Study.
	Requests a Potentially Significant Impact finding for 4.8.d) related to Hazards	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Requests that the EIR include a study of the deeper soils of the site and specifically, include trenching to a depth of 20 feet	See Response 5 in Chapter 2 (Introduction) of this EIR.
	Requests that the EIR consider a project that has a lower percentage of impervious surface, such as 60%	The discussion of alternatives shall focus on alternatives to the project or its location which are capable or avoiding or substantially lessening any significant effects of the project (CEQA Guidelines Section 15126.6(b)). The proposed project would result in significant and unavoidable cumulative traffic impacts (Section 4.B of this EIR). Thus, alternatives evaluated a reduced density configuration of less units in the same area. Section 4.9 (Hydrology and Water Quality) of the Initial Study concluded that through compliance with applicable regulations and requirements for LID measures, stormwater runoff from new impervious surfaces at the site would be less than significant.
	Requested correspondence between the Alameda County Water District and the City of Fremont that is mentioned in the Initial Study but has not yet received them, and reserves the right to further comment on these correspondences once these are received and request they be admitted into the record	This comment does not address environmental issues that require analysis in the EIR.
	Requests that the long-term impacts of the failure to adequately characterize the deep soil structure of the site be addressed in the EIR	See Response 5 in Chapter 2 (Introduction) of this EIR.
	States that Initial Study included "Hazards and Hazardous Materials" in the signed determination of Potentially Significant Impacts" on page 24, although it is not included in the Mandatory Findings of Significance on page 114-115, as it states that construction impacts would be mitigated by the proposed measures	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Requests a Potentially Significant Impact finding for 4.9.c); 4.9.e); and 4.9.f) related to Hydrology and Water Quality	See Response 1 in Chapter 2 (Introduction) of this EIR.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
	Concerned about the Project storm water being discharged in to an existing outfall above Rubber Dam Number 3. The existing outfall from the storm drain is a potentially hazardous design. The outfall is submerged when the dam is inflated, preventing visual observation of the outflow.	See Response 7 in Chapter 2 (Introduction) of this EIR.
	Concerned about a failure of the proposed pumps, since there would be a significantly increased danger of flooding on the site of the Niles Gateway project	Section 4.9 (Hydrology and Water Quality) of the Initial Study addresses flooding.
	Suggests mitigation to design gravity flow of the storm water drainage into Alameda Creek, below Rubber Dam Number 3. This would require a new storm water discharge outfall, to be permitted by the Regional Water Quality Control Board	See Response 7 in Chapter 2 (Introduction) of this EIR.
	Reports an error in the Initial Study on page 75. ACWD has two inflatable dams on the adjacent Alameda Creek. There were at one time three inflatable dams. The inflatable dam adjacent to the Niles Gateway Project is named "Rubber Dam Number 3".	Comment noted.
	Requests evaluation of appropriate water quality treatment of the excess water drainage in the context of the federal and California Endangered Species legislation concerning Steelhead Trout	Section 4.9 (Hydrology and Water Quality) of the Initial Study (Appendix A) evaluates stormwater runoff. There would be no runoff directly from the site to Alameda Creek. As discussed on pages 76-78 of the Initial Study, all stormwater would receive treatment through the on-site biorention basins prior to discharge, consistent with NPDES requirements, which would ensure that water quality effects of stormwater runoff would be less than significant.
	States that existing storm from the site to Alameda Creek near Chase Court was subject to a partial excavation by Consultants for Niles Gateway and those findings should be placed in the public record and included in the EIR	See Response 7 in Chapter 2 (Introduction) of this EIR.
	States that there are no dimensions of the Hydrologic Retention Vault, capacity, nor hydraulic elevations provided in the Initial Study	The dimensions of the vault are shown on Figure 9 of the Initial Study.
	States that there is no discussion in the Initial Study of the type of treatment or who will administer/supervise this treatment in the Storm water Management Plan	The bioretention areas and typical materials used are described in pages 19-20 of the Initial Study. Also stated on page 19, is that the Alameda Countywide Clean Water Program oversees implementation of urban stormwater discharges from Alameda County, including Fremont.
	States that the Initial Study, as drafted, fails to recognize that the reduction in operation levels of Calaveras Reservoir to 40 per cent of capacity are only applicable until the new Calaveras Dam is completed and fully operational	The Calaveras Dam project is a seismic upgrade project in and of itself. Once the new Calaveras Dam is completed and operational, it would still be subject to both federal and state laws to ensure they are adequately maintained and any identified deficiencies are corrected, and impacts would be less than significant.
	Requests that the EIR evaluate alternatives to this proposed water treatment of groundwater runoff that do not involve use of the already-inadequate storm drain at the end of Niles Blvd., and that do not empty into the creek above the Rubber Dam #3	There is no groundwater pumping proposed as part of this project. See Response 7 in Chapter 2 (Introduction) of this EIR regarding stormwater runoff and the outfall.
	References previous correspondence to the Regional Water Resources Control Board from Ms. Lorna Jaynes in 2016 is included as Appendix B that raises the issue of the water discharge from the project above the dam as being dangerous	See Response 7 in Chapter 2 (Introduction) of this EIR.
	Requests that the EIR evaluate the effects of greywater recycling, which might help to mitigate the impacts of the excessive runoff which is likely to occur at the site, due to the large amount of impervious surfaces that have been proposed	Section 4.9 (Hydrology and Water Quality) of the Initial Study (Appendix A) evaluates stormwater runoff and concludes the impact would be less than significant.
	Requests a Potentially Significant Impact finding for 4.10a); 4.10.b); and 4.10.c) regarding Land Use and Land-Use Planning	See Response 1 in Chapter 2 (Introduction) of this EIR.
	States that the project physically divides an established community as it is not compatible with the prior Additions to the Town of Niles, which established a now historic pattern of lot size and road ways, including alleys and creates division in the community	Section 4.10 (Land Use and Planning) of the Initial Study (Appendix A) addresses the comment.
	States that is no regard to the design and character of the adjacent established community, and standard Niles lot sizes should be followed	Section 4.A (Aesthetics) of this EIR addresses the comment. The project sponsor is also required to undergo the subdivision permit process for the Final Map, which includes review of lot sizes.
	Concerned that the Project does not identify an access to Alameda Creek from the new development	One of the project objectives is to provide a connection between the Niles Town Center, Alameda Creek, and regional park system. Figure 3-3 in Chapter 3 of this EIR has been updated with labels.
	States that the residential component of the Niles Gateway Project is not compatible in scale and design with existing development	Section 4.A (Aesthetics) of this EIR addresses the comment.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
	States that the Initial Study fails to note that this Project is identified in the Planning documents as part of the Town Center, and that there are significant discrepancies of the proposed Project with the Niles Design Guidelines and Regulations	Section 4.A (Aesthetics) of this EIR addresses the comment.
	States that the Project is not compatible with the prior Additions to the Town of Niles, which established a now historic pattern of lot size and road ways, including alleys	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Concerned that the proposed project's three story attached residential units are certainly not compliant with the existing pattern of architecture, generally Craftsman	Section 4.A (Aesthetics) of this EIR addresses the comment.
	Notes that Town Center – Pedestrian (TC-P) zoning in Niles, which is the current zoning of the entirety of the Niles Commercial Core, lists Live-Work as a "Use Not Allowed". Where Live-Work units are allowed, as in Town Center – Transition (TC-T), a zoning not currently identified in Niles, the Live-Work units are not permitted to face main roads. States that the great majority of the Niles Gateway Live-Work (CRAFT) units are proposed to face Niles Boulevard	Section 4.10 (Land Use and Planning) of the Initial Study (Appendix A) addresses the comment. The project does not include live-work units.
	States that there is neither continuity nor compatibility with the Commercial and Residential portions of the Project in violation of the Mixed Use zoning criteria as stated in the General Plan	Comment noted. The project site is proposed for Planned District rezoning, which is to encourage and provide a means for effectuating desirable development, redevelopment, rehabilitation and conservation in the city, which features variations in siting, mix of land uses and/or varied dwelling types. The amenities and compatibility of a P district are to be ensured through adoption of a precise site plan, showing proper orientation, desirable design character and compatible land uses (Fremont Municipal Code 18.110.010). The City's decision-makers will be required to make a finding of consistency with the General Plan. This determination is not part of the CEQA environmental review process, but part of the decision to approve, modify, or disapprove the project.
	States that parking has been specifically identified and judged by the Courts to be an issue subject to Environmental Review in Niles, ref: John Weed v. City of Fremont	The Draft EIR did not include an analysis of parking demand because parking is not considered an environmental impact criterion under CEQA. In general, CEQA does not consider parking an environmental topic because parking is not part of the permanent physical environment, parking demand can vary by time of day, day of week, and seasonally, and parking conditions change over time as people change their travel patterns. A discussion of parking is provided for informational purposes in Section 3.0 (Project Description) of this EIR, which concludes that the parking supply as proposed would be adequate to meet the parking demand generated by the proposed project.
	States that the land identified as future Niles Parking District Parking is the extension of Niles Boulevard and is identified in the present Initial Study for Niles Gateway as a private road	This comment does not address environmental issues that require analysis in the EIR.
	Requests an updated Event Parking Plan, as part of the EIR	See response above. The person or organization hosting an event would be required to prepare a parking plan (Fremont Municipal Code Chapter 12.25), not the project sponsor.
	Requests a Potentially Significant Impact finding for 4.12.a); 4.12.b); 4.12.c); and 4.12.d) related to Noise	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Requests that the City of Fremont include a new Noise and Vibration study as part of the EIR	See Response 1 in Chapter 2 (Introduction) of this EIR.
	States that possible increases in freight traffic as will result if the ACE Forward proposal goes forward must be evaluated in an EIR	As stated on page 92 of the Initial Study (Appendix A), "future noise exposure impacts of the proposed project from future increases in freight rail operations as well as roadway transportation increases would be less than significant with Mitigation Measure NOI-1: Building Design Requirements to Reduce Residential Noise Exposure.
	Requests a comparison of a noise difference with the conversion of the former linear park, with trees and shrubbery to help reduce the train noise in the initial plan and now having a roadway along the tracks	The purpose of CEQA is to evaluate the significance of the environmental effect of a project on the physical conditions which exist in the area affected by the project. Under CEQA, a comparison of impacts between a previously proposed and currently proposed project is not required. The proposed residential units would be required to comply with Title 24 noise standards, and noise impacts would be less than significant.
	Requests that the EIR include study of the effect of sound walls between the train tracks and the development, and between the development and existing neighborhoods at the end of 2nd and 3rd Streets	Section 4.12 (Noise) of the Initial Study (Appendix A) was analyzed pursuant to the CEQA Guidelines, and impacts were determined to be less than significant or less than significant with mitigation measures incorporated. See Response 5 in Chapter 2 (Introduction) of this EIR regarding the purpose of CEQA and evaluating the project's impact on the environment, rather than with the environment's impact on a project and its users or residents.
	Requests a Potentially Significant Impact finding for 4.13.a) regarding Population and Housing	See Response 1 in Chapter 2 (Introduction) of this EIR.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
	States that the project proposes a six-acre development at three times the population/housing density of the entire surrounding neighborhood	Section 4.13 (Population and Housing) of the Initial Study (Appendix A) addresses the comment.
	States that Niles is isolated from the rest of the city by the hills, the railroad and the Alameda Creek in such a manner that ingress and egress from the district are available by only two or three chokepoints, and that this environment would tend to magnify any effects of suddenly and dramatically increased population, such effects in all likelihood being particularly impactful in the immediate area of the protected HOD and the Alameda Creek due to the project's location	Section 4.13 (Population and Housing) of the Initial Study (Appendix A) addresses the comment. The Project would not cause substantial population growth.
	States that an additional 300 residents will significantly impact virtually every piece of the community, from infrastructure and traffic and schools to the Alameda Creek	Section 4.13 (Population and Housing) of the Initial Study (Appendix A) addresses the comment related to growth. Sections 4.3 (Biological Resources) and 4.14 (Public Services) address specific concerns regarding Alameda Creek and infrastructure. Section 4.B (Transportation and Traffic) of this EIR addresses traffic concerns.
	Requests a Potentially Significant Impact finding for 4.14.a)ii); and 4.14.a)iii) regarding Public Services	See Response 1 in Chapter 2 (Introduction) of this EIR.
	The public services section regarding police coverage provides no evidence to support a conclusion of insignificant impact. Asks how large is patrol area, how many police patrol, what are current response times.	Section 4.14 (Public Services) of the Initial Study (Appendix A) addresses the comment and describes that the Project would cause an incremental increase in police services, and that services and patrols are already available.
	Concerned that the additional 50 children mentioned in the Initial Study will be unable to attend the local elementary school as it is on waiting list status for 150 would-be students already, adding to traffic impacts	See Response 2 in Chapter 2 (Introduction) of this EIR.
	Concerned that an additional 200 to 300 residents would require more man-hours by the fire department and emergency services, and additional wear and tear on public parks nearby	Section 4.14 (Public Services) of the Initial Study (Appendix A) addresses the comment.
	Requests a Potentially Significant Impact finding for 4.15.a); and 4.15.b) regarding Recreation	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Requests that the EIR include a thorough study of the impacts on Recreation because the Initial Study identified a required 1.5 acres dedicated to common open space/park areas for the projected 296 residents that appears vulnerable to future downsizing and is difficult to analyze in the plans included in the Initial Study	As stated on page 104 of the Initial Study, the City has a goal of maintaining 5 acres of parkland per 1,000 residents (0.005 acres per person). The 1.5 acres on the project site for a population of 296 would result in 0.005 acres per person, and would meet this standard.
	Recommend fencing a children's playground area due to the dangers of Niles Blvd., the train tracks and Alameda Creek so close to the site	There is no children's playground proposed as part of the project.
	Concerned that a second apparent park on the site near the creek trail would be subject to future removal should the City of Fremont decide Chase Court at the end of Third Street later needs to connect through to the development's A Street	The area the comment refers to is a bioretention basin, not a park. Please also see Response 4 in Chapter 2 (Introduction) of this EIR.
	Asks how Niles residents access the identified open space/park, or if this space limited to Niles Gateway residents only	As shown on Figures 3 and 4 of the Initial Study (Appendix A), the park would be accessible to the public and residents from Niles Boulevard at the south end of the CRAFT Building. The applicant proposes to provide a public access easement as part of the project.
	Agrees with finding of a Potentially Significant Impact finding for 4.16.a); 4.16.b); 4.16.d); 4.16.e); and 4.16.f) regarding Transportation and Traffic	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Requests that traffic impacts be mitigated by decreased density	Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
	Concerned about traffic analysis from 2014-2015 and cumulative residential development	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned that traffic in Niles has become congested, with through-traffic cutting through Niles to Eastern and Southern fast growing communities, particularly during commute times	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	States the need to identify Mitigation Measures for each of the five sections of Transportation and Traffic identified as "Potentially Significant Impact" on page 106 of the Initial Study	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	States that parking can be a CEQA issue, and requests that it be analyzed in the EIR	This comment does not address environmental issues that require analysis in the EIR.
	States that the proposed seven diagonal parking spaces on Niles Boulevard at the northwest corner of the Niles Gateway Project are not in conformance with Traffic Safety design line of sight criteria	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
	Suggests a round about at the entry to Niles, immediately south of the Railroad Underpass to assist with U-turn capability	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	States that Street A needs to be designed to the dimensions of a City of Fremont approved design for two lane roads with parking and sidewalks	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned that the Housing Design Guidelines state that residential units should front streets	Comment noted.
	Requests the identification of 'curb space' for pick-up and drop-off of pedestrians, especially for Uber and Lyft, and the creation of a bus stop	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Requests that the City incorporate all Town Center Commercial Parking requirements into the Niles Parking District	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Requests that the landscape design for parking be reviewed, and that a landscape pocket should be required at intervals of approximately every 8 parking spaces	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned with combining Commercial and Residential parking on a Private Street, as Commercial Parking generally has time restrictions, while Residential Parking is not time restricted	This comment does not address environmental issues that require analysis in the EIR.
	Requests that the City consider an emergency vehicle access from the end of Vallejo Street along the Alameda Creek Trail, under the Railroad Bridge, thence to Niles Gateway which would require a redesign of the existing trail under the Railroad Bridge to allow greater height clearance	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Requests that the traffic study should look at worst-case scenarios involving well over two hundred autos moving from the proposed project into the existing traffic on Niles Boulevard	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned that the two lane tunnel on Niles Boulevard leading in and out of town in front of the development is an unavoidable chokepoint, and the two blind curves which bracket this end of the development require special considerations	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Requests considerations of the impact of retail businesses in the Gateway development in combination with potential guest parking of the residences and overflow into the neighborhood	This comment does not address environmental issues that require analysis in the EIR.
	States that the project has not mitigated the substantive problems with traffic as noted by HARB, and that specifically cited the "excessive density" in its denial of the project	Section 4.B (Transportation and Traffic) of this EIR addresses traffic comment and Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
	Concerned about the width of Street A and emergency access	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Concerned with traffic problems involving diagonal parking spaces and line of sight issues	Section 4.B (Transportation and Traffic) of this EIR addresses the comment.
	Requests a Potentially Significant Impact finding for 4.18.c); 4.18.g) regarding Utilities and Service Systems	See Response 1 in Chapter 2 (Introduction) of this EIR.
	States that the project's proposed groundwater treatment and discharge facilities will result in Potentially Significant Impacts	There is no groundwater treatment proposed as part of this project. See Response 7 in Chapter 2 (Introduction) of this EIR regarding stormwater runoff and the outfall.
	Requests a re-analysis of the groundwater treatment of the project and that the City of Fremont require the construction of new storm water discharge facilities or expansion of existing facilities, the construction of which could cause significant environmental effects	See Response 7 in Chapter 2 (Introduction) of this EIR.
	Requests a Potentially Significant Impact finding for 4.19.a) 4.19.b); and 4.19.c) regarding Mandatory Findings of Significance	See Response 1 in Chapter 2 (Introduction) of this EIR.
	Disagrees that the Potentially Significant impacts of the project to be studied in the EIR shouldn't be Aesthetics and Transportation/Traffic alone	See Response 1 in Chapter 2 (Introduction) of this EIR.
Agencies		
Pacific Gas and Electric Company (PG&E) (Plan Review Team) (2/21/2018)	The PGE Plan Review Team is currently reviewing the project	Comment noted.
	Provided general information regarding PGE facilities	Comment noted. Project would adhere to PG&E requirements.
Correspondence Submitted by Mail		
Agencies		

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
Alameda County Public Works Agency (ACPWA) (2/28/2018)	Provided previous applicable comments dated 6/17/2017	Comment noted.
	States that the existing outfall shown on the tentative maps is in the wrong location. Need to verify and delineate.	The project sponsor will verify the outfall location during the Tentative and Final Map process. Please also see Response 7 in Chapter 2 (Introduction) of this EIR.
	Proposed development must comply with the RWQCB's C.3 requirements and other Federal or local water quality standards and regulations	Section 4.9 (Hydrology and Water Quality) of the Initial Study (Appendix A) addresses the comment.
	States that if the project will augment runoff, off-site and/or on-site mitigation measures will be necessary to accommodate the augmented runoff including obtaining off-site drainage rights	Comment noted. Project would adhere to ACPWA requirements.
	Need to determine if the existing storm drain pipes will have the adequate capacity or accept runoff from the site	Comment noted. Project would adhere to ACPWA requirements.
	Prior to the issuance of building permits, a Drainage Review Checklist may be submitted to ACPWA. Curb elevations are not to be less than 1.25 feet above the hydraulic grade line.	Comment noted. Project would adhere to ACPWA requirements.
	An encroachment permit from the Alameda County Flood Control and Water Conservation District must be acquired prior to the commencement of any work within the District's right of way	Comment noted. Project would adhere to ACPWA requirements.
	No surface runoff will be allowed to flow over the existing bank. On-site drainage system is needed to discharge runoff to the creek.	Comment noted. Project would adhere to ACPWA requirements.
	Do not block runoff from adjacent properties. The drainage area map developed for the hydrology design should clearly indicate all areas tributary to the project area	Comment noted. Project would adhere to ACPWA requirements.
	The project should not augment runoff to adjacent properties	Comment noted. Project would adhere to ACPWA requirements.
	ACPWA recommends that all storm drains be no less than 12-inches in diameter to minimize maintenance problems	Comment noted. Project would adhere to ACPWA requirements.
	Any water wells, cathodic protection wells, or exploratory boring known to exist, proposed, or located during the course of field operations must be properly destroyed, backfilled, or maintained in accordance with applicable groundwater protection ordinances	Comment noted. Project would adhere to ACPWA requirements.
Alameda County Water District (ACWD) (2/22/2018)	Provided previous applicable comments dated 11/3/08, 5/25/11, 1/14/15, and 7/14/17.	Comment noted.
	ACWD requested a minimum 15-foot-wide, non-exclusive easement for access to its facilities along Alameda Creek	Comment noted. Project would adhere to ACWD requirements.
	ACWD requested potentially significant impacts to the protection of groundwater to be addressed in the EIR including groundwater well protection/destruction and a drilling permit requirement	The comment is noted and all construction work that could involve exploratory borings or other excavations would adhere to ACWD permit requirements.
	ACWD requested that Mitigation Measure HAZ-1 be revised to reflect an updated requirement that the updated Risk Management Plan and revised land use conditions for the project site be submitted to ACWD at the same time they are provided to the Regional Board	The timing, responsibility, and action will be included in the MMRP.
	ACWD requested an additional mitigation measure be added to the EIR to ensure that the public water system extension and all appurtenances would be constructed in "clean corridors" which would be assured by either further testing of native soil along the proposed public water system alignments or by use of clean imported fill as backfill for all trenches excavated for any part of the public water system	Section 4.8 (Hazards and Hazardous Materials) of the Initial Study (Appendix A) addresses the comment. Mitigation Measure HAZ-1 are independent of completed site remediation efforts, and would ensure the project complies with the land use conditions established for the site.
	States that the Initial Study does not adequately address concerns with regards to the existing outfall structure and discharge of on-site stormwater upstream of Rubber Dam #3 (RD3)	See Response 7 in Chapter 2 (Introduction) of this EIR.
	ACWD is planning to relocate the discharge location of the existing storm drain located at the south end of Niles Boulevard	See Response 7 in Chapter 2 (Introduction) of this EIR.
	ACWD is requiring that stormwater be discharged downstream of RD3 and that this be included as a mitigation measure	See Response 7 in Chapter 2 (Introduction) of this EIR.
	ACWD requests that the EIR include a requirement that the project proponents provide ACWD the opportunity to review and comment on the Stormwater Pollution Prevention Plan	Comment noted.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
	ACWD requests the development of an emergency communications plan that would ensure ACWD is quickly notified in the event of a fuel or other chemical spill during construction activities	Section 4.8 (Hazards and Hazardous Materials) of the Initial Study (Appendix A) addresses the comment. The construction contractors would be required to prepare and implement a Hazardous Materials Business Plan that includes emergency response plans and procedures in the event of hazardous material spills.
	Requests that soil containing 2,4-DNT be removed or remediated where feasible, or covered by an impermeable surface where remediation is not feasible in order to protect the groundwater basin	Section 4.8 (Hazards and Hazardous Materials) of the Initial Study (Appendix A) addresses the comment.
	ACWD requests that the EIR evaluate and more thoroughly consider the pollutant treatment mechanism of the bioretention system and potential loading into Alameda Creek, and require coordination with ACWD regarding any drainage design and stormwater management and implementation	Section 4.9 (Hydrology and Water Quality) of the Initial Study (Appendix A) addresses the comment.
	ACWD may require that additional line valves be installed on existing public water mains and the Initial Study should be revised to identify these connections to the existing distribution system	Comment noted. This is a level of detail not required to conduct the environmental analysis under CEQA.
Native American Heritage Commission (NAHC) (2/2/2018)	NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of the project as early as possible to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources	Section 4.5 (Cultural Resources) of the Initial Study (Appendix A) addresses the comment.
	SB 18 and AB 52 may apply to the project and included guidance	Section 4.5 (Cultural Resources) of the Initial Study (Appendix A) addresses the comment. The City has conducted AB 52 consultation. SB 18 is not applicable to the project.
Correspondence Submitted at Scoping Meeting (oral) (2/12/2018)		
Cain, Julie	The site sits on a sensitive area of the groundwater basin and should be analyzed in EIR Initial study was inadequate. Will be submitting a detailed letter Where are the study alternatives for density and land use? Don't see HARB on list of process to get this project approved Judge did not specify that focused EIR be prepared Cultural resources surface study was not adequate Design a project that the Niles community would support	Responses to Ms. Cain's letter is provided above.
Coumou, Nancy	Appreciates more parking was created where a linear park was previously proposed Need more means of egress. Traffic is already impacted at this intersection Generally supportive of project because the Bay Area needs housing However, this project will make traffic worse	Section 4.B (Transportation and Traffic) of this EIR evaluates traffic impacts to intersections.
Daulton, Robert	Project should be strictly evaluated in terms of Niles Design Guidelines Considering its entry to Niles, EIR should look closely at how storefront reflect spirit of guidelines Requested that EIR look at an alternative of 60 residences	Chapter 4.A (Aesthetics) and Chapter 5 (Alternatives) of this EIR address these comments.
Grantham, Sandra	Request EIR consider population and housing because of density proposed States that a normal density would be 18-24 units Concern regarding 3 story structures being placed next to 1 story structures in adjacent neighborhood Concern that at later point would be easy to connect street through green area to 3rd street Address gridlock at the intersection in traffic study	Chapter 4.A (Aesthetics) and Chapter 5 (Alternatives) of this EIR address these comments.

Commenter	Summary of Comment	Where Addressed in EIR or Initial Study
Guld, Renee	Requested EIR evaluate alternative of reduced density of 60 units with no commercial or mixed-use. Cited HARB findings re: density Project should comply with Niles Design Guidelines Evaluate placing a permanent structure at southwest corner so that future development cannot occur. Examples: fenced playground for children of development or a dwelling unit. Concern re: air quality/traffic if cars go through Install story poles and identification signs for project and alternatives Conduct survey of residents to see if additional measures can be taken to reduce air quality impacts	Chapter 4.A (Aesthetics) and Chapter 5 (Alternatives) of this EIR address these comments. See Responses 3 and 4 in Chapter 2 (Introduction) of this EIR.
Jacobs, Dave	Appreciates process of getting feedback Wants to see full EIR. EBRPD trail next to site Bald eagle has been seen over multiple seasons. Project should fit the space and not the other way around Address biological resources and Historic Overlay District Aesthetics-wise, the project needs to fit Hazards and Hazardous Materials – this site was highly toxic. Some mitigation done to the site, but there's exposed concrete from diesel storage. Hydrology and water quality – concerned about outfall from the project site and potential of materials dumped into sewers from restaurants Look at a 60-unit alternative Assess impacts of extra trips associated with new students at site. Fewer units would help mitigate traffic impacts.	See Responses 1 and 6 in Chapter 2 (Introduction) of this EIR regarding CEQA and bald eagles, respectively. Section 4.A (Aesthetics) of this EIR addresses project in relation to Historic Overlay District. Section 4.8 (Hazards and Hazardous Materials) identifies Mitigation Measure HAZ-1, which include a number of land use conditions that must be met prior to issuance of grading and building permits. See Responses 2 and 7 regarding school trips and outfall, respectively. Chapter 5 (Alternatives) of this EIR evaluates a lower density project.
Mayer, Victoria	Wants the best project possible. We do need housing but there are no affordable units for the project. Density is too high. EIR should consider air quality. Confused about determination that there are no sensitive receptors within 1,000 feet. Liquefaction - not considered significant in study, however a neighbor couple streets over was required by City to disclose she was located in a high risk liquefaction zone.	See Responses 2 and 5 in Chapter 2 (Introduction) of this EIR regarding air quality and seismic impacts, respectively. Chapter 5 (Alternatives) of this EIR evaluates lower density alternatives to the project.
McKeown, Kely	Worked on Niles guidelines EIR needs to look at how project conforms to design guidelines Key component is protecting view corridor of Niles. Consider putting up temporary facades so that people can see what the view corridors are 3 story buildings Architecture could reflect time of site This is a gateway project and gives first impression	Section 4.A (Aesthetics) of this EIR addresses the comment.
Weed, John	This is out of character with addition to Niles. The layout and architecture are not compatible. Parking issues - parking backing out into Niles at far northwest end. All parking is on the street No design criteria for parking on A street. Commercial parking on the residential streets Need a public road that loops around project and a roundabout at underpass. Lawsuit opened this up to a full EIR Seismic issue – Need to look at Mission Fault (documented active fault). It is documented in the hazards maps of Union City and Hayward.	Section 4.A (Aesthetics) and Section 4.B (Transportation and Traffic) of this EIR address the comment. See Response 5 in Chapter 2 (Introduction) of this EIR regarding seismic impacts.

Public Comments
Niles Gateway-Mixed Use Project EIR NOP Scoping Meeting
February 12, 2017, City of Fremont City Council Chambers

Sandra Grantham

- Request EIR consider population and housing because of density proposed. A normal density would be 18-24 units.
- Concern regarding 3 story structures being placed next to 1 story structures in adjacent neighborhood.
- Concern that at later point would be easy to connect street through green area to 3rd street.
- Address gridlock at the intersection in traffic study

Robert Dalton

- Project should be strictly evaluated in terms of Niles Design Guidelines.
- Considering its entry to Niles, EIR should look closely at how storefront reflect spirit of guidelines.
- Requested that EIR look at an alternative of 60 residences.

Renee Guild

- Requested EIR evaluate alternative of reduced density of 60 units with no commercial or mixed-use.
- Cited HARB findings re: density
- Project should comply with Niles Design Guidelines
- Evaluate placing a permanent structure at southwest corner so that future development cannot occur. Examples: fenced playground for children of development or a dwelling unit. Concern re: air quality/traffic if cars go through
- Install story poles and identification signs for project and alternatives
- Conduct survey of residents to see if if additional measures can be taken to reduce air quality impacts

Julie Cain

- The site sits on a sensitive area of the groundwater basin and should be analyzed in EIR
- Initial study was inadequate. Will be submitting a detailed letter
- Where are the study alternatives for density and land use?
- Don't see HARB on list of process to get this project approved
- Judge did not specify that focused EIR be prepared
- Cultural resources surface study was not adequate
- Design a project that the Niles community would support

Dave Jacobs

- Appreciates process of getting feedback
- Wants to see full EIR.
- EBRPD trail next to site
- Bald eagle has been seen over multiple seasons.
- Project should fit the space and not the other way around
- Address biological resources and Historic Overlay District
- Aesthetics-wise, the project needs to fit
- Hazards and Hazardous Materials – this site was highly toxic. Some mitigation done to the site, but there's exposed concrete from diesel storage.

Public Comments
Niles Gateway-Mixed Use Project EIR NOP Scoping Meeting
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- Hydrology and water quality – concerned about outfall from the project site and potential of materials dumped into sewers from restaurants
- Look at a 60-unit alternative
- Assess impacts of extra trips associated with new students at site. Fewer units would help mitigate traffic impacts.

Nancy Coumou
- Appreciates more parking was created where a linear park was previously proposed.
- Need more means of egress. Traffic is already impacted at this intersection.
- Generally supportive of project because the Bay Area needs housing. However, this project will make traffic worse

Victoria Mayer
- Wants the best project possible.
- We do need housing but there are no affordable units for the project.
- Density is too high.
- EIR should consider air quality. Confused about determination that there are no sensitive receptors within 1,000 feet.
- Liquefaction - not considered significant in study, however a neighbor couple streets over was required by City to disclose she was located in a high risk liquefaction zone. Can't have it both ways.

John Weed
- This is out of character with addition to Niles. The layout and architecture are not compatible.
- Parking issues - parking backing out into Niles at far northwest end. All parking is on the street.
- No design criteria for parking on A street. Commercial parking on the residential streets.
- Need a public road that loops around project and a roundabout at underpass.
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___
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- EIR needs to look at how project conforms to design guidelines.
- Key component is protecting view corridor of Niles. Consider putting up temporary facades so that people can see what the view corridors are
- 3 story buildings
- Architecture could reflect time of site.
- This is a gateway project and gives first impression.

STATE OF CALIFORNIA
NATIVE AMERICAN HERITAGE COMMISSION
Environmental and Cultural Department
1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691
Phone (916) 373-3710
Fax (916) 373-5471
Email: nahc@nahc.ca.gov
Website: http://www.nahc.ca.gov
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Edmund G. Brown Jr., Governor

January 31, 2018

David Wage
City of Freemont
PO Box 5006
Freemont, CA 94537

RE: SCH#2018012041 Niles Gateway Mixed Use, Alameda County

Dear Mr. Wage,

The Native American Heritage Commission has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.), specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines Section 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared. (Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code § 21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code § 21084.3 (a)). **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements**. If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. § 800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments. **Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws**.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
    a. A brief description of the project.
    b. The lead agency contact information.
    c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code § 21080.3.1 (d)).
    d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code § 21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code § 21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or environmental impact report. (Pub. Resources Code § 21080.3.1(b)).
    a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18). (Pub. Resources Code § 21080.3.1 (b)).

3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
    a. Alternatives to the project.
    b. Recommended mitigation measures.
    c. Significant effects. (Pub. Resources Code § 21080.3.2 (a)).

4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
    a. Type of environmental review necessary.
    b. Significance of the tribal cultural resources.
    c. Significance of the project's impacts on tribal cultural resources.
    d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code § 21080.3.2 (a)).

5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code § 21082.3 (c)(1)).

6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
    a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
    b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code § 21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
   a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
   b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code § 21080.3.2 (b)).

8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code § 21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code section 21084.3 (b). (Pub. Resources Code § 21082.3 (e)).

10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:
    a. Avoidance and preservation of the resources in place, including, but not limited to:
        i. Planning and construction to avoid the resources and protect the cultural and natural context.
        ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
    b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
        i. Protecting the cultural character and integrity of the resource.
        ii. Protecting the traditional use of the resource.
        iii. Protecting the confidentiality of the resource.
    c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
    d. Protecting the resource. (Pub. Resource Code § 21084.3 (b)).
    e. Please note that a federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code § 815.3 (c)).
    f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code § 5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An environmental impact report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
    a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
    b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
    c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code § 21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code § 65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code § 65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code section 65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city's or county's jurisdiction. (Gov. Code § 65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
    a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
    b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: http://nahc.ca.gov/resources/forms/

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
    a. If part or all of the APE has been previously surveyed for cultural resources.
    b. If any known cultural resources have been already been recorded on or adjacent to the APE.
    c. If the probability is low, moderate, or high that cultural resources are located in the APE.
    d. If a survey is required to determine whether previously unrecorded cultural resources are present.

2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
    a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.

b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
   a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
   b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
   a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
   b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
   c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions, please contact me at my email address: frank.lienert@nahc.ca.gov

Sincerely,

Frank Lienert
Associate Governmental Program Analyst

cc: State Clearinghouse

From: Dave Jacobs
To: David Wage
Subject: Niles Gateway Project Scoping
Date: Thursday, February 8, 2018 10:06:33 PM

Hello David, I wanted to write you about the scoping feedback for the EIR for the Niles Gateway project. I see that in the document they developer Valley Oaks is only asking for focus on traffic and aesthetics? After all of the information that has been discussed by residents in Niles and the information on the site, I feel that the site requires a full EIR that focuses on all impacts (population, traffic, schools, fire protection, endangered species, archeological artifacts, and community beauty.) and not just traffic and aesthetics.

I look forward to a project that is properly thought out for the space that is there, but unfortunately, the proposed project does not look much different from the original project. There were issues that people had discussed and brought up during the first time through this that were ignored, so I think that it would be more prudent if the proposed project stuck with the Niles Regulations and Guidelines like the rest of us in Niles have to.

I also noticed that other agencies that were included in the past project proposal such as the East Bay Regional Park District and Ohlone Indians were not listed. Does this mean that they are not going to be asked for their feedback on the EIR? I do know that we now have Bald Eagles living over by the site and I believe there were issues with the design as being too close to the trail.

But my main concerns are
1) that that area of Niles has real traffic issues when heading to Mission Blvd. I understand that the intersection is currently at a D or E level and this project would push it to an F which is absurd to think is okay. They also state that it will only generate roughly 40 students. So since most kids in Niles have to be driven to another school, we are talking about at least 80 car round trips to the other schools, at commute time.
2) The proposed density of the project is too much. I know that the state is focused on growth, but that does not mean we have to create projects that are over double the size of what the space should be able to accommodate which results as imposing on the neighbors who already live in Niles. Just because you can does not mean you should.
3) The density leads to issues with the population which is a factor. Niles does not have a lot of resources for groceries, gas stations, doctors, etc. So this means that everyone has to drive. The more people the more trips.
4) Community beauty or aesthetics. Niles is one of the last places in Fremont if not the Bay Area that has what was an original main street. It has actually been improved upon over the past 20 years, but those

improvements came from input and guidance from the community. This is why there are regulations and requirements for building designs and space for Niles, but specifically in the HOD where this site resides.

I know this is a tough spot to put something, but I think that past city councils had a little forethought and wanted to keep the area of Niles contiguous in look and feel, which is why we have the regulations and guidelines. I know that there is a proper, well thought out solution for that spot, but it needs to take into consideration and input from the current Niles neighborhoods and community. A lot of people have lived here for generations which is a rarity these days, so do the right thing for them and not just what the developer wants...full EIR.

Regards,
Dave Jacobs

From:	Marlou
To:	David Wage
Subject:	EIR study
Date:	Thursday, February 8, 2018 9:53:01 PM

Having lived in Niles since 1972 we have seen many changes and up to now have not all been bad but your plan for more development is more than our town can handle. We get stuck in town during heavy rains due to both underpasses flooding even when there is just normal amount of rain. Our wonderful Niles school is so crowded that our neighborhood kids have to go across town when they live so close to their own local school. Please let's do more studies to see how this new development will impact our town. In an emergency we can't get out of town due to traffic and how can help come in? We will be at your meeting on Monday. Thank you, marlou Arias.

Sent from my iPhone

From:	Maureen Buggy
To:	David Wage
Cc:	Maureen Buggy
Subject:	Niles - my neighborhood
Date:	Friday, February 9, 2018 6:47:05 PM

Hello David,
I read somewhere in one of the blurbs about “Happiness" that one of the factors that contribute to Happiness is the ability to affect one’s government, to have a say in the things that affect you where you live.
Well, I live in Niles, but I actually grew up in Irvington District. You know, they have tried to make a neighborhood of Irvington, but it’s difficult.
I think one of the reasons Niles ‘works' as a neighborhood is the geography - D street to J street, and Niles Blvd., first and second . ….and this new Development at the entrance to Niles will really have a BIG effect on life in Niles!

That is why we are so concerned.

We DO want something there, but something that will augment Niles, like our Plaza - the heart of our community. We had a LOT of input into that, and look what it has become - the heart of our community.
We want the same for this development- to become a part of Niles….the make Niles even better.

This new Development will affect our school, Niles Elementary, our neighborhood school. And kids who grow up living near their neighborhood school make LIFELONG friends - and so do the moms. Do you know I have known this core group of moms from the Niles Babysitting Coop for 25 years! But I digress……
It will affect traffic, of course, which is already terrible during commute hours. Right in front of the Development site. (so less units)
It will affect endangered species, including plants that live there. (need broad EIR)
There are archeological artifacts there that need to be taken care of.(ditto)

For all these reasons, I want to ask you to take your power and make the scope of the EIR as wide and definitive as possible in order to ensure the best development we can get!

David, have you driven into Niles from that entrance? Now that the Henkle building has been torn down, the VISTA is so refreshing! You see S K Y as you make that turn into Niles.
See how nice that space(ing) is ?
So somehow , the building must be beautiful, and suit the area. I like some of the design of the commercial buildings that they came up with - but too many units and the entrance should be down at the end of the side road that parallels the train tracks. That would relieve a lot of traffic problems!

So that was a LOOOOOONG letter, and thank you for taking the time to read it all.

Looking forward to meeting you at a meeting!

Maureen Buggy

From: sandi grantham
To: David Wage
Subject: Niles Gateway Project
Date: Sunday, February 11, 2018 3:31:21 PM

Hi Dave

My neighbors and I are happy to see that the developer has no longer connected his project to Third Street. We were really concerned about having our dead end street turned into a through fare for 100 or more cars.

However, I still have the following concerns:
1. I don't think a three-story structure should be allowed next to one-story houses.
2. I don't think the front facade is compatible with the other buildings in historic down town Niles. How difficult would it be to include some brick so that it looks like the other old buildings in Niles? The fire station was able to integrate its design with the other buildings.
3. Of course my biggest concern is that right now there is gridlock trying to get in and out of Niles during commute time. How in the world can that area handle another 100-190 more cars?
4. It was unclear how many units would have 2 parking spaces.

Sincerely
Sandra Grantham

From:	Susan
To:	David Wage
Subject:	Niles Gateway Mixed Use Project
Date:	Sunday, February 11, 2018 11:30:10 PM

Dear Mr. Wage,

As a 36-year resident of Niles, I have watched it develop from a quiet little town into a burgeoning mass of traffic and congestion that has affected our quality of life to our detriment. Getting through the intersection at Mission Blvd. and Niles Canyon Road on a weekday has become a nightmare. Niles School has inadequate capacity, so the parents of the "overflow" applicants are forced to drive their children seven miles down Mission Blvd. to another school further adding to the congestion at the very spot where you are attempting to allow a project that has not been adequately assessed for the full impact that it will have on this charming little town.

I am not against progress, but, **please, the City of Fremont should use due diligence in protecting this historical part of Fremont by requiring a full Environmental Impact Report that deals with the actuality of the various repercussions that the Niles Gateway Project presents to our community.**

Respectfully,

Susan Lanferman
Rancho Arroyo section of Niles

From:	Cynthia Mcintyre
To:	David Wage
Subject:	Niles Gateway Mixed-Use
Date:	Tuesday, February 13, 2018 11:40:08 AM

Hello Mr. Wage,

I live on Second Street in Niles and would like to weigh in on the proposed project. While the property as it is looks awful and the proposal sounds like it would greatly improve the aesthetics, I am concerned about the impact it will have on already congested commute traffic.

Sincerely,
Cynthia McIntyre

From: Dave Jacobs
To: David Wage
Subject: Re: Niles Gateway Project Scoping
Date: Tuesday, February 13, 2018 8:25:27 AM

Hey David,

Thanks. The reason I asked about EBRPD was that they were involved in the original design and had issues with the units next to the trail. I did not see them as being listed in the initial study.

One other thing that I forgot to mention was the noise and vibration levels. One of the problems that we are trying to deal with now is that UP is going to be increasing the train traffic from 24 to 64 trains/day and the trains are going to be mostly long container trains. I know that in the past the planning has downplayed the EIR noise levels such as with the project over in Centerville where the old beauty college was, but it is an issue.

I also do have an issue with the way that Valley Oaks and Lennar have not maintained the property. As a resident of Niles with an alley behind my property, I am constantly reminded that I need to maintain the weeds, but I do not see the same requirements for the owners of the Henkel property. The residents along the property have complained to the city about it, but little is done about it. My point is that they are bad neighbors and do not care anything about the integrity of the neighborhood.

Thanks again for reaching out to the community, I hope that planning will start doing more of this as when the developers hold community meetings, their goal is just to do it as a checkmark and never really listen to the community input. So we all really appreciate you guys reaching out.

Regards,
Dave

From: "DWage@fremont.gov" <DWage@fremont.gov>
To: djacobs@pacbell.net
Sent: Tuesday, February 13, 2018 8:04 AM
Subject: RE: Niles Gateway Project Scoping

Good Morning Dave,

It was nice to meet you last night. Thank you for sharing your comments and concerns. I will share your comments with the EIR consultant and they will be addressed in the Initial Study and EIR.

In response to your question the Initial Study and EIR is shared with local, regional and state agencies, including East Bay Regional Parks. Regarding tribal cultural resources,

there is a discussion on page 101 of the Initial Study regarding outreach to tribes. The representative for the Ohlone Indian Tribe was notified of the project. Here is a link to the Initial Study - https://fremont.gov/DocumentCenter/View/37103

Please contact me if you have any additional questions or comments.

Regards,

David Wage
Associate Planner - Current Development
Planning Division - Community Development
39550 Liberty Street
Fremont, CA 94538
(510) 494-4447

From: Dave Jacobs [mailto:djacobs@pacbell.net]
Sent: Thursday, February 08, 2018 10:06 PM
To: David Wage
Subject: Niles Gateway Project Scoping

Hello David, I wanted to write you about the scoping feedback for the EIR for the Niles Gateway project. I see that in the document they developer Valley Oaks is only asking for focus on traffic and aesthetics? After all of the information that has been discussed by residents in Niles and the information on the site, I feel that the site requires a full EIR that focuses on all impacts (population, traffic, schools, fire protection, endangered species, archeological artifacts, and community beauty.) and not just traffic and aesthetics.

I look forward to a project that is properly thought out for the space that is there, but unfortunately, the proposed project does not look much different from the original project. There were issues that people had discussed and brought up during the first time through this that were ignored, so I think that it would be more prudent if the proposed project stuck with the Niles Regulations and Guidelines like the rest of us in Niles have to.

I also noticed that other agencies that were included in the past project proposal such as the East Bay Regional Park District and Ohlone Indians were not listed. Does this mean that they are not going to be asked for their feedback on the EIR? I do know that we now have Bald Eagles living over by the site and I believe there were issues with the design as being too close to the trail.

But my main concerns are
1) that that area of Niles has real traffic issues when heading to Mission Blvd. I understand that the intersection is currently at a D or E level and this project would push it to an F which is absurd to think is okay. They also state that it will only generate roughly 40 students. So since most kids in Niles have to be driven to another school, we are talking about at least 80 car round trips to the other schools, at commute time.
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on growth, but that does not mean we have to create projects that are over double the size of what the space should be able to accommodate which results as imposing on the neighbors who already live in Niles. Just because you can does not mean you should.
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I know this is a tough spot to put something, but I think that past city councils had a little forethought and wanted to keep the area of Niles contiguous in look and feel, which is why we have the regulations and guidelines. I know that there is a proper, well thought out solution for that spot, but it needs to take into consideration and input from the current Niles neighborhoods and community. A lot of people have lived here for generations which is a rarity these days, so do the right thing for them and not just what the developer wants...full EIR.

Regards,
Dave Jacobs

From:	Sterling Torre
To:	David Wage
Subject:	Niles / Valley Oaks / Henkel
Date:	Tuesday, February 13, 2018 2:58:25 PM

Hi I'm sorry I missed the Feb 12th meeting. Please dont sell out niles, Fremont has more or less already been sold out just please don t ruin niles.

Vinny Bacon sold this town and Niles is all that is really left, dont develop the Henkel plot we will be so jammed with traffic it will be another poor planned worthless gridlocked neighborhood.

For the record I'm not an old niles person I'm only 28 but the place is already at capacity.

From: sandi grantham
To: David Wage
Subject: Re: Niles Gateway Project
Date: Wednesday, February 14, 2018 7:33:07 PM

Hi David

1. When I read the Initial Report a week ago, I disagreed with the following:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Since the development is 4-5 times the density of the surrounding area, I felt that it could have a significant impact.

However, #2 is my primary concern. So you can guarantee that the project won't connect to Chase (Chester is close to Chase, right?) Court? Yippee! I'm a happy camper and will sleep well tonight.

Thanks
Sandra

On Wednesday, February 14, 2018 2:13 PM, "DWage@fremont.gov" <DWage@fremont.gov> wrote:

Hi Sandra,

Please see the responses below.

David Wage
Associate Planner - Current Development
Planning Division - Community Development
39550 Liberty Street
Fremont, CA 94538
(510) 494-4447

From: sandi grantham [mailto:sgrantham3@pacbell.net]
Sent: Wednesday, February 14, 2018 1:58 PM
To: David Wage
Subject: Re: Niles Gateway Project

Hi David

Thanks for responding to my email.
I had incorrectly thought that the scope meeting would include a Q&A. Hopefully you can answer my questions.

1. Why isn't population being considered in the EIR since this project will create a substantial population growth in the area? Please see page 98 of the Initial Study, which discusses Population and Housing. The Initial Study can be viewed here: https://fremont.gov/DocumentCenter/View/37103

2. Will the traffic EIR include the impact of having the project connected to Chester Court? Looking at the site plan, the developer will probably at some point put back the connection that he had originally planned since he has put any buildings in that area. If the EIR doesn't consider it now, will another EIR be done when the developer decides to put in the road? Due to the number of kids that now play on this dead end street, I think it is crucial that the EIR look at the impact 100-200 more cars will have on Third Street. The project does not and will not connect to Chase Court. The area on the project site adjacent to Chase Court is proposed to be used stormwater treatment. This could not simply be removed or even relocated.

Sincerely
Sandra

On Monday, February 12, 2018 3:51 PM, "DWage@fremont.gov" <DWage@fremont.gov> wrote:

Good Afternoon Sandra,

Thank you for sharing your concerns. I will share your comments with the applicant and Environmental consultant working on the EIR.

All of the units have two parking spaces, except two of the units, which only have one bedroom.

Regards,

David Wage
Associate Planner - Current Development
Planning Division - Community Development
39550 Liberty Street
Fremont, CA 94538
(510) 494-4447

From: sandi grantham [mailto:sgrantham3@pacbell.net]
Sent: Sunday, February 11, 2018 3:31 PM
To: David Wage
Subject: Niles Gateway Project

Hi Dave

My neighbors and I are happy to see that the developer has no longer connected his project to Third Street. We were really concerned about having our dead end street turned into a through fare for 100 or more cars.

However, I still have the following concerns:
1. I don't think a three-story structure should be allowed next to one-story houses.
2. I don't think the front facade is compatible with the other buildings in historic down town Niles. How difficult would it be to include some brick so that it looks like the other old buildings in Niles? The fire station was able to integrate its design with the other buildings.
3. Of course my biggest concern is that right now there is gridlock trying to get in and out of Niles during commute time. How in the world can that area handle another 100-190 more cars?
4. It was unclear how many units would have 2 parking spaces.

Sincerely
Sandra Grantham

From:	Anthony Esparza
To:	David Wage
Subject:	Niles Gateway
Date:	Thursday, February 15, 2018 1:59:46 PM

I'm writing as a concerned citizen of Fremont. Graduate of Washington and Centerville. All my best friends lived in Niles while I lived in Centerville growing up. As a kid it was easier to get to Niles on my bike along Alameda Creek than it is by car today. Now they want to build this strip mall at the Henkel property. I'm not opposed to building on the property but where will all the cars go? There is barely enough parking to accommodate those will live at this development. There are only 5 parking spaces allocated for outside guests, for the whole development. I've seen the plans. Each house/dwelling is only given 2 spaces, with 5 extra spaces to be divided up amongst everyone who lives there. Look outside your home and down your block, I bet you'll count more than 5 cars parked on the street. Are they going to park in front of the development on Niles boulevard? Essentially cutting into the storefronts profits. Right at the turn into niles from the Canyon and Mission, what effect will there be of cars reversing out of these spots of a blind curve? Where will the delivery truck loading zone be? Where will they park when they make deliveries? On Niles Blvd?

The design is bad and takes into account almost nothing of the reality that is Niles and its current traffic woes. If they removed some of those condos and instead made a 3/4 story parking garage to help with the influx of parking, that would at least alleviate the parking situation. If they would make a loading zone that isn't on Niles blvd. The real problem though, is that you have a two lane road and you want to slow traffic to a stop. How many hundreds, thousands even, of cars drive through that tunnel at Niles corner entrance? How many during the evening commute hours?

These developers want squeeze as many homes into a space for max profit meanwhile the city is left holding a bag of shit because they don't have the infrastructure to accommodate the populace. Unless, the developers want to widen the bridge tunnel that travels above Niles Blvd in order to widen the road to allow for turn lanes and a better flow of traffic.

I'm all for development, people need places to live but not when it is done haphazardly with no real world thought put into it. More, viable storefront in Niles would be great for the area. In fact a small big chain grocer would thrive. Like the Safeway in Downtown San Jose. The people of Niles would probably take to walking to and from the grocer. But this plan of all these homes with no parking is an idiotic, shortsighted, money grab. Trying to bamboozle the people with one fancy restaurant and a couple of grassy areas isn't going to work. As a voter, I'm against this specific plan.

Sincerely,

Anthony Esparza
37035 Farwell Dr.
Fremont

From:	Ken Elliott
To:	David Wage
Subject:	Niles Gateway Project
Date:	Thursday, February 15, 2018 4:06:33 PM

I have lived in Niles since 1978. I have seen many changes, good and bad. The Niles Gateway Project would be a bad change, very bad, with serious negative impacts on our community. You know what they are so I won't reiterate.

Sincerely engaged on this,
Ken Elliott
Niles resident

Sent from my iPhone

From:	MARY
To:	David Wage
Subject:	Henkel Peoperty development
Date:	Thursday, February 15, 2018 9:44:34 PM

Hello Dave,
I'd like to voice my opinion about the proposed Henkel Property development. Fremont is over saturated with stack and pack housing already. People are sick and tired of it. We don't want this development in Niles. It will cause more congestion and traffic. Let's build open space instead.

Mary

Sent from XFINITY Connect App

From:	Steven Coulthard
To:	David Wage
Subject:	Niles - Henckel Property
Date:	Thursday, February 15, 2018 4:24:01 PM

Dear David,

Please for all that is Holy…. DO NOT listen to Vinnie Bacon and his crowd of 1920's wannabes when it comes to the Niles - Old Henckel Factory location. I think the "Live/Work" planned community is a fantastic solution for Niles.

I think Fremont's well known (I will begrudgingly use a Trump Expression) "$hith0le" will finally be wiped off the face of the Fremont Map. Please consider the effects of having a lovely new Live/Work property to welcome new business, restaurants and services for the entire community. It would be nice to have more "VINE Style" restaurants return to this community and this would be a great start to the Niles Improvements.

Best Regards,

Steven Keith Coulthard - *Business Ambassador*
Charter Member - CBCA
"Centerville Business & Community Association"
Fremont, California

Cell: **650-799-1846**
Email: **stevencoulthard@gmail.com**
Web: **www.cbcafremont.com**
Mailing Address: 3603 Thornton Ave. Box 1 Fremont, CA 94536

From:	farwellbks@earthlink.net
To:	David Wage
Subject:	Niles Gateway Mixed-Use PLN2014-00338
Date:	Friday, February 16, 2018 12:30:09 PM
Attachments:	Niles Gateway Mixed.docx

Niles Gateway Mixed-Use (PLN2014-00338)

David Wage
City of Fremont, Planning Division

First of all, I received the letter from the city dated January 19, 2018, about the project. I did not notice at the very end of the letter announcing the date of the scoping meeting. That meeting notice should have been at the beginning of the letter, front and center, instead of the very end. If I'd have seen the meeting was going to happen I would have been there. I'm sure there were other people who missed the meeting because it wasn't properly displayed.

It appears to me that Valley Oak Partners designed the Niles Gateway plan with no regard for the Niles community. It is totally out of character with the historic nature of the area. What may be medium-density housing in the rest of Fremont would be, in this case, high-density in Niles. Go to the site and look around. Is there anything similar to this design in Niles? To conform to the Niles community, there should be about 25 houses on the property, not 82 townhouses, if houses were to be built. The CRAFT units reflect some concept to traditional Niles work/live buildings in town, but the design looks like something more likely seen in Emeryville. I suppose the traditional look of Niles is just too plain for an architect in this day and age. Regardless, this proposed design has no connection to the historical nature of Niles and therefore is not acceptable.

I realize my arguments against the design can be discounted and disputed by those who will accept anything on the site, but what will kill this project is the fact that it's at a dead-end in town with only one outlet. Adding 250 to 300 people to that part of town, with 150 to 200 or more automobiles, will create a nightmare of congestion. There is no decent public transportation in Niles, so residents must depend upon cars, and everyone who lives in Niles knows there is slow traffic at that end of town for people trying to get onto and off Mission Boulevard at certain times of the day. It will only get worse with this development, with no way to mitigate it. If there was a bridge across Alameda Creek at the end of Niles Boulevard like there was before 1937, that would help, but I don't see any plan for that. There is no getting around the fact that a bottleneck will be created by this development. In an emergency situation, lives could be lost because of the congestion problems created with this plan.

The retail development along Niles Boulevard would be welcome, if it can be made affordable and compatible with the historic nature of the town. Having open space on the rest of the property would be more desirable, and a better fit for residents, than townhouses. Leaving the property as it is would be better than what has been proposed. If the developer insists that putting up that number of townhouses is their only viable plan, then they would be better off giving up the property and going elsewhere, giving someone else the chance to make a positive difference in Niles with that land. Someday, a smart plan could be conceived, this one isn't it. Niles deserves better.

David Kiehn
Niles historian and resident
368 Riverside Ave
Fremont, CA 94536

Niles Gateway Mixed-Use (PLN2014-00338)

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City of Fremont, Planning Division

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David Kiehn
Niles historian and resident
368 Riverside Ave
Fremont, CA 94536

From:	deni caster
To:	David Wage
Cc:	Kristie Wheeler
Subject:	Request for Noise & Vibration Scoping on Niles Gateway EIR
Date:	Friday, February 16, 2018 2:26:27 PM

Feb 16, 2018
To: David Wage, Planner
CC: Kristie Wheeler

RE: Niles Gateway Requirement for Noise & Vibration EIR

Dear Mr Wage,
I request that the scoping include a new Noise & Vibration study as part of the EIR for the Niles Gateway project. As I detail below, it is wholly inadequate to not study the effects of freight train noise and vibrations on the development, as there clearly are already "Potentially Significant Impacts" arising from freight trains and the future plans Union Pacific RR to run more freight trains through its lines abutting the proposed project.

From page 657 of the Administrative Record for the original Gateway Plan:

"Existing Vibration Environment
Ground-borne vibration at the site results from railroad train pass-bys. Vibration measurements of railroad trains were made on Wednesday, January 8, 2014 at one location (V-1) approximately110 feet from the UPRR tracks, representing the easternmost boundaries of the nearest residential units proposed by the project. The location of this measurement is shown in Figure 1.

The instrumentation used to make the vibration measurements included a Tascam Solid State
Audio Recorder and seismic grade, low noise accelerometers firmly fixed to the ground. This system is capable of accurately measuring very low vibration levels. Vibration levels measured
on the site are representative of vibration levels at ground level (i.e. vibration levels that would
enter the building foundation).

Observations and measurements were made by I&R staff between 9:15 a.m. and 1:00 p.m. During this time period, 2 passenger trains passed the site. Passenger trains consisted of Amtrak
trains. **No freight trains** were observed during the monitoring period.

Vibration data were obtained during the two passenger train pass-bys to get a representative
sample of various train activity at the site. At the near location Amtrak pass-bys resulted in maximum overall levels ranging from 72 to 74 VdB."
I would also refer you to page 92 of the Niles Gateway Initial Study from Jan 2018 done by ESA. It discusses the possibilities of changes with regard to ACEForward and subsequent increases in freight traffic on both the Niles and Oakland subs. These same changes will impact this development –especially if a new bridge is built, as trains running over raised lines emit far more noise. I surely hope these possible future activities are provided as Disclosures to anyone purchasing a property here….
Also, I would hope in the interest of due diligence you would confirm if there is a noise difference with the conversion of the former linear park, with trees and shrubbery to help reduce the train noise in the initial plan compared to now having a roadway along the tracks. While technical, this is information that MUST be included so decision-makers and the public can understand the impacts of the changed configuration.

I would also request that the EIR include study of the effect of for sounds between the train tracks and the development, **and** between the development and existing neighborhoods at the end of 2nd and 3rd Streets. What will be the effect of noise with regard to the fencing that will be installed around the development for those living on 2nd St or 3rd Street? If cinder block walls are built, will it bounce the train noise over into these yards and create more noise for existing homes?.
Thank you for your consideration of this additional Scoping request.

Deni Caster
37880 3rd St
Fremont, CA 94536

From:	deni caster
To:	David Wage
Cc:	Kristie Wheeler
Subject:	Request for Niles Gateway EIR Scope to include Biological Resources
Date:	Friday, February 16, 2018 2:35:45 PM

Feb 16, 2018

TO: David Wage, City of Fremont Ass't Planner
CC: Kristie Wheeler

Dear Mr Wage,
I request that the EIR for the newly proposed Niles Gateway project include a thorough study of the impacts on Biological Resources & Recreation & Water Quality, for its "Potentially Significant Impacts" on the Alameda Creek Trail, as has been previously documented in the Administrative Record (AR) of this project.

In the documentation provided to Protect Niles known as the "Administrative Record", there is a letter from the East Bay Regional Park District in response to the City's request for feedback on the Niles Gateway project. The letter was dated Jan 15, 2015 and directed to Cliff Nguyen.

The letter refers to "having previously submitted comments and met with City staff on the 2011 PRP for the project entitled "Niles Creekside" at this site (PLN 2011-00229). Our 2011 comment letter is attached here for your reference." Unfortunately, there is no attached letter documented in the A.R. There is also no documentation for you to review within the City regarding this "Niles Creekside" project that requested a full EIR in the PRP phase, with many comments. (I found out about this project that was abandoned by Henkel Co in the Geotracker records. Funny how a new developer comes to town and all these requirements went right out the window.)

The letter goes on to state: "in previous District comments and discussions with City staff, we stressed the importance of avoiding impacts on the regional trail and the ecology of Alameda Creek. We particularly stressed the need for a buffer between the new townhomes and the trail corridor. Given that **THIS** project (Gateway, my emphasis) would construct townhomes **even closer** to the trail than the previous iteration, we find that **potentially significant impacts to recreation and wildlife** have not been adequately addressed. We continue to be concerned about the project's overall density, building heights and proximity to the southern property line."

It is imperative that the City conduct an Environmental Study prior to the approval of this project to take these concerns of EBRPD into consideration. If you wait until the grading plan, we all worry that it will be too late, and the Community, and all who utilize the Alameda Creek Trail will be compromised.

This idea of seeking out information **before** the approval seems appropriate. Another example – when it rains heavily, the outfall of the storm drain that is in Niles Blvd under the train tracks backs up and floods the underpass. This is most likely when the dam is raised, and the drain is "underwater". To see these plans of using this "existing storm drain" makes one think that perhaps no one has consulted with the Alameda County Public Works Agency. This too was noted in a letter to Mr Nguyen in 2014 by that agency. In addition, a July 30th 2014 "GPA

and PD" notice from the Community Development Department noted that "the project proposes to connect the new storm drain system to an existing public storm drain located with the UPRR right of way. Easement rights will need to be acquired from UPPR to allow for this storm drain connection." If UPRR responds as quickly as they have to the Quiet Zone issue in Niles, then this is something that should be acquired **BEFORE** the project gets underway, especially if UPRR is really considering building a second bridge over the Alameda Creek heading east….

Respectfully,

Deni Caster
37880 3rd St
Fremont, CA

From: Sally Morgan
To: David Wage
Subject: Niles Gateway Project
Date: Friday, February 16, 2018 12:12:53 PM

I am writing to express my concerns that this project is once again on the table because Valley Oaks thinks they can just re-apply? This land was a former chemical plant and the city is denying the need for a ***complete EIR--historical value, traffic, pollution, aesthetics, schools, fire protection and simply this sits on a former chemical plant*** How can this be possible? How can this city even consider a change in number of units---this project sits right next to Alameda Creek and EPRPD and the city won't consider feedback from the park--number of units doesn't change the fact that of these 2 issues--the park and creek are still there, they did not go away---traffic is not going away, the most likely grade for the intersections of Niles and Fremont will go from a C to F....
I am urging this city to NOT approve this plan.
Thank you, Sally Morgan

From:	Julie A Cain
To:	David Wage
Subject:	Niles Gateway scoping comments
Date:	Monday, February 19, 2018 11:36:57 AM
Attachments:	image001.jpg image002.jpg image003.jpg image004.jpg image005.jpg image006.jpg image007.jpg image008.jpg

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February 19, 2018

Mr. David Wage:

Due to the fact that the Niles Gateway project sits on (to quote former project manager Clifford Nguyen) "an extremely sensitive location within the recharge area of the Niles Cone Groundwater Basin," I believe a full EIR is required to fully address the various environmental issues relating to the project. In the 2018 Initial Study, on page 24, you checked off the box for "an ENVIROMENTAL IMPACT REPORT is required," not one of the alternative choices that might have limited or focused the scope. I also see that you identified aesthetics, transportation/traffic, mandatory findings of significance, hazards and hazardous materials, air quality and noise as worthy candidates for in-depth study.

I requested an EIR when the Niles Gateway Project originally went before HARB, the Planning Commission and the City Council, but to no avail. I am once again requesting a full EIR. Judge Roesch found for Protect Niles, which sued for an EIR, and ordered that "the lead agency must prepare an EIR." He did not specify a limited or focused EIR. The extreme sensitivity of the project site remains the same in 2018 as it was back in 2011. At that time, Clifford Nguyen identified ten potential areas of study (land use and planning, aesthetics and visual impacts, air quality, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise and transportation/traffic, and clarified cultural resources, noise and transportation/traffic (which has steadily worsened since 2011!) as required.

The Initial Study is inadequate at numerous points, lacking the necessary data produced by the level of study found in a good EIR. This is a problem with the inherent limited scope of the Initial Study, not with ESA staff. That said, ESA claims that 187, 733 square feet of construction on top of 6.02 currently vacant acres will not cause a significant impact. This may well prove to be true after a full EIR, but it is not made clear by the limited data provided in the Initial Study. Also, the addition of some 296 residents will supposedly produce a less than significant impact. But how many police patrol in Niles now? How big is Patrol Zone 1? What is their response time? This information is not to be found in the Initial Study so what is their conclusion based on?

Regarding schools, an estimated 47 children and teenagers will be living in this project. Literally NONE of them will be attending Niles Elementary with its 125-student-long waiting list. So more traffic at peak times for parents to drive these kids to school outside of Niles. In terms of cultural resources, an inadequate surface survey indicated no buried prehistoric sites on a site immediately adjacent to Alameda Creek. Only additional testing, in terms of digging, will confirm this.

Why are 5.2 acres of a 6.02 acre site going to result in impervious surface? If toxins linger after all of the remediation done so far, this is an extreme cause for environmental concern.

I see a park identified in Figure 11 but what recreation can actually take place there? The surrounding street trees that line the project are not recreational space. In terms of biology, ESA states the vacant lot is not part of the wildlife corridor of Alameda Creek and yet an overhead view of the area shows this lot not only immediately adjacent to the creek but less than a quarter mile from the foothills. The biologist made ONE site visit and failed to include the eagles everyone living in Niles has seen in the immediate vicinity. Again, this one visit is inadequate to truly determine a less than significant impact. A full EIR needs to be done to support this project.

Land use needs to be studied for both density and character. The lot is surrounded by extreme low density on three sides and Alameda Creek on the fourth side. Where are the study alternatives

needed for not only aesthetics and traffic but land use and biology? Where is the reduced density alternative? Where are the design alternatives that meet the Niles Design Guidelines and Regulations?

Personally I would like to see a design alternative that considered a residential development built on this property, specifically a development designed with the Niles Design Guidelines and Regulations enforced and a final CONTEXTUAL project endorsed by HARB. That is how infill projects within the Historical Overlay District are supposed to be designed. The project I see in the Initial Study looks exactly like the one that did not pass HARB the first time around. It is contemporary and is not contextual with either the surrounding neighborhood or the downtown area. The downtown is most certainly eclectic but, with the exception of the new (decidedly contextual) firehouse, no architectural style found in downtown Niles is older than Mid-Century Modern. The majority of the buildings date back from a century or more and the Niles Design Guidelines exist to keep the integrity of our iconic small-town feel and our views of the hillsides intact.

The name of this project reflects its sensitivity in terms of location; it truly is a gateway project and yet looks and feels like nothing else currently standing in the Niles District. This was the most common comment made to me over and over again when talking about this project with neighbors and other community members. Most agree we would like to see a project that truly looks like it belongs here and benefits the community as a whole.

I would suggest you look at the aforementioned fire house on Niles Blvd. and the nearby Pickering Place development at the corners of Pickering and Mission Blvd. for contextual inspiration, as contextual architecture is the primary directive of the Niles Design Guidelines. In addition, please consider William Wurster's eligible-for-the-National Register Schuckl cannery and office that once stood on the site until two arsonists burned down the office down. Wurster was a master architect, most famous for his Second Bay Tradition style of architecture (he, of course, eschewed this label as too regional and described his style as simply Modern). We have only to look at his Schuckl Cannery designs for both Niles and Redwood City for inspiration, in addition to his 1941 Grau Medical Office (1941), which is still standing next to the firehouse.

The keyhole entry and the use of brick and homegrown Niles Kraft tiles are exemplary examples of the contextual architecture called for in the Niles Design Guidelines in the new firehouse.

This plaque commemorates Essanay Studio, which once stood on the site. A similar plaque should acknowledge William Wurster's design for Schuckl Cannery at the Niles Gateway project.

Wurster's design for Schuck Plant No. 1 (1944) at Niles.

Wurster's design for the Schuckl plant in Redwood City. This design won him much acclaim and several awards. Note the similarity of this beautifully simple Modern design with his 1941 Grau Medical Office.

Detail of the street façade of the Grau Medical Office. Note the overhanging eave without the bracket (so Modern!) and the ribbon windows.

Note the keyhole entry.

A clearly respectful and sensitive interpretation of the Arts and Crafts style so dominant in the Niles residential area, particularly within the HOD. This is a detail of the nearby Pickering Place.

Another detail of Pickering Place. Notes the overhanging eaves with exposed rafter tails, a contemporary interpretation of a bow window, wood battens, double-hung windows and the neat picket fences.

I question the economic efficacy of 13 live/work units as a component of this project. Even in this so-called booming economy—recent stock market depredations notwithstanding—I see several empty downtown storefronts standing vacant now. How is the local community supposed to support 13 more business ventures? And weren't live/works outlawed in the City of Fremont? Why are they being considered in a 2018 design?

Please, please, please design and build a project that the Niles community would welcome. Please work with the community as instructed by the City Council when they finalized the original plan. Thank you for giving my comments consideration.

Julie Cain

Niles resident

From: Lorna
To: David Wage
Subject: Niles Gateway EIR
Date: Monday, February 19, 2018 10:22:54 PM

Hello David,

This is in response to the Initial Study for the EIR for the Niles Gateway project regarding section 4.1 (d) regarding light and glare and the statement that the project has less than significant impact. I disagree wholly with the 'less than significant impact' statement below and believe that a full and comprehensive EIR on ALL issues is necessary, including but not limited to, the issues of light and glare. There is already excessive light pollution and glare from lights in the Niles District and this project will significantly increase the glare and light pollution. The City's current zoning ordinance is wholly inadequate with respect to light and glare and this proposed development must not exacerbate the current light problems and must mitigate glare and light pollution to the maximum extent possible. Therefore, the EIR must address the issue of light and glare.

Best regards,

Lorna Jaynes

Less than Significant Impact
.
The project site is currently vacant, and located in an
urban environment that includes existing sources of light and
glare associated with
nearby land uses and streets. These sources of light and glare include motor vehicle and
train headlights, exterior lighting associated with surrounding residential uses, and street
lighting along the segment of Niles Boulevard adjac
ent to the site.
The proposed project would result in new sources of light and glare on a site that is currently vacant. Street lights would be provided along the private streets and guest parking area within the site, and along Niles Boulevard. The proposed buildings, pedestrian walkways, and outdoor spaces would include exterior lighting fixtures. The
light and glare created by the project would be consistent with the levels of light and
glare currently emitted by development surrounding the project site
, which are typical of
a developed, urban area. Proposed features at the project site would not be considered

substantial relative to existing light and glare conditions in and around the project site.
The proposed project would be required to comply with the development standards and
requirements in the City's Zoning Ordinance
(Chapter 18.45.030(c) for all commercial
and mixed-use districts and Chapter 18.90.030(c) for all residential districts)
, which
requires that all exterior light sources be designed so as not to create significant glare on
adjacent properties through the use of concealed source and/or downcast light fixtures.
Compliance with the lighting requirements of the Zoning Ordinance would ensure that
the project would not create new sources of substantial light and glare on adjacent properties. As such, impacts would be less than significant
, and
this impact will not be
discussed further in the EIR.

From: cathylayden@comcast.net
To: David Wage
Subject: Niles Gateway EIR request
Date: Tuesday, February 20, 2018 8:48:40 PM

Dear Sir,

I want a comprehensive EIR on the Niles Gateway project. Thank you.

Best Regards,

Catherine Layden
844 Barcelona Drive
Fremont, CA 94536

From: jalisonh@aol.com
To: David Wage
Subject: Niles Development
Date: Tuesday, February 20, 2018 8:17:02 PM

Re: EIR Scope for Niles Gateway

Dear Mr. Wage:

As a Fremont resident I am concerned regarding what seems to be hasty and dense development all over town. This project is no exception. It has the potential to have a very negative impact on the character of Niles, as well as the wonderful and fragile balance of life in and around Alameda Creek. There are bald eagles frequently seen in the trees along the edge of the now empty property, and it would be unfortunate to have that end due to this construction. Bald eagles and their environs are protected, and as such, I urge an extensive study of this special-status animal and the possible effect this dense project will have on its treasured presence here.

A Concerned Citizen,
Jan Harvey
2669 Parkside Drive
Fremont

From:	jalisonh@aol.com
To:	David Wage
Subject:	Niles Development
Date:	Tuesday, February 20, 2018 5:34:01 PM

Dear Mr. Wage,
Houston we have a problem!!! With most of the development in Fremont being condos, with business on the ground floor, how are they ALL suppose to thrive? They can't! Downtown Niles already has it's own business district and even there, it is always changing. What are you thinking ? Leave quaint NIles along, it is the only area in Fremont that has character and draws people into town. Don't take this away by following what other developers are doing, think 'outside the box' and come up a plan that fits into this historic area, does not cause even worst traffic and is not so dense!

A Very Concerned Citizen,
Jan Harvey
2669 Parkside Drive.
Fremont

From: Julie Aragon
To: David Wage
Subject: EIR Scope for the Niles Gateway
Date: Tuesday, February 20, 2018 2:04:50 PM

Dear Mr. Wage:

I am writing in regard to the Niles Gateway project. I realize that something needs to be built on that property and *will* be built on that property, but I want careful consideration to any project that will forever change the character of Niles, a place I have called home since 1984.

As it is, I believe the density is too high. This will create untold traffic issues, regardless of "solutions", creating gridlock twice a day. I often leave to go to work at 4:30 pm and sometimes it can take 30 minutes just to get to Mission Blvd from my house. And this is without a high density project added to the mix! Niles is already limited in our options for egress, and this will make it worse. Also, three stories is too high for Niles. No other buildings are this tall, and they will block views of the hills of everyone who lives behind them.

Please reconsider the density of this project.

Sincerely,

Julie Aragon
346 D Street

From: Julie Aragon
To: David Wage
Subject: EIR Scope for Niles Gateway
Date: Tuesday, February 20, 2018 2:09:49 PM

Dear Mr. Wage:

I am writing to request a reconsideration of the current plan under consideration at the entrance to Niles.

As I understand it, the CRAFT units will be connected to the residences upstairs, and this presents a real dilemma if the business downstairs does not flourish. In fact, according to the U.S. Small Business Administration, only 20% of small businesses survive their first year. Will we be then looking at a row of empty storefronts?

This design has serious flaws with long-term consequences. I urge that any impending EIR include serious study of appropriate Land Use Planning.

Respectfully,

Julie Aragon
346 D Street

From: Julie Aragon
To: David Wage
Subject: EIR SCOPE
Date: Tuesday, February 20, 2018 2:10:44 PM

Dear Mr. Wage:

I am writing to request a reconsideration of the current plan under consideration at the entrance to Niles.

As I understand it, the CRAFT units will be connected to the residences upstairs, and this presents a real dilemma if the business downstairs does not flourish. In fact, according to the U.S. Small Business Administration, only 20% of small businesses survive their first year. Will we be then looking at a row of empty storefronts?

This design has serious flaws with long-term consequences. I urge that any impending EIR include serious study of appropriate Land Use Planning.

Respectfully,

Mark Aragon
346 D Street

From: Julie Aragon
To: David Wage
Subject: EIR Niles Gateway
Date: Tuesday, February 20, 2018 2:18:44 PM

Dear Mr. Wage:

I am writing in regard to the Niles Gateway project. I realize that something needs to be built on that property , but I want careful consideration to any project that will forever change the character of Niles. I have lived in Fremont since 1964, and bought my home in Niles in 1984, specifically because of the qualities this neighborhood had to offer. That did not include unmanageable traffic and unrealistically high density housing (in a seismically sensitive zone) I understand that times change, but lets change them without haste. These decisions will impact the area in a permanent manner. They must be made thoughtfully and with an eye to the community's betterment.

As it is, I believe the density is just too high. This will create untold traffic issues, regardless of “solutions”, creating gridlock twice a day. Niles is already limited in our options for egress, and this will make it worse. Also, three stories is too high for Niles. No other buildings are this tall, and they will block views of the hills of everyone who lives behind them.

Please reconsider the density of this project.

Sincerely,

Mark Aragon
346 D Street

From:	Megan Savage
To:	David Wage
Subject:	Niles
Date:	Tuesday, February 20, 2018 10:34:01 PM

Niles is my sacred place. A place I can go to that has an old town feel and not scattered with high density housing and commercial shopping areas. All this building makes me want to leave the city where I bought my first house. I am so sad to hear that this building may be a reality for Niles.

My hopes are that the city chooses to keep the sacred Niles we all know and love over money and development!

Megan Savage

From:	Vickie Mayer
To:	David Wage
Subject:	Niles Gateway Project
Date:	Tuesday, February 20, 2018 2:03:50 PM
Attachments:	niles gateway letter.docx

Please see attached letter re Niles Gateway EIR Scope. Thank you.

February 14, 2018

To: David Wage

Re: EIR Scope for Niles Gateway

Dear Mr. Wage:

Again, thank you for the scoping meeting of February 12, 2018. I am grateful for the opportunity to give input regarding this project. As requested, I am following up with written documentation for clarity and thoroughness. In the interest of a responsible project, I request a full EIR be done as opposed to the limited EIR, which is currently proposed. I believe many areas, with further study, would be designated as having potentially significant impact.

Aesthetics

This has been addressed and acknowledged as needful of further consideration. To throw my two cents in, however, I'll ad that I think the current design ignores the Niles Design Guidelines. It kind of reminds me of mobile homes, not to disparage those, but certainly there is no echo of the architecture of Niles proper that I can see. Included in my concerns regarding the aesthetics is the extreme density and height, which are very much not in keeping with Niles. This density issue spills over into other areas, which will also be discussed later. There is a dearth of green space. Niles is known for its historical nursery, tree-lined streets and friendly feel; this does not seem to be nodded to at all in this plan. The high occupancy and minimal plant life makes it feel more like a "project" in the unfavorable sense of the word. A reduction in density would be more in keeping with the current Niles aesthetic, the Niles Design Guidelines, and would allow more options in order to mesh the architecture with the surrounding residential and commercial buildings seamlessly. Currently, the plan is rather a jolt of modern and prefab abutting an obvious historical district.

Air Quality

The claim of "no other sensitive receptors within 1000 feet of the project site" is interesting, mind-boggling, and untrue. By the definition of the initial study, sensitive receptors are defined as children, the elderly, and the infirm (I'm interpreting this as people with chronic respiratory or other debilitating conditions.) All three of these groups are represented in the few houses abutting the property on the end of Second Street. How was this determination made? Not one person I've spoken with who lives there was interviewed to determine their health, age, etc. This project will result in lots of dust and diesel fumes at best, and toxic clouds at worst. There have already been documented violations cited by the city during the initial phase. Furthermore, according to the initial study, most of the dust, debris, etc. will blow eastward (into the creek.) Has there been a study of the

toxins in this soil and evaluation of the possible effect on the fish and fowl that live in and around the creek?
By reducing the number of buildings on site, there could be a larger buffer around the perimeter of the project, thereby reducing fumes, clouds, etc. drifting into the creek and surrounding neighborhoods.

Biologic Resources

The current plan under consideration includes removal of the majority of the existing trees on the site. Of those remaining trees, only one variety is rated as a high biogenic emitter. In contrast, the proposed plant/tree list includes eight varieties of high BVOC emitters. In light of the city's desire for reduction of greenhouse gases, this list should be reevaluated. Aside from this, there have been repeated sightings of bald eagles over the past few seasons roosting in the remaining copse of trees on the property. The bald eagle was not listed as one of the special-status animals studied on the plan. According to the Dept. of Fish and Wildlife, there must not be sufficient disruption of roosting or foraging activity (of bald eagles) to be considered a take, especially if the area population would be profoundly affected. Estimation of Alameda County bald eagle population as of 2017 is three nesting sites. Since a take is only allowed if fewer than 5% of the population would be disrupted, this is definitely worthy of further study and careful planning.
Reduction in density would allow for ample buffering space between the trees that shelter migratory birds and the buildings, minimizing the likelihood of foraging disruption.
Incidentally, lots of plants on your list are misspelled.

Geology, Soils and Seismicity

The Niles Gateway site (and the rest of Niles) is flanked by the Hayward and Mission faults. (See linked map.) Understandably, this information is required to be disclosed to potential buyers when selling a home here. However, somehow, there is "less than significant impact" assumed with this project in regard to liquefaction, ground failure, and ground shaking. Why is that the case? According to the USGS liquefaction susceptibility ratings, artificial fill has the strongest amplification of shaking during a quake. This site is known to have been a landfill from decades ago. Modern methods may make landfills less dangerous on which to build, but there are people who have pulled old car parts out of their backyards from this dump. This is not solid ground. Looking toward the future, we know there will be increased train travel on these nearby tracks, causing far more ground shaking than there is now. Also, the structures proposed are (largely) 3-story, increasing the risk of swaying and general damage than if the buildings were not as high.
Reduction in density of this project would result in either fewer (falling) buildings during a major quake, or less shaking/swaying due to lower general height.

http://gmw.conservation.ca.gov/SHP/EZRIM/Reports/FER/088/FER_088_Figure2.pdf

https://earthquake.usgs.gov/hazards/urban/sfbay/soiltype/

Hazards and Hazardous Materials

This overlaps the Air Quality discussion. There needs to be real enforcement of BMP throughout this project to protect all manner of folks and wildlife surrounding the site.

Hydrology and Water Quality

There should be real evaluation of how the water from the site is expelled to Alameda Creek. The outflow should be visible and not submerged. This is our drinking water, after all. And with no end of drought years in sight, shouldn't we give our very best effort into preservation of the water that we have?

Land Use and Land Use Planning

The proposed project should either NOT be zoned as mixed-use or should be considered part of the Commercial Core Area, since the property literally abuts this zone. (See map.)
https://fremont.gov/DocumentCenter/Home/View/1109 Furthermore, the CRAFT concept seems ominously destined to fail. There are unsuccessful business ventures all over town—I think there are at least two empty storefronts now just on Niles Blvd. alone, and we know that many businesses fail in their first year. Has consideration been given to the fact that some of these businesses will go belly-up? Then what happens? Is the live/work unit owner required to continue attempting new types of businesses until something is profitable? Does the owner sublet the first floor that is connected to the upstairs residence? I think not. The more likely scenario is that the downstairs will get "flexed" right into being a living room. And Niles (and all who enter here) will be subjected to a bed sheet hanging from the ceiling to cover the glass door so the family can watch television in peace. Not a great "gateway" look.
Reducing the density of this project would allow for separate shop fronts and living spaces, even allowing for parking, thereby preserving the attractive façade desired in any plan.

Noise

Again, there will be profound noise from trains. It's unfortunate that the solution is to keep the windows closed. Would a row of (eventually) large trees at the edge of the property create a sound buffer? Maybe this should be considered. I realize that the original plan had a "linear park" which has been eliminated, and this would have created a buffer of sorts. However, there needs to be a place to park too. Also,

construction noise (not to belabor a point) needs to be strongly monitored, as during the initial phase there were, at times, trucks arriving prior to 7:00 a.m. Reduction in the density would enable strategic placement of units, perhaps angling them away from the bulk of the train noise to lessen the effect of the noise from the railway. There would also be space for more trees, landscaping, etc., which would buffer the sound naturally.

Public Services

Are there additional police and firefighters hired commensurate to projects built? There has been lots of construction lately and unless the public service sector has adequate funding to increase their forces, that could have a negative impact on response time to everyone in the city.
Reducing the density of the proposed plan would decrease the strain on public services.

Recreation

It is true that there are nearby parks to this site, but there is no place in the development for small children to play safely. One can hardly send their child to go out and play by the creek, in the street, or beside the train tracks. There should be an included green space (larger than the one proposed) for residents, old and young alike, perhaps incorporating a small surrounding bike riding path for little riders. Sorry, just my vision.
Reducing the number of units would allow for more recreation space, thereby creating a more favorable style of life for all the residents of this new development.

Transportation

Since this is going to be studied at length, I will be brief. But the current proposition of the left turn lane is, in my estimation, grossly insufficient. I think a roundabout would keep things moving more effectively and prevent jam-ups (better, anyway) from both directions. With the current plan, you can be sure there will be cars stopped in that left turn lane during rush hour traffic unable to turn left due to the congestion on Niles Blvd. This backup will extend out to Mission Blvd, ultimately clogging the intersection of Mission and Niles Canyon. Mark my words. It's already almost that bad. Just yesterday at 4:30 p.m. traffic was backed up (stopped) on Niles Blvd. from H Street all the way to Mission Blvd.
I think it's obvious that lowering the density would bring about a reduction in all types of vehicular traffic in and out of this new development.

Contrary to some opinions, we in Niles are not trying to squash every project. We **do** want to be good neighbors. We **are** concerned with the lifestyle and well being of future Niles residents. Jamming people in to achieve the highest density possible is not in keeping with this. We just want a development that is well planned, safe,

and of which we can be proud. The Niles Gateway project should ideally add to, rather than detract, from this special part of Fremont.

Thank you for your attention to this matter. We all want the best project possible.

Sincerely,

Victoria L. Mayer
37421 2nd Street,
Fremont CA

From: Carol Drake <carolsgraphicarts@aol.com>
Sent: Wednesday, February 21, 2018 6:38 PM
To: David Wage; carolsgraphicarts@aol.com
Subject: Niles Gateway Mixed-Use Project

Hello David Wage,

I am writing to you about my concerns for the Niles Gateway Mixed-Use Project.
It is a development of 95 dwellings on a six acre property in Niles.

I would like a full EIR that focuses on more impacts not just traffic and aesthetics.
I would like a full EIR that focuses on population, traffic, schools, fire protection, endangered species, archeological artifacts, and community beauty.

The site sits right next to the Alameda Creek Trail which is managed by the
East Bay Regional Park District. We need to hear their concerns on this project.

Thank you.
Carol Drake
510-358-2805

From: Corie Cruz
To: David Wage
Subject: EIR Scope for Niles Gateway
Date: Wednesday, February 21, 2018 7:06:17 AM

Dear Mr. Wage:

I am writing in regard to the Niles Gateway project. While I appreciate that something needs to be built there, I don't want haste to forever change the character of Niles.

As it is, I believe the density is too high. This will create untold traffic issues, regardless of "solutions", creating gridlock twice a day. Niles is already limited in our options for egress, and this will make it worse. Also, three stories is too high for Niles. No other buildings are this tall, and they will block views of the hills of everyone who lives behind them.

Please reconsider the density of this project.

Sincerely,

Corie Cruz

37215 Mission Blvd.

Fremont

From:	Donna LaGraffe
To:	David Wage
Subject:	Niles Gateway
Date:	Wednesday, February 21, 2018 9:42:46 AM

Good morning, David

I am writing today to let you know my desire for a comprehensive Environmental Impact Report on the Niles Gateway project.

Thank you,

Donna LaGraffe

From: jalisonh@aol.com
To: David Wage
Subject: Niles Development
Date: Wednesday, February 21, 2018 10:57:57 AM

Mr. Wage:

I am a resident of Fremont and respectfully request an EIR that includes extensive seismic evaluation. This project is too dense and the buildings in the plan are too tall. This seems dangerous to have 3-story building, built on, essentially, a landfill smack in the middle of a known seismic hot spot. As someone already concerned with the availability of resources in a relatively geographically isolated area, this seems foolhardy at best. I urge reevaluation of this design, with lower density and shorter buildings.

Adding to this will be the necessary busing of children across town so they can attend school. (Only so many children will fit into NIles School.) This will add to the congestion on the streets and additional air pollution.

A Very Concerned Citizen,
Jan Harvey
2669 Parkside Drive
Fremont

From: jessie cruz <jessieacruz@yahoo.com>
Sent: Wednesday, February 21, 2018 5:14 PM
To: David Wage
Subject: Fremont gateway

Dear Mr. Wage:

I notice that the new Niles Gateway plan does not include a throughway to Chase Court. While this is an improvement, the lack of a permanent structure at the corner of Chase Court and the site will allow future amendments to the street design. This court is already buckled and uneven with the minimal traffic it handles now. If upwards of 200 trips were added each day (easy to imagine with almost 100 units) this would put significant strain on our street.

The plan needs to be modified to include a permanent structure to avoid through traffic onto Chase Court.

Thank you.

Jessie Cruz

37215 Mission Blvd.

From: Linda Randolph <lindarandolph@comcast.net>
Sent: Wednesday, February 21, 2018 3:56 PM
To: David Wage
Subject: Niles Gateway project

Dear Mr. Wage,

I am writing as a resident of Niles to express my concern that the Initial Study (Environmental Checklist) of the Niles Gateway Mixed-Use Project dismisses a number of impacts which merit further review in an EIR. As you are no doubt aware, the EIR was ordered by the judgement of the Superior Court of Alameda County in response to a lawsuit by Protect Niles, a group of concerned local residents that raised a great deal of money from the local community to support the lawsuit. The lawsuit was successful. The judgement of the Court found that the City of Fremont "abused its discretion" in granting approval of the project, and orders an EIR which is not limited in scope. Please do not make the same error in judgement in studying only those impacts that were specifically called out by the judge as being egregiously in error in the City of Fremont's initial finding (of a very similar mixed-use, high density project) that all potential impacts could be mitigated. The City should have ordered a complete EIR of a proposed project of this magnitude in the first place. It will forever change the Town of Niles

In addition to the further study of Aesthetic Impacts, and Traffic and Transportation Impacts, which the Initial Study agrees will be further studied, I request that an EIR include further study of the environmental impacts of the following:

1. Air Quality
2. Biological Resources
3. Geology, Soils and Seismic
4. Greenhouse Gas Emissions
5. Water Quality
6. Water availability during drought conditions
7. Land Use Planning
8. Noise and Vibration
9. Population and Housing
10. Public Services
11. Recreation

I believe this project will have many Potentially Significant Impacts on the town of Niles. If they are not identified in an EIR, or are not studied because of a premature dismissal and faulty assumptions in this Initial Study, the citizens not just of Niles but of all of Fremont will be harmed. Please do a thorough EIR and conduct further study of all these potential impacts on our community's quality of life, and health.

Sincerely,

Linda Randolph

403 Washburn Dr.

Niles, Ca.

From: Linda Randolph <lindarandolph@comcast.net>
Sent: Wednesday, February 21, 2018 4:01 PM
To: David Wage
Subject: Niles Gateway Project

Dear Mr. Wage:

I am writing in regard to the Niles Gateway project. While I appreciate that something needs to be built there, I don't want haste to forever change the character of Niles.

As it is, I believe the density is too high. This will create untold traffic issues, regardless of "solutions", creating gridlock twice a day. Niles is already limited in our options for egress, and this will make it worse. Also, three stories is too high for Niles. No other buildings are this tall, and they will block views of the hills of everyone who lives behind them.

Please reconsider the density of this project.

Sincerely,

Linda Randolph

403 Washburn Dr.

Niles, Ca.

From: Marcie Usselman <marcie1.uss@gmail.com>
Sent: Wednesday, February 21, 2018 5:01 PM
To: David Wage
Subject: Niles development proposal

Dear David,

I am writing to you regarding the property on 37899 Niles Blvd, Fremont, CA. I am a current resident in Niles and I am opposed to the proposed development. It will create more traffic congestion which is already unbearable and a huge safety concern.

Where will new children living in this complex attend school? Niles School is already over crowded. I urge the City of Fremont to stop this new development and to provide a comprehensive EIR on the Niles Gateway.

Thank you, Marcie Usselman

From: Michelle Powell
To: David Wage
Subject: Comments on Niles Gateway Mixed-Use Initial Study
Date: Wednesday, February 21, 2018 5:50:13 AM

February 21, 2018
via e-mail

David Wage
Assistant Planner
City of Fremont
dwage@fremont.gov

Comments on Niles Gateway Mixed-Use Project Initial Study

Mr. Wage,

I am requesting that the City of Fremont demonstrate adherence to its stated commitment to protection of "community character," by commissioning a full, comprehensive Environmental Impact Report covering many more impacts than are listed in the Initial Study for the Niles Gateway Mixed-Use Project.

It is worrisome when a study regarding 95 proposed densely-packed homes and live-work units in a historic district that is prized for its authenticity dismisses many of the effects by claiming that they will have "less than significant impact" or "no significant impact" with proposed mitigations, and proposes no further study of them in the EIR. It is impossible for a development of with these building heights, densities, and anticipated additional vehicles to avoid significant impacts to the existing community, even with proposed mitigations. The density of this project will raise the number of houses and population of the Historic Overlay area by a great degree.

The EIR must include an impact report for a project of lower density in order to provide a transparent comparison for the community and elected/appointed officials. And speaking of transparency, for this small historic community that is purportedly so prized by the City, installation of story poles so the community, commissions, and council knows what is in store as far as impacts to views and proposed architecture should be done and a comment period arranged.

The proposed parking spaces, especially the diagonals in front of the live/work areas, seem to add danger to an already congested and bottlenecked location. The traffic and parking impacts of this project will be severe. The commercial buildings should be subject to the same regulations for parking, mass, aesthetics, building design, height, signage and other rules as the existing commercial buildings on Niles Boulevard. It's not conducive to community inclusion and character to have separate sets of regulations for businesses along Niles Boulevard. The aforementioned impacts should be addressed in the EIR.

The planned commercial parking spaces on residential and private streets will have a severe impact on the surrounding neighborhood and must be addressed in the EIR. There is the City's ideal regarding cars and parking per housing unit, and there is current reality. Homes are more and more often occupied by multiple generations with multiple vehicles, and those vehicles

end up on surrounding residential streets - creating a daily contest as to who gets to park near their own home and introducing the specter of the neighborhood parking permit. The City of Union City's recent neighborhood parking study should be consulted when developing this project's EIR.

A complete train noise and vibration study that takes freight trains into account and occurs over a 24-hour period, not just from 9:15 a.m. to 1 p.m. as the previous study did, must be completed. Trains run 24 hours through Niles, with heavier freights passing through more frequently at night. Commuter trains have frequent trips in the hours before 9:00 a.m., and in the late afternoon/early evening.

Niles depends upon its historic character to draw visitors in. It is vitally important that a development that is the "gateway to Niles" fits in with the existing community, and furthers the affection and "days gone by" feeling that visitors and property owners alike enjoy. In my opinion, the proposed development does not further these aims for the community or the City, and does not encourage assimilation with the existing town. Also, commercial units that, at best, offer a tricky parking situation, are unlikely to encourage commercial success or "stop and stay" visits. People would have their hearts in their throats trying to back out of diagonal spaces into commute traffic that's stuck at the left turn and working to grind its way into the canyon as quickly as possible. The updated traffic study will be a welcome element of the EIR, and should include the safety and effects of the development's parking plan.

In recent dense developments in Fremont, it has been anecdotally noted that it is difficult for residents to move in and out of their garages and streets because of the sharp turns the garages require on streets that are quite narrow. If a resident parks in front of their unit to run into their home "for a minute," impacts to other residents can be frustrating. Likewise, it must be studied as to whether sanitation, emergency, and other vehicles will be able to safely access and serve the development's interior streets. This should be addressed for the Niles Gateway development in the EIR.

The entire project should be subject to the City's Niles Design Guidelines and Regulations and the requirements of the Historic Overlay District, and an alternative redesign adhering to both should be part of the comprehensive EIR.

It's easy to accuse community members of NIMBY-ism, or obstructionism, when they object to certain types of development. I believe that most Niles residents want a development on the property - but they want one that fits the community, respects that most property owners and visitors prize the neighborhood because of its historic features and feel, and doesn't try to shoehorn an ill-fitting design that is incompatible with current regulations into the Town Center of a historic-overlay area, leaving new and existing residents and businesses to deal with its many negative effects.

In other words, most Niles residents aren't saying "don't develop," we're saying "make the development truly fit the neighborhood." We want something that will enhance the community rather than a rabbit-warren enclave that seems completely separate from its surroundings and has no mandate to make the "craft buildings" retail units.

To obtain the best final product that the City can be proud of, it's necessary to obtain a comprehensive EIR that is developed by a neutral party; one that doesn't seek to limit its scope or omit possible negatives, but openly and transparently addresses all potential impacts

to the quality of life in Niles - including traffic, parking, historic and biological resources, air quality, earthquake/fault risks, and impacts to the view shed, Alameda Creek, Alameda Creek trail, and surrounding neighborhoods. The EIR should also include a comparison of impacts a lower-density design might incur.

Sincerely,
Michelle Powell
36966 Niles Blvd.
Fremont, CA 94536
510/468-2661

From:	Sara Kerns
To:	David Wage
Cc:	Nkniles@yahoo.com
Subject:	Niles Gateway—request
Date:	Wednesday, February 21, 2018 12:29:27 PM

Hi David,

I am writing regarding the Niles Gateway project on behalf of my mom, Nancy Kerns, a lifelong Niles resident, and myself, a lifelong 5th generation Niles resident. Thank you in advance for reading this email thoroughly with thoughtful consideration.

We are writing to urge the City of Fremont to complete a full EIR for the proposed Niles Gateway project. There are several ways that the project, as it is currently planned, will negatively impact Niles residents both in the short term and the long term.

—Environment/Health: A full EIR is needed to fully understand the impact to Niles Creek and surrounding land, how Niles residents, both human and animal, would be exposed to contaminated dirt and debris from trucks that in the past have not even been covered when they haul loads. My dad played baseball on the the property in the 1950s, but Little League teams were eventually banned from playing there because of known contaminants. Never ever would I expose my family to the known toxins by living on or adjacent to the property. I suffer from asthma and allergies and ask that the City take into greater consideration the compromised immune systems of Niles residents beyond a one-block radius. The construction and contaminants already in the soil pose a major health risk.

—Lifestyle: it has already been determined that Niles School is full and new families will not be able to send their children there. Traffic leaving Niles at commute times is horrible, sometimes being backed up to H St. on Niles Blvd. Increased traffic will be a major upset to Niles residents who are already dealing with increasing traffic issues. What will happen during construction when there are further delays and fire trucks and ambulances need to get to and from, or even after construction and there is an even further increase in traffic? In addition to traffic from new proposed condo residents, there will be more traffic from the retail spaces. We urge you to scale back significantly both the size of buildings and number of resident and retail spaces.

—Aesthetics: Niles has an incredible historical charm and if built in a mindful manner the Niles Gateway project will serve as a welcoming entrance to the district of Niles. The current plan is absolutely appalling in terms of maintaining a flow of historical aesthetic appeal. It is cookie cutter in appearance and in no way is cohesive to the town's historical and in-no-way-cookie-cutter architecture. To be honest, it feels like a developer coming in who claims to be a long-term Fremont partner, but wants to change the very essence of the town's appeal. I am a 30-something millennial, which is what I believe the plan's architecture is appealing to. It does not appeal to me or the many friends and colleagues that fall in the millennial category. After sharing the current plan with friends who have family in Fremont but no longer live here themselves, they have gasped and ask why a haphazard, modern-looking eyesore would be people's first introduction to Niles. In terms of the proposed two and three story residences, the City and developer are not taking into consideration the current nearby residents and that they would not want a large, modern complex looking down on their quiet, quaint neighborhood. The fact that that was even proposed proves the City and developer are not taking the aesthetics or current residents into consideration whatsoever.

In writing this email I have been challenged to maintain a professional tone. To the City and developer this is about money with absolutely no consideration for Niles itself, but to us it's very personal. The entire way this project has been handled by the City and the developer —neglect to address environmental, health, historical, traffic and other lifestyle concerns—is a slap in the face to Niles and its residents. We urge the City to do right by us all and complete a full EIR and reconsider changing the scope of the project dramatically.

Thank you,
Nancy and Sara Kerns

From: Nicholas Bucci <buccinick@yahoo.com>
Sent: Wednesday, February 21, 2018 3:53 PM
To: David Wage
Subject: Niles Gateway Feedback

David -

I wanted to write and share my thoughts and concerns about the Niles Gatway project. And ask for the City to recommend a full EIR study for the site. My thoughts are outlined below and focus on the need for a full EIR in order to completely understand the propose projects impacts on the local environment, traffic, Safety, historic Niles, schools, etc.

Like most residents of Niles, I'd like to see a development at the Henkel site. It just needs to fit within the unique culture of Niles. I encourage you to drive through the area and see for yourself.

Niles roads are from a 100 year old town plan and are not setup to safely accommodate additional traffic. Many streets do not have sidewalks, and many do not have four-way stop signs. Adding traffic from 200 cars to the mix is dangerous to pedestrians and cyclists, and impacts safe access to the old downtown area. The old town works because of the lack of traffic!

Safety:

- Intersections at J / 2nd & J / 3rd **do not have 4 way stop signs**, and are currently borderline unsafe.
- Pedestrians in cross walk at J Street makes left turn off of Niles difficult. Increased development traffic and increased foot traffic will make this intersection very unsafe.
- At peak rush hour it also will back up traffic towards Mission.
- There is also no sidewalk on J street, so additional through traffic will make pedestrian and cyclist travel less safe.
- 3rd Street is narrow, heavily parked, and not adequate for additional development through traffic.
- The cross streets (Riverside, L Street, and De La Salle) are currently difficult to exit from and turn onto 3rd Street due to cars parked all the way up to the intersections, narrow streets, and no stop signs for cross traffic.
- 2nd and 3rd Streets provide pedestrian access to Niles Elementary School. The additional traffic impact of this development will impact the safety of children walking to and from school.
- Niles' narrow streets do not comply with modern traffic standards.
- **I recommend closing 3rd street to Niles Gateway through traffic. Or at the very least address the added traffic and safety concerns.**

Niles Gateway Main Entrance:

- Main entrance is not safe and needs to be redesigned.
- The proposed left turn lane is not long enough and comes too quickly after the right turn out of the railway overpass tunnel.
- When cars back up in the left turn lanes this will create a safety issue.
- Exiting the development to head north requires an unprotected left across traffic.
- **The designed main entrance is not safe and will negatively affect traffic.**

Parking:

- Four (4) guests spots for 98 units is laughably inadequate.
- An existing development at Rock and Niles is about half the size and has approximately 20 spots.
- **Parking should be increased to a realistic number of designated spots within the development.**

Environmental:

- The site is located next to the Alameda Creek watershed.
- The complete EIR is needed in order to address the true construction impacts on the watershed.

Historic Niles:

- HARB voted overwhelming to reject the current design of the project.
- The planning commission and the city counsel ignored this recommendation, is counter the purpose and role HARB plays in protecting one of the few historic areas in Fremont.

Nile Elementary:

- The local Niles Elementary school is already impacted requiring numerous Niles residences to drive their children to other schools. There has not been any new construction to add capacity to the elementary school in years, this proposed development would only make this overcrowding worse.

As a resident of Niles I ask for you to listen to the residence, HARB, and request a full EIR is completed and that the developer address some of these major concerns denoted above.

Thank you for your time and considerations,

Nick Bucci

From:	PGE Plan Review
To:	David Wage
Subject:	Niles Gateway Mixed-Use (PLN2014-00338)
Date:	Wednesday, February 21, 2018 1:55:28 PM
Attachments:	Initial_Response_Letter_20180221.pdf

Dear David Wage,

Thank you for submitting the Niles Gateway Mixed-Use (PLN2014-00338) plans. The PGE Plan Review Team is currently reviewing the information provided. We will respond to you with project specific comments prior to the provided deadline. Attached is general information regarding PGE facilities for your reference.

This email and attachment does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed.

Thank you,

Plan Review Team

pgeplanreview@pge.com

*****This is a notification email only. Please do not reply to this message.***

Pacific Gas and Electric Company

Plan Review Team
Land Management

PGEPlanReview@pge.com

6111 Bollinger Canyon Road 3370A
San Ramon, CA 94583

February 21, 2018

David Wage
City of Fremont, Planning Division
39550 Liberty Street
Fremont, CA 94537

Ref: Gas and Electric Transmission and Distribution

Dear David Wage,

Thank you for submitting Niles Gateway Mixed-Use (PLN2014-00338) plans for our review. PG&E will review the submitted plans in relationship to any existing Gas and Electric facilities within the project area. If the proposed project is adjacent/or within PG&E owned property and/or easements, we will be working with you to ensure compatible uses and activities near our facilities.

Attached you will find information and requirements as it relates to Gas facilities (Attachment 1) and Electric facilities (Attachment 2). Please review these in detail, as it is critical to ensure your safety and to protect PG&E's facilities and its existing rights.

Below is additional information for your review:

1. This plan review process does not replace the application process for PG&E gas or electric service your project may require. For these requests, please continue to work with PG&E Service Planning: https://www.pge.com/en_US/business/services/building-and-renovation/overview/overview.page.

2. If the project being submitted is part of a larger project, please include the entire scope of your project, and not just a portion of it. PG&E's facilities are to be incorporated within any CEQA document. PG&E needs to verify that the CEQA document will identify any required future PG&E services.

3. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.

Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851filing is required.

This letter does not constitute PG&E's consent to use any portion of its easement for any purpose not previously conveyed. PG&E will provide a project specific response as required.

Sincerely,

Plan Review Team
Land Management

Attachment 1 – Gas Facilities

There could be gas transmission pipelines in this area which would be considered critical facilities for PG&E and a high priority subsurface installation under California law. Care must be taken to ensure safety and accessibility. So, please ensure that if PG&E approves work near gas transmission pipelines it is done in adherence with the below stipulations. Additionally, the following link provides additional information regarding legal requirements under California excavation laws: http://usanorth811.org/wp-content/uploads/2017/05/CA-LAW-English.pdf

1. Standby Inspection: A PG&E Gas Transmission Standby Inspector must be present during any demolition or construction activity that comes within 10 feet of the gas pipeline. This includes all grading, trenching, substructure depth verifications (potholes), asphalt or concrete demolition/removal, removal of trees, signs, light poles, etc. This inspection can be coordinated through the Underground Service Alert (USA) service at 811. A minimum notice of 48 hours is required. Ensure the USA markings and notifications are maintained throughout the duration of your work.

2. Access: At any time, PG&E may need to access, excavate, and perform work on the gas pipeline. Any construction equipment, materials, or spoils may need to be removed upon notice. Any temporary construction fencing installed within PG&E's easement would also need to be capable of being removed at any time upon notice. Any plans to cut temporary slopes exceeding a 1:4 grade within 10 feet of a gas transmission pipeline need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

3. Wheel Loads: To prevent damage to the buried gas pipeline, there are weight limits that must be enforced whenever any equipment gets within 10 feet of traversing the pipe.

Ensure a list of the axle weights of all equipment being used is available for PG&E's Standby Inspector. To confirm the depth of cover, the pipeline may need to be potholed by hand in a few areas.

Due to the complex variability of tracked equipment, vibratory compaction equipment, and cranes, PG&E must evaluate those items on a case-by-case basis prior to use over the gas pipeline (provide a list of any proposed equipment of this type noting model numbers and specific attachments).

No equipment may be set up over the gas pipeline while operating. Ensure crane outriggers are at least 10 feet from the centerline of the gas pipeline. Transport trucks must not be parked over the gas pipeline while being loaded or unloaded.

4. Grading: PG&E requires a minimum of 36 inches of cover over gas pipelines (or existing grade if less) and a maximum of 7 feet of cover at all locations. The graded surface cannot exceed a cross slope of 1:4.

5. Excavating: Any digging within 2 feet of a gas pipeline must be dug by hand. Note that while the minimum clearance is only 12 inches, any excavation work within 24 inches of the edge of a pipeline must be done with hand tools. So to avoid having to dig a trench entirely with hand tools, the edge of the trench must be over 24 inches away. (Doing the math for a 24 inch wide trench being dug along a 36 inch pipeline, the centerline of the trench would need to be at least 54 inches [24/2 + 24 + 36/2 = 54] away, or be entirely dug by hand.)

Water jetting to assist vacuum excavating must be limited to 1000 psig and directed at a 40° angle to the pipe. All pile driving must be kept a minimum of 3 feet away.

Any plans to expose and support a PG&E gas transmission pipeline across an open excavation need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

6. Boring/Trenchless Installations: PG&E Pipeline Services must review and approve all plans to bore across or parallel to (within 10 feet) a gas transmission pipeline. There are stringent criteria to pothole the gas transmission facility at regular intervals for all parallel bore installations.

For bore paths that cross gas transmission pipelines perpendicularly, the pipeline must be potholed a minimum of 2 feet in the horizontal direction of the bore path and a minimum of 12 inches in the vertical direction from the bottom of the pipe with minimum clearances measured from the edge of the pipe in both directions. Standby personnel must watch the locator trace (and every ream pass) the path of the bore as it approaches the pipeline and visually monitor the pothole (with the exposed transmission pipe) as the bore traverses the pipeline to ensure adequate clearance with the pipeline. The pothole width must account for the inaccuracy of the locating equipment.

7. Substructures: All utility crossings of a gas pipeline should be made as close to perpendicular as feasible (90° +/- 15°). All utility lines crossing the gas pipeline must have a minimum of 12 inches of separation from the gas pipeline. Parallel utilities, pole bases, water line ‘kicker blocks’, storm drain inlets, water meters, valves, back pressure devices or other utility substructures are not allowed in the PG&E gas pipeline easement.

If previously retired PG&E facilities are in conflict with proposed substructures, PG&E must verify they are safe prior to removal. This includes verification testing of the contents of the facilities, as well as environmental testing of the coating and internal surfaces. Timelines for PG&E completion of this verification will vary depending on the type and location of facilities in conflict.

8. Structures: No structures are to be built within the PG&E gas pipeline easement. This includes buildings, retaining walls, fences, decks, patios, carports, septic tanks, storage sheds, tanks, loading ramps, or any structure that could limit PG&E’s ability to access its facilities.

9. Fencing: Permanent fencing is not allowed within PG&E easements except for perpendicular crossings which must include a 16 foot wide gate for vehicular access. Gates will be secured with PG&E corporation locks.

10. Landscaping: Landscaping must be designed to allow PG&E to access the pipeline for maintenance and not interfere with pipeline coatings or other cathodic protection systems. No trees, shrubs, brush, vines, and other vegetation may be planted within the easement area. Only those plants, ground covers, grasses, flowers, and low-growing plants that grow unsupported to a maximum of four feet (4’) in height at maturity may be planted within the easement area.

11. Cathodic Protection: PG&E pipelines are protected from corrosion with an “Impressed Current” cathodic protection system. Any proposed facilities, such as metal conduit, pipes,

service lines, ground rods, anodes, wires, etc. that might affect the pipeline cathodic protection system must be reviewed and approved by PG&E Corrosion Engineering.

12. Pipeline Marker Signs: PG&E needs to maintain pipeline marker signs for gas transmission pipelines in order to ensure public awareness of the presence of the pipelines. With prior written approval from PG&E Pipeline Services, an existing PG&E pipeline marker sign that is in direct conflict with proposed developments may be temporarily relocated to accommodate construction work. The pipeline marker must be moved back once construction is complete.

13. PG&E is also the provider of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs which may endanger the safe operation of its facilities.

Attachment 2 – Electric Facilities

It is PG&E's policy to permit certain uses on a case by case basis within its electric transmission fee strip(s) and/or easement(s) provided such uses and manner in which they are exercised, will not interfere with PG&E's rights or endanger its facilities. Some examples/restrictions are as follows:

1. Buildings and Other Structures: No buildings or other structures including the foot print and eave of any buildings, swimming pools, wells or similar structures will be permitted within fee strip(s) and/or easement(s) areas. PG&E's transmission easement shall be designated on subdivision/parcel maps as "**RESTRICTED USE AREA – NO BUILDING."**

2. Grading: Cuts, trenches or excavations may not be made within 25 feet of our towers. Developers must submit grading plans and site development plans (including geotechnical reports if applicable), signed and dated, for PG&E's review. PG&E engineers must review grade changes in the vicinity of our towers. No fills will be allowed which would impair ground-to-conductor clearances. Towers shall not be left on mounds without adequate road access to base of tower or structure.

3. Fences: Walls, fences, and other structures must be installed at locations that do not affect the safe operation of PG&'s facilities. Heavy equipment access to our facilities must be maintained at all times. Metal fences are to be grounded to PG&E specifications. No wall, fence or other like structure is to be installed within 10 feet of tower footings and unrestricted access must be maintained from a tower structure to the nearest street. Walls, fences and other structures proposed along or within the fee strip(s) and/or easement(s) will require PG&E review; submit plans to PG&E Centralized Review Team for review and comment.

4. Landscaping: Vegetation may be allowed; subject to review of plans. On overhead electric transmission fee strip(s) and/or easement(s), trees and shrubs are limited to those varieties that do not exceed 15 feet in height at maturity. PG&E must have access to its facilities at all times, including access by heavy equipment. No planting is to occur within the footprint of the tower legs. Greenbelts are encouraged.

5. Reservoirs, Sumps, Drainage Basins, and Ponds: Prohibited within PG&E's fee strip(s) and/or easement(s) for electric transmission lines.

6. Automobile Parking: Short term parking of movable passenger vehicles and light trucks (pickups, vans, etc.) is allowed. The lighting within these parking areas will need to be reviewed by PG&E; approval will be on a case by case basis. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications. Blocked-up vehicles are not allowed. Carports, canopies, or awnings are not allowed.

7. Storage of Flammable, Explosive or Corrosive Materials: There shall be no storage of fuel or combustibles and no fueling of vehicles within PG&E's easement. No trash bins or incinerators are allowed.

8. Streets and Roads: Access to facilities to be maintained at all times. Street lights may be allowed in the fee strip(s) and/or easement(s) but in all cases must be reviewed by PG&E for

proper clearance. Roads and utilities should cross the transmission easement as nearly at right angles as possible. Road intersections will not be allowed within the transmission easement.

9. Pipelines: Pipelines may be allowed provided crossings are held to a minimum and to be as nearly perpendicular as possible. Pipelines within 25 feet of PG&E structures require review by PG&E. Sprinklers systems may be allowed; subject to review. Leach fields and septic tanks are not allowed. Construction plans must be submitted to PG&E for review and approval prior to the commencement of any construction.

10. Signs: Signs are not allowed except in rare cases subject to individual review by PG&E.

11. Recreation Areas: Playgrounds, parks, tennis courts, basketball courts, barbecue and light trucks (pickups, vans, etc.) may be allowed; subject to review of plans. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications.

12. Construction Activity: Since construction activity will take place near PG&E's overhead electric lines, please be advised it is the contractor's responsibility to be aware of, and observe the minimum clearances for both workers and equipment operating near high voltage electric lines set out in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety (https://www.dir.ca.gov/Title8/sb5g2.html), as well as any other safety regulations. Contractors shall comply with California Public Utilities Commission General Order 95 (http://www.cpuc.ca.gov/gos/GO95/go_95_startup_page.html) and all other safety rules. No construction may occur within 25 feet of PG&E's towers. All excavation activities may only commence after 811 protocols has been followed.

Contractor shall ensure the protection of PG&E's towers and poles from vehicular damage by (installing protective barriers) Plans for protection barriers must be approved by PG&E prior to construction.

13. PG&E is also the owner of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs that may endanger the safe and reliable operation of its facilities.

From:	Renee Guild
To:	David Wage
Subject:	Resend of Protect Niles Comments on Gateway Initial Study
Date:	Wednesday, February 21, 2018 10:17:14 AM
Attachments:	PROTECT NILES RESPONSE TO INITIAL STUDY FINAL.pdf

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Here it is again -- please confirm receipt.

Thanks,

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Renee H. Guild, Principal Consultant, Global Energy Markets, Fremont, CA 94536 (650) 278-3259 (cell)

February 20, 2018

Mr. David Wage, City of Niles Associate Planner
City of Fremont, Planning Division
dwage@fremont.gov

Re: Niles Gateway Mixed-Use (PLN2014-00338)

Dear Mr. Wage,

On behalf of Protect Niles, I enclose our comments and suggestions on the Initial Study (Environmental Checklist) for the proposed project at 37899 Niles Blvd., Fremont.

We have selected 16 of the 19 possible Environmental Impacts identified in the Environmental Checklist of which we request further study, as follows:

1. Aesthetics: Agree with Potential Significant Impact 4.1.c) and request adding 4.1.d) 1.d) *Create a new source of substantial light or glare which would adversely affect daytime or nighttime views in the area?* The elevated street light electoliers on the perimeter road A Street will be located adjacent to established residences on 2nd Street and 3rd Street.

2. Potentially Significant Impact 4.3, Air Quality: Request a Potentially Significant Impact finding for 4.3.b); 4.3.c); and 4.3.d)

3. Potentially Significant Impact 4.4, Biologic Resources: Request Potentially Significant Impact finding for 4.4.a); 4.4.b); 4.4.d); 4.4.e); 4.4.f)

4. Potentially Significant Impact 4.5, Cultural Resources and Tribal Cultural Resources: Request a Potentially Significant Impact finding for 4.5.a); and 4.5.b)

5. Potentially Significant Impact 4.6: Geology, Soils and Seismicity Request a Potentially Significant Impact finding for 4.5.a); and 4.5.b)

6. Potentially Significant Impact 4.7, Greenhouse Gas Emissions: Request a Potentially Significant Impact finding for 4.7.a); and 4.7.b)

7. Potentially Significant Impact 4.8, Hazards and Hazardous Materials: Request a Potentially Significant Impact finding for 4.8.d)

8. Potentially Significant Impact 4.9: Hydrology and Water Quality: Request a Potentially Significant Impact finding for 4.9.c); 4.9.e); and 4.9.f)

9. Potentially Significant Impact 4.10, Land Use and Land-Use Planning: Request a Potentially Significant Impact finding for 4.10a); 4.10.b); and 4.10.c).

10. Potentially Significant Impact 4.12, Noise: Request a Potentially Significant Impact finding for 4.12.a); 4.12.b); 4.12.c); and 4.12.d).

11. Potentially Significant Impact 4.13, Population and Housing: Request a Potentially Significant Impact finding for 4.13.a).

12. Potentially Significant Impact 4.14, Public Services: Potentially Significant Impact 4.14: Request a Potentially Significant Impact finding for 4.14.a)ii); and 4.14.a)iii).

13. Potentially Significant Impact 4.15, Recreation: Request a Potentially Significant Impact finding for 4.15.a); and 4.15.b).

14. Potentially Significant Impact 4.16, Transportation and Traffic: Agree with finding of a Potentially Significant Impact finding for 4.16.a); 4.16.b); 4.16.d); 4.16.e); and 4.16.f).

15. Potentially Significant Impact 4.18, Utilities and Service Systems: Request a Potentially Significant Impact finding for 4.18.c); 4.18.g).

16. Mandatory Findings of Significance, 4.19 Request a Potentially Significant Impact finding for 4.19.a) 4.19.b); and 4.19.c).

Protect Niles appreciates the opportunity to comment and looks forward to working with you throughout the preparation and evaluation of the environmental impacts of this important project.

Sincerely,

Renee Guild

renee@gem-corp.com

Protect Niles Response to Niles Gateway Mixed-Use Project
Initial Study (Environmental Checklist)
February 20, 2018

INTRODUCTION

Protect Niles, a group of concerned Niles residents who seek to ensure that the proposed development at 37899 Niles Blvd. is thoroughly evaluated in an Environmental Impact Report (EIR), hereby files requests for further studies on 16 of the 19 items in the Initial Study Environmental Checklist. Our goal in these comments is to ensure that not only are the impacts thoroughly evaluated in the EIR, but also to achieve the best possible development of the property for the quality of life of the citizens of Fremont and Niles in particular.

In this document, Protect Niles has commented on most of the environmental impacts in the Initial Study because we are concerned that the study dismisses most of the effects as either "less than significant impact" or "no impact" with proposed mitigations, and proposes that these will not be studied further in the EIR. It is our position that such a determination is in violation of the Court Order, which in no way limited the EIR that was ordered as a result of our lawsuit against the City of Fremont and the developer – which we won. The Initial Study seems to limit the Scope for further study to only those effects the Opinion and Order highlights, i.e. Aesthetics and Traffic/Transportation, which the Court chose to highlight as the strongest arguments in the record of the need for an EIR – not because they are the only potentially significant environmental impacts of the project. The previous Administrative Record of the initial proposed project of 98 townhomes and mixed-use dwellings was totally inadequate to support broader findings. The Opinion and Order found that the City "*abused its discretion to approve the MND and not to require an EIR"* and found that an EIR should be done (Superior Court of California, Alameda County, Order Granting Petition for Writ of Mandate, Case No.: RG15-765052, March 15, 2017, p. 6). The Opinion and Order of the Court governs while under appeal.

Protect Niles wishes to work with the City of Fremont and the developer to design and facilitate the best possible project that can be designed and built on the site, and that is truly deserving of the title "Gateway to Niles". As we describe below, there are many environmental impacts not addressed in the Initial Study that the EIR must address not only in order to be compliant with California's strict environmental laws and regulations, but also to create a project that might even *improve* the environment of Niles.

While we will address each of the environmental effects in the Environmental Checklist below, we will include in this Introduction a number of overarching matters that must be addressed in the EIR.

1. The EIR must include an evaluation of the environmental impacts of a project of much lower density, such as 60 residential units. The Superior Court's Order specifically mentions that "excessive density" was one of the HARB findings in their rejection of the project (Ibid, p.5). We believe that many of the environmental effects we are concerned about as detailed below would be ameliorated simply by a project of lower density.
2. The project should not be a mixed use project, but Residential only or separate Commercial and Residential projects. Many aspects of the commercial parts of the proposed project are in direct conflict with the *Niles Design Guidelines and Regulations*, as we will detail below. The NDGR were developed with great expense, time and community input. **The General Plan specifically states that "These Guidelines remain in effect" (City of Fremont General Plan, Community Plans, 11-128)**. On page 84 of the Initial Study, the consultant asserts that "the project would substantially comply with the *Niles Design Guidelines and Regulations*" (NDGR) thereby acknowledging that the NDGR do apply, but not addressing anything further to support its statement of substantial compliance with the NDGR. In the view of Protect Niles, the "mixed use" component of the proposed project is a recipe for disaster in many respects, and is simply a means by which the developer was able to increase the proposed density of the project.
3. If the project is to have a commercial component, the EIR should study an alternative plan that separates the commercial and residential uses of the development and complies with the NDGR, which states "*These design guidelines and regulations apply to commercial properties within the core area of the Niles Historic Overlay District".* The Initial Study acknowledges that the project is within the Niles Historical Overlay District/HOD (Initial Study, page 83). Commercial buildings on the proposed development are within 200 feet of commercial buildings along Niles Blvd. that are subject to the NDGR and the HOD; it makes no sense for the proposed project's commercial buildings not to be subject to the same regulations for parking, mass, aesthetics, building design, height , signage and so forth.
4. While we are happy to see the revised plan does not include a street exiting to Chase Court and 3rd Street as was in previous proposed plans, we are concerned that the City could at some point in the future change the Street A configuration to allow it to connect to 3rd Street. Therefore we would like to see a revision to the plan to create a permanent structure at the intersection of Chase and 3rd. This could be either one of the residential units or a fenced, children's playground for the projected approximately 45 children that will be residing in the development. The proposed project currently lacks a dedicated, fenced-off area for the children, which is concerning given the project's proximity to both live train tracks and a major waterway.

5. As detailed below in Section 4.9, Hydrology and Water, we are very concerned that the developer proposes to collect the storm water on the property and route it to an existing storm drain line at the curve of Niles Blvd. that flows and discharges into Alameda Creek upstream of ACWD Rubber Dam #3. This raises three concerns:

   1) That particular storm drain has been backing up during recent winter storms to flood the railroad underpass at the curve of Niles Blvd., directly across from the proposed project, and prevented existing residents of Niles from getting to and from work and emergency services. Additional discharges to this storm drain could certainly compound this existing problem.

   2) The discharge into Alameda Creek upstream of the dam means the outflow would be submerged when the dam is inflated, preventing testing of the water discharged from the property. This is highly objectionable in a property which is a historically hazardous waste site and which may still have significant hazardous materials buried in its deep soil, particularly as the discharge will go into water used for drinking water for all of Alameda County and ACWD's customers.

   3) The storm drain at the curve of Niles Blvd. is in the Union Pacific Railway's right of way. Easement rights would have to be acquired from the UP if this storm drain is to be utilized; the Alameda County Public Works Agency must also approve this. Further, if the street is "vacated" as seems proposed in the current plan in order to become "Street A – Private, it will become the developer's property and responsibility to upgrade and maintain the storm drain, although this is not mentioned in the Initial Study.

These highly environmentally impactful and potentially harmful effects from the proposed groundwater treatment plans of the developer should be thoroughly evaluated in the EIR as further detailed in sections below.

6. Protect Niles requests that the City order the developer to construct Story Poles and Netting and Project Identification Signs erected at the elevations the developer proposes, so that the community can see the impacts on the view sheds from the ends of 2nd and 3rd Streets, from the Alameda Creek Trail and from Niles Blvd. This should occur prior to the neighborhood notification process of the revised project and any alternative project being studied in the EIR, and should remain in place until the project has been acted on again by the HARB, the Planning Commission, and the City Council, and the Appeal period has ended. As the Policy of the Town of Los Gatos States, "The placement of story poles is extremely helpful and important during the course of Town's review of applications for new development. (They) enhance understanding of the project for Town residents, staff, advisory bodies and decision making bodies. Story

poles also provide a visual notice to the community of a forthcoming land use public hearing." The policy of the Town of Los Gatos is attached as Appendix A.

7. The safety of both the residents of the existing town of Niles and the residents of the proposed development with the proposed street configuration should be paramount. Protect Niles draws particular attention to the configuration of the interior D and E streets and questions whether even one fire truck would have sufficient room to access the units in the middle of the development in the event of an emergency, let alone a fire truck *and* an ambulance *and* other emergency vehicles.

COMMENTS ON THE ENVIRONMENTAL CHECKLIST

1. **Potentially Significant Impact, Aesthetics: Agree with Potential Significant Impact 4.1.c) and request adding 4.1.d): *Create a new source of substantial light or glare which would adversely affect daytime or nighttime views in the area?* The elevated street light electoliers on the perimeter road A Street will be located adjacent to established residences on 2nd Street and 3rd Street.**

Protect Niles agrees with the Initial Study that the project would have "Potentially Significant Impacts" on the Aesthetics of Niles and Fremont in general . We request the EIR vigorously address all aesthetic impacts from the project as a series of potentially significant impacts, for the following reasons:

1. A development which proposes continuity with the Commercial Core of the Niles HOD, and is proposed to be located contiguously adjacent to the existing Commercial Core, will be a de facto part of the District's commercial core, making the *Niles Design Guidelines and Regulations* expressly applicable to this development. The City of Fremont has requested that the project design be analyzed in a broader contextual sense with regard to site and architectural design, scale/size, material, textures, and colors for compliance with the guidelines. The Initial Study's Summary fails to note that the Project is identified in the Planning documents as Town Center. Further, there are significant discrepancies of the proposed Project with the *Niles Design Guidelines and Regulations* as they have been applied to the Town Center in Niles. The identified preferred width of sidewalk on Niles Boulevard is 15 feet. Alcoves at entrance doors are encouraged. The streetscape of the individual buildings is not more than 75 feet for each structure. The proposed project's street side design has monolithic architecture and predominately ground to ceiling fenestration.

The Niles Gateway Project is not compatible with the prior Additions to the Town of Niles, which established a now-historic pattern of lot size and road ways, including alleys. The Project should be viewed as the latest Addition to the Town of Niles. Each of the approximately eight prior additions to Niles utilized a standard lot size of approximately 50 foot width and 150 foot depth. The largest of the Additions was the

Mortimer Addition in approximately 1900, which had a basis of 25 foot wide lots, most of which were sold as pairs for a more common 50 foot width.

Niles' residential architectural design may be generally described as Craftsman. The proposed project's three story attached residential units are certainly not compliant with the existing pattern of architecture. A development adjacent to I Street and 3rd Street in Niles by Mission Peak Development approximately 20 years ago, did successfully adapt to the historic architectural residential theme of Craftsman homes.

Town Center – Pedestrian (TC-P) zoning in Niles, which is the current zoning of the entirety of the Niles Commercial Core, lists Live-Work as a "Use Not Allowed". Not even the City Council is authorized to issue a Variance for a "Use Not Allowed". A total of 13 Live-Work units are proposed in the Niles Gateway Project under the unfortunate choice of the acronym "CRAFT" – Creative-Retail-Artist-Flex-Tenancy (CRAFT) Units. This nomenclature may result in confusion with the more commonly utilized description of Craftsman architecture. Where Live-Work units are allowed, as in Town Center – Transition (TC-T), a zoning not currently identified in Niles, the Live-Work units are not permitted to face main roads. The great majority of the Niles Gateway Live-Work (CRAFT) units are proposed to face Niles Boulevard.

2. As the first visual experience of the town when entering through the train tunnel, the Niles Gateway project should be subject to the strictest interpretations of the existing *Niles Design Guidelines and Regulations*.

3. The architectural designs submitted for this Initial Study have not mitigated the substantive problems with the previous design as noted by the Fremont Historical Architecture Review Board. HARB found the designs "incompatible" and cited the "excessive density, three story buildings, use of too much metal, insufficient use of brick or tile, and features do not relate to historical architecture". This determination was endorsed by the Superior Court of the State of California for the County of Alameda in their Judgment Granting Petition for Writ of Mandamus entered on April 6, 2017 (Case No. RG15765052).

4. The proposed Residential buildings would be approximately 10 to 15 feet taller than the adjacent residences to the west and the tops of the buildings could be visible from public areas looking east. This presents a significant degradation to the view of the surrounding hillsides for any homes located adjacent or nearly so in the surrounding neighborhood. It would be extremely helpful to have Pole Stories erected before the project goes before the HARB, Planning Commission and the City Council so that the actual impacts on view sheds can be seen by the community and decision makers.

5. Further, the proximity of the dwellings on the creek side of the development are the only such instance of building townhomes this close to the Alameda Creek to be found in or around the Niles District. The City of Fremont has voiced its determination to protect the Alameda Creek robustly, whereas this adjacency degrades the scenic and aesthetic experience of the creek side trail in the extreme.

6. The architectural details of the proposed development are very similar to the original proposed design, which was found by the HARB to be not “contextual” with the rest of Niles, and reason for their rejection of the previous project. The proposed buildings in the new proposed design continue to be contemporary and do not fit in with the character and context of Niles. We request a thorough redesign of the proposed project that conforms to the NDGR and HOD, in the EIR.

7. The Initial Study Section 4.1 (d) regarding light and glare wrongly states that light and glare from the project will have less than significant impact. There is already excessive light pollution and glare in the Niles District and this project will substantially increase the glare and light pollution. The City’s current zoning ordinance is wholly inadequate with respect to light and glare and this proposed development should not exacerbate the current light problems. We request that light and glare from the proposed project be addressed in the aesthetics section of the EIR.

The vitality and attractiveness of the Niles District is intrinsically dependent upon the preservation of a historic quality to the entire district – in particular, the character of the downtown area of Niles Boulevard from the Historic Nursery all the way to the trailhead at Alameda Creek. The businesses on Main Street rely upon this quality to attract customers from outside the district. Niles is known to contain the last authentically preserved downtown area of all the districts of Fremont. A development which acknowledges this relationship between the evidence of our past and the prosperity of the present would be welcomed by the community.

2. Potentially Significant Impact 4.3, Air Quality: Request a Potentially Significant Impact finding for 4.3.b); 4.3.c); and 4.3.d).

Protect Niles proposes that Air Quality should be evaluated as a “Potentially Significant Impact” for the following reasons:

1. Multiple Niles residents observed that protocols during mitigation phase were often ignored until workers realized that neighbors were paying attention, when water trucks came out to dampen the soil. We request that the EIR address specific and stiff penalties for infractions of the proposed mitigation measures during construction.

2. Per Fremont Notice to Comply Enforcement Action #ND2015-1145E, there were multiple infractions specifically related to storm water management. However, non-compliance in some of these areas also clearly resulted in an increase in airborne particulate matter.

3. Trucks hauling uncovered soil onto the public roadways were observed during the mitigation phase. This and other infractions of mitigation measures have led to the community having little faith that the developer and its contractors will subscribe to the proposed measures in practice.

4. Since prevailing northwest winds will result in a majority of the airborne particles being blown eastward, over Alameda Creek, contamination of water could harm fish, in turn causing damage to birds of prey. There was a recent fish kill in the creek of unknown cause. There are also many species of aquatic birds in the creek at all times. We request that the EIR address protection and mitigation for avoidance of debris, soil, etc. being blown into the creek.

5. "Sensitive receptors" are defined as children, the elderly, and the infirm. Contrary to the Initial Study's claims on p.31 that "there are no sensitive receptors within 1000 feet of the proposed site", *many* residents within 1000 feet of the proposed site are children, the elderly and infirm. Diesel particulate matter is known to be particularly dangerous, especially to sensitive receptors, due to its extremely small resistance diameter. We request that the EIR do a survey of the residents of the surrounding community at the end of Niles Blvd., 2nd and 3rd Streets to determine the age and health of the bordering populations and to better understand what mitigation strategies would be most effective for these populations.

6. What will the recourse be for the community during construction? We request a hotline for complaints.

7. Will there be ongoing Air Quality reports submitted to the public? Ideally, an independent assessor or Air Quality monitoring device will be deployed on-site to give daily readings. Protocols need to be enforced at all times, and nearby residents who have the most to lose cannot be expected to be the watchdogs of the project. We request daily Air Quality reports be submitted during the construction of the project so residents abutting the project, particularly "sensitive receptors" can take precautionary measures such as limiting outdoor exposure if necessary.

3. **Potentially Significant Impact 4.4, Biologic Resources: Request Potentially Significant Impact finding for 4.4.a); 4.4.b); 4.4.d); 4.4.e); 4.4.f).**

The Niles Gateway Project will have a Potentially Significant Impact on the efforts to restore Steelhead Trout (a Threatened Species under the Endangered Species Act) to Alameda Creek.

The Niles Gateway Project documents do not address the presence of Bald Eagles on the site.

The Niles Gateway Project has the potential to degrade the quality of the environment and substantially reduce the habitat of a fish or wildlife species, and cause a fish or wildlife population to drop below self-sustaining levels. Steelhead Trout, a listed threatened species, requires uniform water quality to assure its return to the Creek. The storm water discharge should be designed to have an outfall below Rubber Dam number 3 as will be discussed in detail below. Treatment of the storm water discharge needs additional description and peer review.

Protect Niles proposes that Biologic Resources be evaluated as a “Potentially Significant Impact” for the following reasons:

1. Of all the trees currently listed as present on the site, only one variety is a high biogenic volatile compound (BVOC) emitter. While the Proposed Tree Palette of the proposed project includes a nice variety, eight of those proposed are high BVOC emitters. In light of the city’s goals of overall greenhouse gas reduction, it would be prudent to reconsider the varieties of proposed trees. We request that these be considered in an EIR.

2. BVOC ranking notwithstanding, the current copse of trees provide a roosting site for many migratory birds, including bald eagles which have been repeatedly photographed there over time. Bald eagles are known to return to established roost sites, sometimes yearly, sometimes skipping a year and returning the next, due to availability of nearby food sources. We request that the EIR evaluate the possible effect on the local Bald Eagle population.

3. According to the Fish and Wildlife Service, traditional communal roosting site disturbance is very much discouraged, and interrupting this activity could be considered a “take.” Activities that permanently alter established roosting and/or foraging sites could eliminate the conditions, which make the site favorable for survival. We request that the EIR evaluate measures to address this.

4. Due to the success of bald eagle protection laws, they have recovered to the extent that some takes are allowed. However, a take must not exceed 5% of the local area population.

5. By 2017 estimates, there are assumed to be only three nesting sites for bald eagles in Alameda County.

6. Disturbance causing permanent interruption in roosting and/or foraging has been known to result in reduced numbers of successfully fledged young.

7. The Bald Eagle Management Guidelines specify recommendations for buffer zones (see below) between new construction and nesting sites to prevent irreparable disturbance of these raptors. We request that the EIR study ways to address this with the proposed development.

Category B:
Building construction, 3 or more stories.
Building construction, 1 or 2 story, with project footprint of more than 1⁄2 acre.
Oil and natural gas drilling and refining and associated activities.

	If there is no similar activity within 1 mile of the nest	***If there is similar activity closer than 1 mile from the nest***
If the activity will be visible from the nest	660 feet. Landscape buffers are recommended.	660 feet, or as close as existing tolerated activity of similar scope. Landscape buffers are recommended.
If the activity will not be visible from the nest	Category A: 330 feet. Clearing, external construction, and landscaping between 330 feet and 660 feet should be done outside breeding season. Category B: 660 feet.	330 feet, or as close as existing tolerated activity of similar scope. Clearing, external construction and landscaping within 660 feet should be done outside breeding season.

The numerical distances shown in the table are the closest the activity should be conducted relative to the nest.

Roosting/foraging sites are protected with the following guidelines.

ADDITIONAL RECOMMENDATIONS TO BENEFIT BALD EAGLES

The following are additional management practices that landowners and planners can exercise for added benefit to bald eagles.

1. Protect and preserve potential roost and nest sites by retaining mature trees and old growth stands, particularly within 1⁄2 mile from water.
2. Where nests are blown from trees during storms or are otherwise destroyed by the elements, continue to protect the site in the absence of the nest for up to three (3) complete breeding seasons. Many eagles will rebuild the nest and reoccupy the site.
3. To avoid collisions, site wind turbines, communication towers, and high voltage transmission power lines away from nests, foraging areas, and communal roost sites.
4. Employ industry-accepted best management practices to prevent birds from colliding with or being electrocuted by utility lines, towers, and poles. If possible, bury utility lines in important eagle areas.
5. Where bald eagles are likely to nest in human-made structures (e.g., cell phone towers) and such use could impede operation or maintenance of the structures or jeopardize the safety of the eagles, equip the structures with either (1) devices engineered to discourage bald eagles from building nests, or (2) nesting platforms that will safely accommodate bald eagle nests without interfering with structure performance.
6. Immediately cover carcasses of euthanized animals at landfills to protect eagles from being poisoned.
7. Do not intentionally feed bald eagles. Artificially feeding bald eagles can disrupt their essential behavioral patterns and put them at increased risk from power lines, collision with windows and cars, and other mortality factors.
8. Use pesticides, herbicides, fertilizers, and other chemicals only in accordance with Federal and state laws.
9. Monitor and minimize dispersal of contaminants associated with hazardous waste sites (legal or illegal), permitted releases, and runoff from agricultural areas, especially within watersheds where eagles have shown poor reproduction or where bioaccumulating contaminants have been documented. These factors present a risk of contamination to eagles and their food sources.

The following photos of Bald Eagles in the eucalyptus trees along the Alameda Trail were taken in January, 2018.

4. **Potentially Significant Impact 4.5, Cultural Resources and Tribal Cultural Resources: Request a Potentially Significant Impact finding for 4.5.a); and 4.5.b).**

Protect Niles proposes that Cultural Resources should be evaluated as a "Potentially Significant Impact" in the EIR.

We request that the EIR include a thorough study of Cultural Resources as an archaeological site with the potential to harbor prehistoric and historic artifacts. While a field survey was conducted on 25 October 2017, no necessary testing in terms of digging or trenching was done. A foot of sand appears to currently cover this area, which would make a visual survey useless when trying to locate a buried prehistoric site. The site surveyor also noted dense vegetation, backfill and concrete debris to be additional problems that hindered the visual survey. Ohlone Indians lived along Alameda Creek for thousands of years and were still living underneath the Niles Bridge as late as 1904. Without further testing, there is no way to know if the less than significant impact found in the Initial Study is an accurate assessment.

5. **Potentially Significant Impact 4.6, Geology, Soils and Seismicity: Request a Potentially Significant Impact finding for 4.6.a)i); 4.6.a.ii); 4.6.a)iii); 4.6.a)iv); and 4.6.c).**

Protect Niles proposes that Geology, Soils and Seismicity be evaluated as a "Potentially Significant Impact" in the EIR for the following reasons.

Proximity to major seismic faults: As detailed in the articles below, the Mission Fault (Trend) seismically connects the Hayward Fault and Calaveras Fault. It has been proposed by Dr Russell Graymer, PhD, USGS that *the Mission Fault is capable of a seismic event two to four times greater (7.2 to 7.4) than the Hayward Fault (less than 7.0) in Fremont*. The Niles Gateway site is in the immediate alignment of the Mission Fault (Mission Trend), which is a very active Hidden Thrust Fault with potential strong lateral and vertical accelerations.

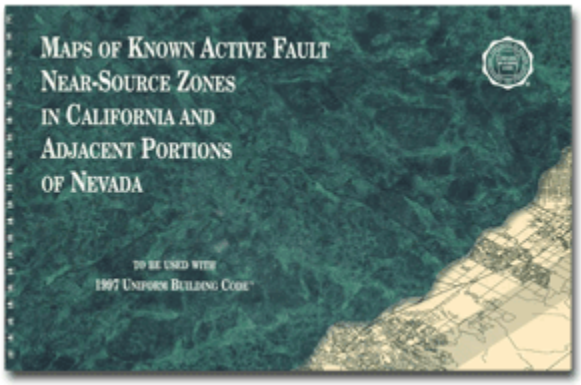
The Mission Fault (also known as the Southeastern extension of the Hayward Fault) intersects with the Hayward Fault near the intersection of Mission Boulevard and Nursery Avenue, then through Niles and Mission San Jose, intersecting with the Calaveras Fault near the south end of the Calaveras Reservoir. It is associated with the scarfing and landslide on Mission Peak

The site is within the impact area of the Mission Fault as depicted in the "*Maps of Known Active Fault Near-Source Zones in California and Adjacent Portions of Nevada",* Published by the International Conference of Building Officials, and incorporated in the 1997 Uniform Building Code, and retained in updated versions. The Uniform Building Code has been adopted by the City of Fremont. Unfortunately, the City of Fremont chose not to acknowledge the Mission Fault and related Near Source Zone in the Hazard Mitigation Plan adopted by the City of Fremont in 2017.

The Mission Fault was on the Alquist-Priolo Maps from their inception in 1974 to 1982. The Alquist-Priolo Act was limited to anticipated surface rupture, A review of this Map in the early 1980's by the now named California Department of Conservations, Division of Mines and Geology (DMG), failed to identify definitive evidence of past surface rupture, although there is extraordinary geomorphic and micro-seismic evidence of a very active fault. In the late 1990's a map of known active faults, with significant earth movement was prepared by DMG. The Mission Fault (also identified in some DMG documents as the Southeaster Extension of the Hayward Fault), in Fremont was identified as a Type A (greater than 7.0 on the Richter scale) from 1998 to 2002. In 2002, the Mission Fault threat was lessened to a Type B (less than 7.0). The Hayward Fault in the vicinity of Niles has been continually identified as Type B (less than 7.0).

International Conference of Building Officials Publishes "Near-Source" Maps

from Seismic Hazard Mapping Bulletin #7, released on April 15, 1998.



The International Conference of Building Officials (ICBO) has published a book of maps to be used in determining engineering factors for new construction in California. This book, **Maps of Known Active Fault Near-Source Zones in California and Adjacent Portions of Nevada (prod. no. MAPS97)**, was prepared by the Department of Conservation's Division of Mines and Geology (DMG) in cooperation with the Structural Engineers Association of California's (SEAOC) Seismology Committee.

When SEAOC identified the need for the near-source maps, officials contacted DMG to find out what data existed. Fortuitously, the information on which the maps are based was already available in a DMG database used to develop probabilistic seismic hazard maps for California.

These maps, produced in cooperation with the U.S. Geological Survey (USGS), have been available since March 1997 (see article in Seismic Hazard Mapping Bulletin No. 2).

The near-source maps, developed specifically for use with the 1997 Uniform Building Code™ (UBC), define the areas where an additional factor should be used to reduce risk to life and property in an earthquake. The 1997 UBC incorporated a new factor in engineering calculations to account for high ground motion near earthquake faults.

The new near-source maps are based on research following the Northridge and

Kobe, Japan earthquakes showing that most buildings collapsing or having severe damage are located within five kilometers (three miles) of fault rupture. As a result of their observations, seismologists and engineers are recommending additional reinforcement of buildings located within a few kilometers of historical ground ruptures.

Determination of the near-source factor requires extensive geologic and seismologic information. First, a fault must be evaluated to determine whether it is active. Geologists generally consider a fault active if surface ground rupture has occurred during the last 11,000 years.

Second, the fault must be located on a three-dimensional grid. This information is available on the DMG Fault Activity Map of California and Adjacent Areas, which had been correlated with the more accurately mapped Alquist-Priolo fault maps during the statewide probabilistic seismic hazard study.

Third, a determination has to be made of the fault's slip rate. The slip rate database was also developed by DMG and the USGS as part of the probabilistic seismic hazard study using widely recognized original research sources.

Finally, the magnitude of the largest earthquake expected to occur on the fault must be estimated. In this step, the fault is analyzed in "segments" that are thought to be capable of rupturing as independent earthquakes. The magnitude on a fault segment can be estimated based on the fault length or area of the fault plane.

In California, the known active surface faults are classified in the 1997 Uniform Building Code as A faults, B faults and C faults. An A fault is the most destructive and a C fault is the least destructive. Only the A and B faults are included in the probabilistic maps.

The slip rate and maximum magnitude of earthquakes associated with a fault are the basis for the categories. Category A faults exhibit magnitudes of 7.0 or greater and slip rates of at least 5 millimeters per year. Category B faults fall in the magnitude 6.5 to 7.0 range with slip rates varying depending on maximum magnitude.

The near-source factor is applied to structures within 15 kilometers (9.3 miles) of an A fault or within 10 kilometers (6.3 miles) of a B fault. Blind faults, those that do not rupture the ground surface, generally have not been evaluated.

The book of maps is available at from:

International Conference of Building Officials
5360 Workman Mill Road
Whitter, CA 90601-2298
(800) 284 -4406

Mission Peak Landslide, Fremont, CA - J. David Rogers

web.mst.edu/~**rogers**da/hazard_mitigation_techniques/**landslides**/..

Seismicity

The subject landslide lies in the heart of a tectonically active area, which is typified by fault-bordered blocks caught between the Hayward and Calaveras faults. Hall (1958) was the first to recognize and name the Mission fault, cutting across the base of Mission Peak and Mission Ridge, towards old Mission San Jose (Fig. 1). Historic records kept by the Mission noted damaging earthquakes in 1812, 1822 and 1868 (History of Washington Township, 1965). The October 21, 1868 Hayward quake completely destroyed the mission, which was not rebuilt until the early 1980s.

Mission Fault

In 1958 Dr. Clarence A. Hall, Jr. published a synopsis of his doctoral dissertation at Stanford University (Hall, 1956) titled "Geology and Paleontology of the Pleasanton Area. Alameda and Contra Costa Counties, CA" in the University of California's Publications in Geological Sciences (v. 34:1, 89 p.). Hall was the first to recognize the Mission fault, a prominent boundary between the Briones sandstone exposed on Mission Peak and Mission Ridge, and the younger Pliocene-age non marine sedimentary rocks tightly folded in the overturned Tularcitos Syncline[2:] , intermittently exposed beneath the more gently inclined slope. The Orinda beds are younger and less competent non marine sedimentary units, occupying a tightly folded prism extending southeasterly, from Mission San Jose. The Orinda age equivalency was recognized as early as 1939, when they were described in John Harding's master's thesis at U.C. Berkeley (Geology of the Southern Part of the Pleasanton Quadrangle) in 1940.

Ellsworth, Olson, Shijo and Marks (1982) were among the first researchers to recognize the subsurface zone connecting the Hayward and Calaveras faults, through assessment of historic microseismicity, collected between 1969-80. They reasoned that this narrow zone of seismicity coincided with the Mission fault of Hall (1958), despite Herd's (1982) lack of physical evidence for the fault's existence, as deduced from the efforts of Woodward-Clyde-Sherrard Associates (1968) to search for the fault in the area surrounding Ohlone College. Ellsworth, et al (1982) went onto opine that focal mechanism solutions for the Mission fault indicated right-lateral slip on the seismically-defined fault plane, with one quake registering considerable thrust component.

By 1992, most Bay Area seismologists conceded that the Mission fault was part of what appeared to be a step-over feature between the Calaveras and Hayward faults that was demonstrating seismogenic creep (Oppenheimer and MacGregor-Scott, 1992; Oppenheimer and Wong and Kline, 1992; Wong and Hemphill-Haley, 1992; Andrews, Oppenheimer and Lienkaemper, 1992). By this juncture, 22 years of microseismic data had been collected, suggesting that the Mission fault was near-vertical at depth, where the quakes were occurring, with a strong right-lateral focal component. Oppenheimer, Wong and Klein (1992) noted an "absence of seismicity

between the juncture of the Hayward and Mission faults and the seismicity at the southernmost end of the Hayward fault is consistent with a locked segment, and evidence of Holocene strike-slip activity on the southernmost Hayward fault is documented by Bryant (1982). While direct evidence of recent faulting along the southern Hayward fault south of Agua Caliente Creek is difficult to detect due to landslides, cultural modification, and rapid erosion, its absence does not preclude the possibility of subsurface rupture."

In the same 1992 volume, Ivan Wong and Mark Hemphill-Haley (1992) devoted an entire article to the subject of the Mission fault and its likely relationship with the Hayward fault. They describe the approximately 500 microearthquakes recorded along the Mission trace between 1969-89, calculating that south of Mission San Jose, these events were focused at depths between 3 to 7 km, describing a near-vertical fault surface between 4 and 5 km long. Focal mechanisms were consistent with a right-lateral, strike-slip fault. They add that:"Extending another 5-6 km towards Calaveras Reservoir, the microseismicity broadens into a 2-4 km wide diffuse zone also confined to depths of 3-7 km." The largest earthquake recorded along the Mission fault between 1969-91 was a ML 3.0 event. Nevertheless, Wong and Hemphill-Haley concluded this recorded seismicity "represents a transfer of slip from the Hayward fault to the Calaveras fault", as suggested by others.

Andrews, Oppenheimer and Lienkaemper (1992) described a lengthy investigation into the Mission fault, which suggested a M 6.1 earthquake may have occurred on the Hayward fault in 1858, as well as three M 5.3 to 5.7 events between 1861 and 1864; around the wedge of the Hayward fault and the northern segment of the Calaveras fault. These were precursory to the much-publicized M 6.8 Hayward earthquake of October 21, 1868, which destroyed Mission San Jose. Also of interest was these author's belief that dip-slip movement may be occurring along buried faults within the Mission fault step-over region. From a reconnaissance of the Monument Peak area they deduced that a buried thrust or reverse fault underlies the area, dipping northeasterly. The prominent scarp below Mission Peak has this same strike and sense of slip. They concluded that the Mission fault zone must consist of two or more fault surfaces inclined at different dip angles, as observed in the San Andreas fault zone in the Loma Prieta area. They reasoned that "horizontal slip is building up stress on the inclined fault, which is currently locked. Growing compressive stress will increasingly impede horizontal slip until a thrust or reverse-slip event occurs, allowing then more horizontal slip to be transferred from the Calaveras to the Hayward fault. The dip-slip fault might be the unstable element governing slip in the larger system." Despite microseismicity suggestive of activity, no one has been able to excavate the Mission fault sufficiently to allow for a good look at its surface expression, or provide for meaningful pedogenic dating of displaced soils. As a consequence, the Mission fault has not been zoned active by the California Division of Mines & Geology under the Alquist-Priolo Earthquake Fault Zoning Act[3:], even though its existence is widely accepted.

Hayward and Calaveras faults could be dangerously linked

By David Perlman

Published 4:00 am, Wednesday, December 12, 2007
https://www.sfgate.com/bayarea/article/Hayward-Calaveras-faults-may-be-connected-3234475.php

Earth scientists have long branded the Hayward Fault the Bay Area's deadliest, where a truly "Big One" is inevitable at some unforeseen time.

But new seismic research indicates that the Hayward and its neighboring fault, the Calaveras, might be connected underground to make them, in effect, a single and even more dangerous fault.

A research geologist at the U.S. Geological Survey in Menlo Park reported on the research during the annual meeting of the **American Geophysical Union** in San Francisco on Tuesday. Evidence of creep and microquakes too tiny to be felt on both faults, said **Russell Graymer**, makes it appear that the Hayward and Calaveras are joined as a single fault less than four miles beneath the surface.

In an interview, Graymer said: "The evidence is clear that the two faults are just a single entity and could generate an earthquake two to four times larger than the one that hit the southern segment of the Hayward in 1868."

That famed and deadly temblor has been given a magnitude of 7, and by "two to four times larger," Graymer meant that a large quake on either one of what are now called separate faults could register a magnitude of 7.2 to 7.4, he said.

The possibility, however, is by no means a certainty, according to other earthquake scientists.

William Ellsworth, a geophysicist and member of the Geological Survey's **National Earthquake Prediction and Evaluation Council**, is familiar with Graymer's contention and cautioned that "like many scientific models, it needs to be tested."

The historical evidence, Ellsworth said, does show that, since the 1970s, small earthquakes with parallel epicenters have occurred regularly along both the southern segment of the Hayward Fault and the northern segment of the Calaveras. But he said many of them - particularly those on the Calaveras - have shown no evidence of fault rupture on the surface.

Underground, the two faults could be linked by what seismic specialists call the Mission Trend, Ellsworth said, but there is no surface evidence of any earthquake activity linking them, he said.

"Most of us call it a trend between the faults," he said, "but some would call it a fault."

To illustrate the theory, five of Graymer's colleagues, including **Carl Wentworth** of the Geological Survey, have developed a three-dimensional model of the junction where the Hayward and Calaveras faults meet and have concluded that "deep seismicity suggests a simple connection between the southern Hayward and the central Calaveras."

Another researcher, **Eileen Evans**, a first-year graduate student working at UC Berkeley's **Seismological Laboratory**, said her study of surface creep along both faults makes it "very likely" that the Calaveras "directly transfers some of its creeping motion to the Hayward fault and that the southern Hayward may "dip into and merge with the northern Calaveras" south of Fremont.

Thomas Brocher, a Geological Survey quake expert who is leading an effort to convince Bay Area residents that the Hayward fault's dangers are clear, called Graymer's idea that the Hayward and the Calaveras are linked "very interesting." "It's kind of hard to argue with it," he said.

Whether or not Graymer's theory is correct, there's no doubt that scientists are increasingly focusing their attention on the Hayward Fault's dangers, and the evidence was made clear at the AGU meeting in **Moscone Center**, where 19 full-scale presentations on the Hayward and Calaveras faults were presented Tuesday to packed audiences.

"Many of us living and working in the Bay Area are thinking more and more about the Hayward Fault and its danger these days," Ellsworth noted.

Protect Niles requests that the EIR address the Potentially Significant Impact of an earthquake on the buildings and roadways of the proposed development and require that the buildings, roadways and all infrastructure be built to the maximum earthquake standards.

Proposed project's underlying soil structure is unstable. As the following table from the USGS shows, Soil Type D and E have significant risk of shaking during an earthquake. The entire proposed development would be built on landfill and previously

deeply disturbed landfill and Soil Types D and E. The table classifies these as having "significant amplification of shaking" and "the strongest amplification of shaking". It is erroneous to state that a development built on landfill within two-tenths of a mile from the Hayward Fault and virtually on the Mission Fault would not experience strong seismic ground shaking in the event of an earthquake as is stated in the checklist's assertion of "Less than Significant Impact" (p. 57). The Initial Study itself states that the "site is located within a previously disturbed area" (p. 59). Niles was recently shaken by a 4.2 magnitude earthquake which was centered nearby.

Soil type A	Vs > 1500 m/sec	Includes unweathered intrusive igneous rock. Occurs infrequently in the bay area. We consider it with type B (both A and B are represented by the color blue on the map). Soil types A and B do not contribute greatly to shaking amplification.
Soil type B	1500 m/sec > Vs > 750 m/sec	Includes volcanics, most Mesozoic bedrock, and some Franciscan bedrock. (Mesozoic rocks are between 245 and 64 million years old. The Franciscan Complex is a Mesozoic unit that is common in the Bay Area.)
Soil Type C	750 m/sec > Vs > 350 m/sec	Includes some Quaternary (less than 1.8 million years old) sands, sandstones and mudstones, some Upper Tertiary (1.8 to 24 million years old) sandstones, mudstones and limestone, some Lower Tertiary (24 to 64 million years old) mudstones and sandstones, and Franciscan melange and serpentinite.
Soil Type D	350 m/sec > Vs > 200 m/sec	Includes some Quaternary muds, sands, gravels, silts and mud. Significant amplification of shaking by these soils is generally expected.
Soil Type E	200 m/sec > Vs	Includes water-saturated mud and artificial fill. The strongest amplification of shaking due is expected for this soil type.

The majority of the Niles Gateway site is a former unregulated landfill. The site was in the course of the Alameda Creek, which was rechanneled by the US Army Corps of Engineers following the floods of 1955.

The adjacent properties and roadways on Chase Court and approximately 300 feet of 3rd Street have serious failures due to being built on the rubble of a landfill. This included the residue of an asphalt plant at what is now 3rd Street and Chase Court. Rubble cannot be compacted; it must be removed and replaced with dirt. At least 10 patches in the asphalt pavement from work on buried utility failures were evident in the relatively small area prior to the resurfacing of the pavement two years ago. Broken sidewalks and driveway repairs are common. Large blocks of asphalt were encountered in recent repairs of water lines in Chase Court. These roadways are presently exhibiting serious heaving of the pavement.

The on-site drilling for the Niles Gateway Project toxic soil investigation reported that at least one well encountered construction debris at a depth of more than 10 feet.

There is a reason that the southeastern half of the project site was never built on. This was a riverbed and frequently flooded area. The Pacific States Steel Plant in Union City was known to have disposed of slag along the banks of Alameda Creek.

The liability of the Contractor/Developer is limited to 10 years. Impacts of landfills may not be discovered until a time later than the 10 year statute of limitations.

Since 2007, the City of Fremont has not followed traditional Public Street dedication protocols. Rather, the City of Fremont has taken an Easement for Public Use. The Easement applies to both surface and underground public facilities, including water and sewer. This process may leave the adjoining property owner or home owners association responsible for any discovered toxic or inappropriate soils. Such liability would need to be revealed to any future property owners of the proposed development.

Organic deposits in the soil may result in flammable Methane or other dangerous gas emissions.

A mitigation required of a residential development on a former landfill in north San Jose, was to place a 2 foot layer of clay on the entire site before construction above the surface was allowed.

The Niles Gateway site was not subject to trenching during the prior site surveys. (Only wells were drilled.) Trenching to a depth of native soil, probably in excess of 20 feet is needed to properly characterize this landfill. Rubble, when located, should be excavated and removed from the site. Particular care must be taken to assure that proper compaction is achieved to a predetermined depth beneath roadways and structures.

Excavations were done in recent years as part of the Niles Gateway project. These excavations of approximately 5 feet in depth are readily visible from the Niles Boulevard extension (a now Public Street). The excavations were then curiously covered with imported sand of approximately a foot in depth.

Protect Niles requests that a thorough examination of the deep soil structure of the site be conducted with trenching to 20 feet, in order to determine the existence of underlying rubble.

Landslides: There is an 8 foot difference in elevation between the existing end of 2nd Street and the proposed elevation of A Street. The steep embankment on the northwest side of the proposed A Street between Niles Boulevard and the bend near Chase Court may require retaining walls to prevent landslides. The previous design of the section of on-site roadway did not include a sidewalk, although it was designated for parking for commercial use customers. The street alignment has not been changed in this iteration of the design and therefore the embankment is even steeper than previously proposed. There may also be a significant grade difference between the existing roadway on the extension of Niles Boulevard (a former bridge approach) and the residential development of Niles Gateway near Alameda Creek.

6. **Potentially Significant Impact 4.7, Greenhouse Gas Emissions: Request a Potentially Significant Impact finding for 4.7.a); and 4.7.b).**

Protect Niles proposes that Greenhouse Gas Emissions be evaluated as a "Potentially Significant Impact" for the following reasons:

1. The project's operational vehicle trip generation emissions estimates may be underestimated in the Initial Study and should not be dismissed as mitigated until a detailed Transportation and Traffic study is completed as part of the EIR.
2. The project proposes to exceed 2016 Title 24 building energy efficiency requirements by 25% whereas SB 350, the Clean Energy and Pollution Reduction Act passed in 2015, calls for a doubling of energy efficiency savings in end-uses of electricity and natural gas by 2030. While the Initial Study notes that City of Fremont adopted the Fremont Climate Action Plan (CAP) in 2012, it also notes "the CAP is not considered a qualified GHG reduction strategy consistent with BAAQMD." (Initial Study, p.67) Since the Initial Study anticipates some of the buildings would be ready for occupancy in 2020, (p.31) the EIR should incorporate evaluation of conformance with the newer goals of SB 350 and the State of California's GHG emission-reduction targets.
3. We believe the buildings should be built to conform to the latest energy efficiency building standards, which will be updated by the California Energy Commission in 2019 to more closely align with the more aggressive goals of SB 350 than the 2016 Energy Efficiency Building Standards.
4. There appear to be no Electric Vehicle charging stations planned for either the CRAFT buildings or the residential units. It will be far more expensive for the project's residents to add the charging stations later than it would be to build them into the project in the first place. We request that EV charging stations be added to the proposed development and that the EIR evaluate their impact.
5. In addition to the proposed doubling of the energy efficiency of the buildings, alternatives to the use of natural gas for heating and cooking should be evaluated in the EIR to examine whether the project can achieve zero-net-building emissions.

With its solar panels and water efficiency measures, and these suggested additions and enhancements to be studied in the EIR, the developer and the City of Fremont could be on a path to create a truly state-of-the-art, energy efficient and emissions-limited showcase project of which all parties, and particularly Niles, can be proud.

7. **Potentially Significant Impact 4.8, Hazards and Hazardous Materials: Request a Potentially Significant Impact finding for 4.8.d).**

Protect Niles proposes that Hazards and Hazardous Materials be evaluated as a "Potentially Significant Impact" for the following reasons:

The studies on which the Initial Study bases its findings of "Less than Significant Impact" are five and six years old and did not include trenching which is necessary to determine the presence of remaining contaminants in the deeper soil, which was previously used as a dump for the Town of Niles. As noted above Protect Niles requests that the EIR include a study of the deeper soils of the site and specifically, include trenching to a depth of 20 feet.

The proposed project will virtually pave over the entire site with impervious materials – 5.23 acres of 6.07 acres, or 83%. These impervious materials forming such a large part of the project are deleterious in many ways. We request that the EIR consider a project that has a lower percentage of impervious surface, such as 60%.

Protect Niles has requested correspondence between the Alameda County Water District and the City of Fremont that is mentioned in the Initial Study but has not yet, at time of this document's being filed in accordance with the deadline noticed, received those reports. We reserve the right to further comment on these correspondences once these are received and request they be admitted into the record.

We also point out that the Associate Planner for the City of Fremont, David Wage, himself included "Hazards and Hazardous Materials" in his signed determination of Potentially Significant Impacts" on page 24, although it is not included in the Mandatory Findings of Significance on page 114-115, as it states that construction impacts would be mitigated by the proposed measures. We disagree. While construction impacts may be mitigated by the proposed measures if they are enforced, there is no discussion in the Initial Study of the long-term impacts of the failure to adequately characterize the deep soil structure of the site nor the other Potentially Significant Impacts detailed above, which we request be addressed in an EIR.

8. **Potentially Significant Impact 4.9, Hydrology and Water Quality[1]: Request a Potentially Significant Impact finding for 4.9.c); 4.9.e); and 4.9.f).**

Protect Niles proposes that Hydrology and Water Quality be evaluated as a "Potentially Significant Impact" for the following reasons:

There are four pumps with fish screens which are lowered into the pond created by Rubber Dam Number 3, when inflated. These pumps take water from Alameda Creek to the Quarry Lakes groundwater recharge. Rubber Dam Number 3 is inflated at most times, being deflated when significant runoff from the Alameda Creek watershed is experienced or to allow maintenance or construction on Alameda Creek.

The storm drainage of the near entirety of the Niles Gateway project site currently drains to the southeast end of the project near Chase Court. The proposed project will capture and pump the drainage upstream to a Hydromodification Vault (Storm water detention facility) located in the extension of Niles Boulevard (an existing Public Street) and discharged in to an existing outfall above Rubber Dam Number 3. The existing outfall from the storm drain is a potentially hazardous design. The outfall is submerged when the Dam is inflated, preventing visual observation of the outflow.

The existing storm water discharge from the vicinity of the Railroad Underpass is probably to a 24-inch diameter pipe. The outlet of this storm drain is submerged when Rubber Dam Number 3 is inflated. The pond created by Rubber Dam Number 3 is an exceptionally sensitive and critical feature of the water supply to the cities of Fremont, Newark, and Union City.

There has been at least one incident where the dissolved oxygen in the pond was greatly decreased due to algae growth from excessive nitrogen based nutrients in the Pond. This resulted in a significant fish kill and the need to stop the transportation of water to the Quarry Lakes for groundwater recharge. The Quarry Lakes also provide recreational activities of fishing and swimming under the operational control of the East Bay Regional Park District.

Should there be a failure of the proposed pumps, there is a significantly increased danger of flooding on the site of the Niles Gateway project.

A mitigation would be to design gravity flow of the storm water drainage into Alameda Creek, below Rubber Dam Number 3. This would require a new storm water discharge outfall, to be permitted by the Regional Water Quality Control Board.

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[1] There is an error in the Initial Study on page 75. ACWD has <u>two</u> inflatable dams on the adjacent Alameda Creek. There were at one time three inflatable dams. The inflatable dam adjacent to the Niles Gateway Project is named "Rubber Dam Number 3".

Appropriate water quality treatment of the excess water drainage from the site needs to be evaluated in the context of the federal and California Endangered Species legislation. Alameda County Water District is currently designing and will soon begin construction of a fish ladder at Rubber Dam Number 3. Alameda Creek has been identified as a habitat of Threatened Steelhead Trout. Changes in the Water Quality of the Creek may result in significant impacts on the migratory actions of the Steelhead Trout.

A storm drain appears to have existed from the site to Alameda Creek near Chase Court. This storm drain may have deteriorated and not be fully operational. This existing storm was subject to a partial excavation by Consultants for Niles Gateway and those findings should be placed in the public record and included in the Environmental Impact Review.

The timing of the proposed storm water pumping system and construction of a Hydrologic Retention Vault are not addressed in the Initial Study (page 77). While an off-site Hydromodification Vault is noted on Page 77, there appear to be no dimensions of the vault, capacity, nor hydraulic elevations provided in this Initial Study.

The Initial Study on page 77 also references a Storm water Management Plan (Valley Oaks Partners, 2017), which would be after the prior project submittals. It states that this would be at the "..Southeast corner of the project site for a second round of treatment." The southeast corner of the project site is near Chase Court and not as depicted in the Plans on the extension of Niles Boulevard. There is no discussion in the Initial Study of the type of treatment or who will administer/supervise this treatment.

The Initial Study recognizes that the Project Site is in a Dam Failure Inundation Zone as defined by FEMA. The Initial Study, as drafted, fails to recognize that the reduction in operation levels of Calaveras Reservoir to 40 per cent of capacity are only applicable until the new Calaveras Dam is completed and fully operational.

There are numerous defects in the proposed water treatment of runoff from the property. As mentioned in the Introduction, the groundwater runoff is proposed to be pumped to flow into an existing storm drain that is already proven to be inadequate. Secondly, the outflow from this storm drain is proposed to be above ACWD's Rubber Dam #3, and will be submerged when the dam is inflated. This means it cannot be tested for toxins and other impurities that may be in the subsurface soil, which has never been thoroughly evaluated through trenching as previously noted. We therefore request that the EIR evaluate alternatives to this proposed water treatment of groundwater runoff that do not involve use of the already-inadequate storm drain at the end of Niles Blvd., and that do not empty into the creek above the Rubber Dam #3.

Previous correspondence to the Regional Water Resources Control Board from Ms. Lorna Jaynes in 2016 is included as Appendix B. This basically raises the issue of the water discharge from the project above the dam as being dangerous. For the City to proceed to approve a project that continues this practice after having been warned for

years about its potential contamination of our drinking water could be grounds for a future lawsuit.

We also request that the EIR evaluate the effects of greywater recycling, which might help to mitigate the impacts of the excessive runoff which is likely to occur at the site, due to the large amount of impervious surfaces that have been proposed.

9. **Potentially Significant Impact 4.10, Land Use and Land-Use Planning: Request a Potentially Significant Impact finding for 4.10a); 4.10.b); and 4.10.c).**

Protect Niles proposes that Land Use and Land Use Planning be evaluated as a "Potentially Significant Impact" for many reasons as detailed below:

The proposed project physically divides an established community. The Niles Gateway Project is designed as a completely separate entity from the Town of Niles, in road patterns, architecture, and density. The Niles Gateway Project is clearly not compatible with the prior Additions to the Town of Niles, which established a now historic pattern of lot size and road ways, including alleys. This would be a grievous lost opportunity to retain the character of this historic community. The Niles Gateway Project creates a division in the community.

This is not a proper application of "infill" development. There is no regard to the design and character of the adjacent established community. As noted on page 82 of the Initial Study, quoting from the General Plan, Land Use Policy 2-3.4 Infill Development. *Support infill development on vacant and underutilized land in Fremont's neighborhoods, particularly where there are vacant lots or parcels that create 'gaps" in the urban fabric and disrupt the continuity of the neighborhood.* ***Such development should respect the state and form of surrounding properties."*** (emphasis added).

The Project should be viewed as the latest Addition to the Town of Niles. Each of the approximately eight prior additions to Niles utilized a standard lot size of approximately 50 foot width and 150 foot depth. The largest of the Additions was the Mortimer Addition in approximately 1900, which had a basis of 25 foot wide lots, most of which were sold as pairs for a more common 50 foot width.

Niles Community Plan Implementation 11-8.12.A Henkel Property (3777899 Niles Boulevard "*Support reuse of the Henkel property with a mix of commercial, residential and / or live-work uses, depending on market conditions and appropriate environmental remediation measures.* ***Access to Alameda Creek should be provided from future development.*** "(emphasis added)

The Niles Gateway Project does not identify an access to Alameda Creek from the new development. The retention of the elevated roadway (former bridge approach) on Niles Boulevard does not encourage access to Alameda Creek, while the Niles Gateway

Project appears to be an enclosed residential, high security, design with no pedestrian crossings.

Niles Community Plan Policy 11-8.1: Enhancing the Character of Niles Town. (page 82) "*Enhance the character of Niles Town Center by preserving and restoring historic buildings, attracting new infill development that is* ***compatible in scale and design with existing development, continuing streetscape*** *and signage improvements, enhancing gateways, and maintaining a comfortable environment for pedestrians*." (emphasis added).

The residential component of the Niles Gateway Project is certainly not compatible in scale and design with existing development.

The Niles Gateway is part of the Town Center. The Niles Gateway submittal fails to note that this Project is identified in the Planning documents as part of the Town Center. Further there are significant discrepancies of the proposed Project with the *Niles Design Guidelines and Regulations* as they have been applied to the Town Center in Niles. The identified preferred width of sidewalk on Niles Boulevard is 15 feet. Alcoves at entrance doors are encouraged. The design of Niles buildings and the streetscape of the individual buildings is not more than 75 feet for each structure. The proposed street side design has monolithic architecture and predominately ground to ceiling fenestration.

The Niles Gateway Project is not compatible with the prior Additions to the Town of Niles, which established a now historic pattern of lot size and road ways, including alleys. The Project should be viewed as the latest Addition to the Town of Niles. Each of the approximately eight prior additions to Niles utilized a standard lot size of approximately 50 foot width and 150 foot depth. The largest of the Additions was the Mortimer Addition in approximately 1900, which had a basis of 25 foot wide lots, most of which were sold as pairs for 50 ft. width. (Attachment 1).

Existing residential architectural design may generally be described as Craftsman. The proposed three story attached residential units are certainly not compliant with the existing pattern of architecture. A development adjacent to I Street and 3rd Street in Niles by Mission Peak Development approximately 20 years ago, did successfully adapt to the historic architectural residential theme of Craftsman homes.

Town Center – Pedestrian (TC-P) zoning in Niles, which is the current zoning of the entirety of the Niles Commercial Core, lists Live-Work as a "Use Not Allowed". Not even the City Council is authorized to issue a Variance for a "Use Not Allowed". A total of 13 Live-Work units are proposed in the Niles Gateway Project under the "bastardized" nomenclature of CRAFT – Creative-Retail-Artist-Flex-Tenancy (CRAFT) Units. This nomenclature may result in confusion with the more commonly utilized description of Craftsman architecture.

Land Use Designation (page 83*). Town Center land use designation allow a maximum floor area ratio (FAR) of 0.5 for non-residential Projects, and 1.25 for mixed use projects with ground floor commercial and residential uses*. The City of Fremont has previously made a distinction between Mixed-Use and Live-Work. The proposed 13 CRAFT projects appear to be Live-Work. Live Work is a "Use Not Allowed" in the Niles Town Center, which in its entirety is zoned Town Center – Pedestrian (TC-P).

Zoning (page 83). The "zoning" for the Niles Gateway Project is P for Planned District. The City of Fremont has a number of potential zoning designations which could be applied to this project, including Mixed-Use. The only apparent result of using Mixed-Use zoning in this Project proposal is to increase the density of the commercial space from 0.5 Floor Area Ratio to 1.25 Floor Area Ratio. There is neither continuity nor compatibility with the Commercial and Residential portions of the Project in violation of the Mixed Use zoning criteria as stated in the General Plan.

The previous document for the Planned District of Niles Gateway contained an Appendix which allowed a wider variety of businesses than permitted in the Town Center – Pedestrian (TC-P) zoning ordinance. This Appendix was not referenced in any of the Staff Reports to the Planning Commission nor City Council, when the Project received approval for the present approved Tract Map (valid until March 2019)..

Parking. Parking criteria and guidelines have been significantly modified. All of the identified 62 commercial parking spaces are on public and private streets. *This may be the only instance in the City of Fremont where commercial parking has been located on residential streets. There is an absence of off-street parking, nor identified curb space for drop off and pick up of passengers.*

Parking has been specifically identified and judged by the Courts to be an issue subject to Environmental Review in Niles, ref*: John Weed v. City of Fremont,* Superior Court of the State of California, in and for the County of Alameda, Hayward Division, Case No: HG 05216120, Hon. Bonnie Sabraw – Dept 512 (2006). This case determined that the City of Fremont had violated the California Environmental Quality Act by increasing the Floor Area Ration of Community Commercial (now renamed Town Center) Properties within the Niles Parking District from a Floor Area Ratio of 0.5 to a Floor Area Ratio of 1.0. Upon this judicial determination, the City of Fremont rescinded the zoning ordinance.

The Fremont City Council has adopted a resolution accepting a parking shortfall for the Niles Town Center (formerly Community Commercial) of almost 300 parking spaces. The Niles Parking District supports the existing Town Center of 188,000 square feet of existing development with only 176 off street parking spaces. The off-street parking ratio is 0.8 parking spaces per 1,000 square feet of floor area, regardless of type of use. This compares with an approximate 5.0 parking spaces per 1,000 square feet of floor area for all other Town Center developments in Fremont.

In 2011, the City of Fremont initiated a Planned District (PLN-2011-00232) Niles Central Rezone, for future commercial and/or mixed use of 4.06 acres (two parcels) of City owned Community Commercial zoned properties in Niles. The location was 37682 Niles Boulevard and an unaddressed lot in the Niles Planning Area (APNs 507-0828-005-00 and 505-0828-006-00).

The project scope was 178,000 square feet of space, of which 13,000 square feet would be commercial and the remainder residential. One of the parcels was being used for approximately 106 of the 176 off-street parking spaces of the Niles Parking District. It was noted in the Planned District documents that other properties were available to relocate the parking for the Niles Parking District. It was stated at the Planning Commission meeting of May 26, 2011, that the extension of Niles Boulevard (0.73 acres) was the intended site to relocate this parking. The Fremont Council approved PLN 2011-00232 and it is in force today. The land identified as future Niles Parking District Parking is the extension of Niles Boulevard and is identified in the present Initial Study for Niles Gateway as a private road.

Event Parking is a particular concern for Niles. On four occasions per year, Niles Boulevard is closed to through traffic. On the last Sunday in August the Niles Flea Market and the Friday following Thanksgiving, parking in Niles is particularly impacted. The City of Fremont has rented the extension of Niles Boulevard to the Boy Scouts to rent parking to visitors. There is a serious need for an updated Event Parking Plan, as part of the Environmental Review of Niles Gateway.

A discussion of parking as a CEQA issue is found at:
https://www.jdsupra.com/legalnews/is-parking-really-a-ceqa-impact-same-53939/

and includes the following:

> *"The Court's opinion makes clear that, under the right factual circumstances, a project's creation of parking demand in excess of its on-site parking supply* can *result in significant off-site adverse environmental impacts requiring study and mitigation…"*

10. Potentially Significant Impact 4.12, Noise: Request a Potentially Significant Impact finding for 4.12.a); 4.12.b); 4.12.c); and 4.12.d).

We request that the City of Fremont include a new Noise and Vibration study as part of the EIR for the Niles Gateway project.

From page 657 of the Administrative Record for the original Gateway Plan:

"Existing Vibration Environment
Ground-borne vibration at the site results from railroad train pass-bys. Vibration measurements of railroad trains were made on Wednesday, January 8, 2014 at one location (V-1) approximately110 feet from the UPRR tracks, representing the

easternmost boundaries of the nearest residential units proposed by the project. The location of this measurement is shown in Figure 1.

The instrumentation used to make the vibration measurements included a Tascam Solid State Audio Recorder and seismic grade, low noise accelerometers firmly fixed to the ground. This system is capable of accurately measuring very low vibration levels. Vibration levels measured on the site are representative of vibration levels at ground level (i.e. vibration levels that would enter the building foundation).

Observations and measurements were made by I&R staff between 9:15 a.m. and 1:00 p.m.During this time period, 2 passenger trains passed the site. Passenger trains consisted of Amtraktrains. ***No freight trains*** *were observed during the monitoring period.*

Vibration data were obtained during the two passenger train pass-bys to get a representative sample of various train activity at the site. At the near location Amtrak pass-bys resulted in maximum overall levels ranging from 72 to 74 VdB."

We would also refer you to page 92 of the Initial Study, which discusses the possibilities of changes with regard to ACE Forward and subsequent substantial increases in freight traffic on both the Niles and Oakland subs, and the suggestion that a new bridge over Alameda Creek may be built. These same changes will impact this development – especially if a new bridge is built. These possible increases in freight traffic as will result if the ACE Forward proposal goes forward must be evaluated in an EIR.

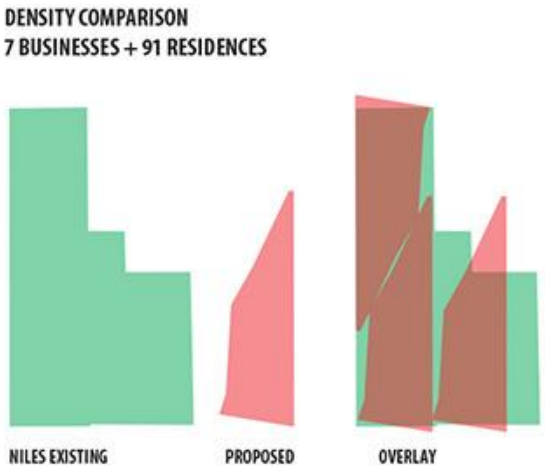
Also, we hope in the interest of due diligence you would confirm if there is a noise difference with the conversion of the former linear park, with trees and shrubbery to help reduce the train noise in the initial plan, compared to now having a roadway along the tracks. While technical, this is information that MUST be included so decision-makers and the public can understand the impacts of the changed configuration.

We also request that the EIR include study of the effect of sound walls between the train tracks and the development, **and** between the development and existing neighborhoods at the end of 2nd and 3rd Streets. Such walls may help to mitigate the noise of the construction of the project as well as the permanent operation of the development on its residents and surrounding communities. Please address this in the EIR and propose alternatives to mitigate noise.

11. Potentially Significant Impact 4.13, Population and Housing: Request a Potentially Significant Impact finding for 4.13.a).

We request the EIR address the additional population impacts from the project as a series of potentially significant impacts, for the following reasons:

1. The project proposes a six-acre development at three times the population/housing density of the entire surrounding neighborhood:



2. The Niles District lies in a unique geographical location in the city of Fremont. It is isolated from the rest of the city by the hills, the railroad and the Alameda Creek in such a manner that ingress and egress from the district are available by only two or three chokepoints.

3. This bottled environment will tend to magnify any effects of suddenly and dramatically increased population, such effects in all likelihood being particularly impactful in the immediate area of the protected HOD and the Alameda Creek due to the project's location.

3. As a result, an additional 300 residents will significantly impact virtually every piece of the community, from infrastructure and traffic and schools to the Alameda Creek

12. Potentially Significant Impact 4.14, Public Services: Potentially Significant Impact 4.14: Request a Potentially Significant Impact finding for 4.14.a)ii); and 4.14.a)iii).

We request the EIR address the entire range of public service impacts from the project as a series of potentially significant impacts, for the following reasons:

1. The public services section regarding police coverage provides no evidence to support a conclusion of insignificant impact. For example: how large is patrol area number one? How many police patrol this particular section? What is their average response time today? None of these questions were answered in the Initial Study in order to form the conclusion.

2. The additional 50 children mentioned in the Initial Study will be unable to attend the local elementary school as it is on waiting list status for 150 would-be students already. Though mitigated through current legislation, this means two trips back and forth across town to the school for at least one parent daily, adding even more to the stressed traffic environment.

3. An additional 200 to 300 residents will surely require more man-hours by the fire department and emergency services, not to mention additional wear and tear on public parks nearby.

13. Potentially Significant Impact 4.15, Recreation: Request a Potentially Significant Impact finding for 4.15.a); and 4.15.b).

We request that the EIR include a thorough study of the impacts on Recreation because the Initial Study identified a required 1.5 acres dedicated to common open space/park areas for the projected 296 residents that appears vulnerable to future downsizing and is difficult to analyze in the plans included in the Initial Study. Does the identified open space/park identified on Figure 9 in the Initial Study make up a total of 1.5 acres? Is it going to be covered with concrete or soil? Will an area for a community garden be included? Will an enclosed children's playground be included? We strongly recommend fencing this playground due to the immediate dangers of Niles Blvd., the train tracks and Alameda Creek so close to the site. No types of recreation suitable to this site have been identified in the Initial Study. More study and information is needed to support a conclusion of less than significant impact.

A second apparent park (not identified on Figure 9 as such) near the creek trail appears subject to future removal should the City of Fremont decide Chase Court at the end of Third Street later needs to connect through to the development's A Street. Would the remaining open space/park then still be adequate for recreation? Finally, how do Niles residents access the identified open space/park, or is this space limited to Niles Gateway residents only?

14. Potentially Significant Impact 4.16, Transportation and Traffic: Agree with finding of a Potentially Significant Impact finding for 4.16.a); 4.16.b); 4.16.d); 4.16.e); and 4.16.f).

We agree with the Initial Study that there are Potentially Significant Impacts of the transportation and traffic that would be created by the project. Some of these could be mitigated by a project of decreased density, which we again request be included in the EIR. As a seminal matter, it should be noted that since 2014-2015, when the project was first proposed and traffic studies conducted, Fremont traffic has worsened exponentially and become a political issue. The approval of so many new residential developments in Fremont without sufficient accompanying transportation planning was one of the factors leading to the defeat of the former Mayor of Fremont, one of the three votes on the Fremont City Council that approved this Niles Gateway Project and whose decision was found to be an "abuse of discretion" and overturned by the Superior Court

of California, as noted in the Introduction. Traffic in Niles has become particularly congested, with through-traffic cutting through Niles to Eastern and Southern fast-growing communities, particularly during commute times. Therefore, we have included detailed suggestions below in order to thoroughly document what we request be included in the Transportation and Traffic EIR for this proposed project.

There is a need to identify Mitigation Measures for each of the five sections of Transportation and Traffic identified as "Potentially Significant Impact" on page 106 of the Initial Study. Further, Parking is a specifically identified Environmental issue in Niles, as established in *John Weed v. City of Fremont*, (2006) County of Alameda, HG 05216120. While Parking is not included in the current standard checklist of Environmental Issues, it is an appropriate item in the particular circumstance of the Niles Gateway Project. We refer you again to:

https://www.jdsupra.com/legalnews/is-parking-really-a-ceqa-impact-same-53939/

where there is further discussion which supports our position that parking can be a CEQA issue under conditions very similar to that which we examine here..

The proposed seven diagonal parking spaces on Niles Boulevard at the northwest corner of the Niles Gateway Project are not in conformance with Traffic Safety design line of sight criteria. They are behind a bend in the road (Niles Boulevard) and have limited vertical and horizontal line of sight. Two of the seven spaces are compliant with Americans with Disability parking spaces.

There is no ability for cars in a search pattern for parking on Niles Boulevard to turn around if unable to locate a parking space on Niles Boulevard. More challenging is the lack of a U-Turn capability on the Niles Canyon Road extension leading into Niles. A solution would be to create a Round About at the entry to Niles, immediately south of the Railroad Underpass. This would also assist cars on the current extension of Niles Boulevard to continue west on Niles Boulevard. The Site Plan seems to indicate that this would be a right turn only, heading towards Sunol.

A lesson learned from the first iteration of Niles Gateway, is that Street A needs to be designed to the dimensions of a City of Fremont approved design for two lane roads with parking & sidewalks. In the initial round, a Private Street was depicted between Niles Boulevard and Chase Court. Chase Court was shown as not being open to non-emergency traffic. The Fremont City Staff then determined that the connection to Chase Court and 3rd Street was required to be open to all. The street then was designated a Public Street, however, the non-standard Private Street design was retained. Sidewalks along the west side of this street were eliminated.

A Street to Public Street 2 way Standard Design should loop the Niles Gateway Project. There is now proposed to be an "A Street" which accomplishes much of this traffic circulation requirement. The Housing Design Guidelines state that residential units

should front streets. This is currently not the case with the section of A Street which parallels Alameda Creek.

There is need to identify ‘curb space’ for pick-up and drop-off of pedestrians. In the world of Uber and Lyft, this will become a significant need. A bus stop should also be created.

The City of Fremont should incorporate all Town Center Commercial Parking requirements into the Niles Parking District. The current practice results in extraordinary discrepancies in parking requirements among commercial entities in the Niles Town Center. This will allow the coordinated and long term solution to Parking in Niles.

The landscape design for parking should be reviewed, particularly as it relates to the exceptionally long, unbroken, line of parked cars on A Street from Niles Boulevard to near Chase Court. A landscape pocket should be required at intervals of approximately every 8 parking spaces.

Commercial Parking generally has time restrictions, while Residential Parking is not time restricted. Combining Commercial and Residential parking on a Private Street will be a problem.

The City of Fremont should consider an emergency vehicle access from the end of Vallejo Street along the Alameda Creek Trail, under the Railroad Bridge, thence to Niles Gateway. This would require a redesign of the existing trail under the Railroad Bridge to allow greater height clearance.

Nearly every home and residence in Niles has two cars – many have three or more. The traffic study should look at worst-case scenarios involving well over two hundred autos moving from the proposed project (at its proposed and reduced density) into the existing traffic on Niles Boulevard. The two lane tunnel on Niles Boulevard leading in and out of town in front of the development is an unavoidable chokepoint, and the two blind curves which bracket this end of the development require special considerations.

The parking situation must be addressed from a worst-case standpoint as well. Considerations of the impact of retail businesses in the Gateway development in combination with potential guest parking of the residences and overflow into the neighborhood must be addressed.

The designs submitted for this Initial Study of the proposed revised project have not mitigated the substantive problems with traffic as noted by the Fremont Historical Architecture Review Board. HARB specifically cited the “excessive density” in its denial of the project. This determination was endorsed by the Superior Court of the State of California for the County of Alameda in their Judgment Granting Petition for Writ of Mandamus entered on April 6, 2017 (Case No. RG15765052).

The width of private Street A must be assessed as an impediment to both traffic and public safety when fully parked. Can emergency vehicles such as fire trucks adequately navigate the street and the turns within the development on a fully parked day?

The traffic problems associated with the use of diagonal parking spaces on Niles Boulevard for the retail section of the development must be assessed in terms f the blind corner/line of sight of cars moving in both directions, in and out of Niles.

A study of the traffic and parking impacts of this development must consider alternative design solutions, including but not limited to a significantly lower density, and the efficacy of creating a roundabout to deal with traffic issues such as drivers wanting to turn back into Niles without making an illegal U-turn at Vallejo Street after passing the site. As suggested above, a roundabout at the entrance to the development would help mitigate this impact.

15. Potentially Significant Impact 4.18, Utilities and Service Systems: Request a Potentially Significant Impact finding for 4.18.c); 4.18.g).

As addressed above in Section 8, Hydrology and Water Quality, the project's proposed groundwater treatment and discharge facilities will result in Potentially Significant Impacts. We request a thorough re-analysis of the groundwater treatment of the project and that the City of Fremont require the construction of new storm water discharge facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

16.Mandatory Findings of Significance, 4.19 Request a Potentially Significant Impact finding for 4.19.a) 4.19.b); and 4.19.c).

We disagree heartily that the only Potentially Significant impacts of the project to be studied in an EIR are Aesthetics and Transportation/Traffic impacts, as documented above. An inadequate EIR will further delay and impede a project which all in the community of Niles can support, and which Protect Niles seeks to actualize. We speak for the majority of our community when we say, Protect Niles strongly urges a complete EIR that studies all the impacts we raise herein.

APPENDIX A

The Height Pole and Netting Policy for story poles of the Town of Los Gatos is available at:

https://www.losgatosca.gov/DocumentCenter/View/179

It includes detailed descriptions and requirements for:

1. **Purpose**
2. **Height Poles and Netting**
3. **Procedure**
4. **Timing**
5. **Location and Number**
6. **Materials**
7. **Story Pole Plan and Public Safety**
8. **Exceptions**
9. **Alternatives**
10. **Removal**
11. **Project Identification Signs**
12. **Definitions**

APPENDIX B

Lorna Jaynes
37978 2nd Street
Fremont, CA 94536

June 16, 2016

Regional Water Resources Control Board
1515 Clay Street, #1400
Oakland, CA 94612

To Whom It May Concern:

I am writing to express my concern over the storm water discharge situation into the Alameda Creek in Fremont, California near the district of Niles and west of Mission Boulevard. I believe the current system of discharge is inadequate and dangerous. This is the primary source of drinking water for the residents of Fremont, Newark and Union City.

The outfalls are above the Rubber Dam and result in residential, railroad and road runoff being discharged into our water supply. The water from the pond created by ACWD is pumped to the Quarry Lakes groundwater recharge pits to recharge the Niles Cone Groundwater Reservoir.

Not only are the current discharge facilities deficient, but they are proposed to be used by a new development, the Niles Gateway project. This project consists of approximately 98 homes and a commercial strip mall and restaurant to be built less than 50 feet from the Alameda Creek are sure to increase the runoff and further compromise the water supply. Niles Gateway was approved by the City of Fremont with a negative declaration. The negative declaration on environmental impacts falsely states that there would be no offsite improvements for storm water discharge. The plans, in fact, call for a detention structure of 6 feet deep,16 feet wide and 40 feet long to be constructed on an adjacent public use right of way. (Extension of the existing Niles Blvd.)

Approximately ten years ago there was a major fish kill in the Rubber Dam #3 pond due to a near complete loss of dissolved oxygen. The episodic source of nutrients to the algae bloom was never identified. Toxic algae blooms have recently occurred in nearby ponds in the Niles District.

There are two storm water outfalls that empty into the pond. These storm water pipes drain north of Alameda Creek in the Niles district. The larger of the two outfalls is submerged when the rubber dam is inflated. It is this discharge outfall that is proposed to be utilized by the Niles Gateway development. Both outfalls should be relocated to a point downstream of the Rubber Dam #3.

I believe that a permit should be required for new storm water discharge of this magnitude that close to Alameda Creek and would like to receive a response from you at your earliest opportunity.

Sincerely,

Lorna Jaynes

cc: Alameda County Water District, State Quality Control Board

From: Robert Daulton
To: David Wage
Subject: COMMENTS ON THE INITIAL STUDY FOR THE NILES GATEWAY PROJECT EIR
Date: Wednesday, February 21, 2018 10:04:29 AM

Feb 20, 2018

Mr. Wage:

In looking over the Initial Study document regarding the scoping of the planned EIR for the Niles Gateway project, I am appalled that anything short of a full and comprehensive Environmental Impact Report is even being considered by the City of Fremont for the site and community.

Why aren't you fighting FOR an EIR instead of spending years trying to avoid one?

The Niles District is quarantined off from the rest of the City of Fremont. The hills, several active railroad lines, the Quarry Lakes, and Alameda Creek flank the town of maybe 900 homes from all sides. The central residential area near the town center is less that 500 homes. This project is like dropping a bomb or landing a UFO on Niles.

Any problems with this project will significantly impact the protected Historic Overlay District and the Alameda Creek, as well as the community's infrastructure, businesses, traffic, and schools.

The unique qualities of the Niles District reside not only in the idiosyncrasies of the local geography, but also in the character of the town that arose and persists within these limitations.

Niles contains what is essentially the last historical downtown area of any of the five districts comprising the city of Fremont. Much of the local business relies on the attraction of the town center derived from the historical nature of this quiet train town. Tourists are drawn here by its quaint downtown and the historic railway, and by the nearby California Scenic Highway through Niles Canyon. This is a delicate, sensitive environment, culturally and biologically. Now this project attempts to bracket the south entrance of town with Doug Rich's vision of the best way to make money off of Niles. A lack of style and, more importantly, empathy pervades this drab, generic design.

Lack of such interest in developing Niles is what preserved it authenticity. Once the price of the homes here reached some actuarial figure, short sighted developers decided it was time to cash in, and, with the help of some city bureaucrats, the result is this architectural travesty of “town planning”presented straight-faced to a shocked community. Once this plan is approved, the city will abandon us. Once the project is built, we will be left to our own devices to deal with its many failings.

The design of the Niles Gateway functions much like a gated community which “controls” the entrance to the town, and sloughs off its waste on the surrounding area. It is soviet worker-housing with the Silicon Valley pretenses of a strip mall trying to look trendy. It is blatant exploitation of the district.

You might think an Alameda County Superior Court decision

against the City and these developers would have alerted them that their approach to the plan was sub-standard, yet here we are again.

All aesthetic aspects of this project must be considered under the *Niles Design Guidelines and Regulations* as an integrated part of the Historic Overlay and the Commercial Core. The idea put forth on page 26, that the project lies outside of the Commercial Core, is ridiculous. The project is a five or ten second walk from the last existing storefront north of the Henkel property on Niles Boulevard. It is expressly an “infill” development. It is literally the first thing people will see when entering the town via Niles Boulevard through the train tunnel, and it looks like crap. It is entirely out of character with the town it represents. The signage at the frontage appears to have been lifted rather directly from a 1980's t-shirt design.

The project will cause scenic disruption to the surrounding homes. It will display the only rowhouses built in a continuous “wall” directly adjacent to the Creek Trail, significantly degrading the look and experience of the Alameda Creek in that area, and that of the Creek Trail. It's out of character with the surrounding neighborhood. It's an infringement on the commons of the creek frontage. Do you really think putting a wall of these generic townhouses right on the creek makes for an improvement? Absurd. See: 4.1 (a,b,c)

The project is right next the Alameda Creek, a vital natural resource. This project proposes a huge construction project on the grounds of a former chemical plant a stone's throw away from the source of our drinking water, next to an important

bird and fish habitat and a valued recreational environment. The county is spending tens of millions of dollars to re-introduce steelhead into the creek, and you don't plan to examine the effect on biology with a comprehensive EIR?? Incredible. You guys are really trying to sneak this one under the radar. The whole project is going to drain right into the pond created by the rubber dam there, aka “our aquifer”. One bad incident and * boom* goodbye steelhead, among other creatures, plants and even people. There have been numerous spills there before, and more in the general area of the train bridge, several due to derailments. See: 4.4 (a,b,d,e)

The entire area of the project is located on land reclaimed from the Alameda Creek. The ground is composed of god knows what – landfill of rubble, concrete blocks, unstable soil substrates, chemical residues, old buried tanks, animal remains, you name it. The street on Chase Court adjacent to the project has been upheaving and shifting for years, and that's not a good sign. See: 4.6 (a,c)

This site was home to a paint and chemical plant where for decades all sorts of chemicals and solvents were produced, even some of the components of the notorious biological weapon, Agent Orange. The train has been running past the stub of Niles Boulevard there for 150 years, spewing chemicals and solvents into the mix. The soil could easily be contaminated to a depth of twenty feet or more. Should pregnant women be advised against visiting the development? Certainly people around Niles have been avoiding it for decades. Many good old-timers here are convinced it's contaminated... as in, Superfund-type issues. It is even

rumored that in the old days the local wicca covens were thought to practice near there. Seriously. See: 4.8 (a,b,c,d)

This project will dump runoff into Alameda Creek, the source of 40% of Fremont's drinking water. See: 4.9 (f)

There's no requirement in the development plan that the live/work spaces be used for retail, or for any public purpose whatsoever. At $700,000 each and up, the likelihood of these spaces being used as extra rooms by the owners is very, very high. The retail spaces ought to be completely separated from the living space and the HOA should disallow private use of the retail spaces to prevent this. Nobody wants to see a disused strip mall in the form of permanently shuttered roll-up garage doors as they enter town. See: 4.10 (a,b,c,d)

Freight trains, big ones, oil and chemical tanker-laden, travel over that bridge and past the site all day and night. Is it really possible the noise and vibration is mitigated? For years, people in town living in homes close to the tracks have been widely known to complain about the noise, and some of these ugly, planned rowhouses are even closer. No wonder this site was zoned industrial. See: 4.12 (a,b,c,d)

The project is too dense. HARB said so. The judge agreed. This new design still does not address this obvious elephant in the room, and increases the population of the HOD by some thirty percent. I request that the EIR examine an alternative with much lower density. See: 4.13 (a)

This project suggests pouring 200 or more new cars into the

mix on Niles Boulevard is a reasonable, supportable idea. Even the few boosters of the thing know this will back up traffic all across town. Even YOU know this. And how will people coming into town through the tunnel park in front of the restaurant or shops? As it looks now, they will have to make a U-turn somewhere in town. See: 4.16

ALL OF THESE AREAS IN THE INITIAL STUDY CITED ABOVE NEED A COMPREHENSIVE ENVIRONMENTAL IMPACT REPORT.

I formally request that the City and developers create a robust EIR that addresses all these issues and alternatives, especially including alternatives with SIGNIFICANTLY REDUCED DENSITY.

I personally ask you and your team to focus your efforts on preserving the character and quality of our town, and fighting FOR Niles rather than against it.

Thank you,
Robert Daulton, resident
2nd Street, NILES, CALIFORNIA

From: rose_corsi@comcast.net
Sent: Wednesday, February 21, 2018 5:22 PM
To: David Wage
Subject: Niles Gateway
Attachments: David Wage-Niles Gateway.docx

Hi David;

Please find attached some concerns I have.

Thank you
Rose Corsi

David Wage, Associate Planner
City of Fremont
39550 Liberty Street
Fremont CA 94537

Dear Mr. Wage:

I am writing to you regarding, the Niles Gateway Project. I won't take up too much of your time but would like a response from you regarding the points of my email. After reviewing the initial study once again I still have concerns. When this project was in the very early stages together with my family and neighbors, my husband and I attended town meetings, council, planning, and more. This included private meetings with Doug Rich, the project manager.

Here three years later we are still (excuse my verbiage) circling the drain. There are so many man hours it takes to defend your rights as a tax paying citizen as well as protect your investment in your home and protect your family. There is your report that is 120 pages others that are 2000 pages, and that is where you come in.

Do you ever truly address the effects to existing neighbors that new projects have vs. the tax revenue it brings to the "City"?

Niles is a very select group of building styles, from victorians, to ranch, to farmhouse, to craftsman. ***Does this project degrade the environment, I think it does?***

Will our privacy, quality of life and traffic be impacted, yes.

Will artists truly reside in the artist's /flex units, probably not.

Will the new bioretention systems bring dangerous levels of run off to our ground water, very likely.

And as stated in the report under "findings", hazardous materials in existing soils-are significant. ***Is this why there was not an EIR done to cover this up, probably.***

In closing, the initial study is stated as "findings directly impacting human beings". So even three years letter the impact vs. the improvement to a vacant property is questionable. Please consider all dangers, previous findings, and effects this project has and will cause. Niles needs to be preserved for the historical legacy it holds, not a gateway of metal and high rise.

Thank you
Rose Corsi
38092 Third Street
Fremont CA 94536
(510) 797-4894

ALAMEDA COUNTY WATER DISTRICT

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February 22, 2018

David Wage
Associate Planner – Current Development
City of Fremont, Planning Division
39550 Liberty Street
Fremont, CA 94537

Dear Mr. Wage:

Subject: Notice of Preparation of a Draft Environmental Impact Report for the Niles Gateway Mixed-Use Project

The Alameda County Water District (ACWD) wishes to thank you for the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report for the Niles Gateway Mixed-Use Project (Project).

The Alameda County Water District (ACWD) thanks you for the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report (DEIR) for the Niles Gateway Mixed-Use Project, located at 37899 Niles Boulevard. ACWD previously reviewed and provided comments to the City of Fremont that are still applicable, in letters dated: May 13, 2008, on the Notice of Preparation and Draft Environmental Impact Report for the demolition of the structures at the subject property; November 3, 2008, on the Notice of Preparation and Draft Environmental Impact Report; May 25, 2011, on the Preliminary Plan Review Procedure; January 14, 2015, on the Draft Initial Study and Mitigated Negative Declaration; and July 14, 2017, on PLN2014-00338 Niles Gateway Mixed-Use. Enclosed is a copy of each letter for your convenience. The City of Fremont (City) is encouraged to review *all* previous comments so that the DEIR will address ACWD comments and concerns.

In addition, the following restated and/or clarified comments are provided based upon the Notice of Preparation:

1. Access and Circulation:

   As stated in previous correspondence, ACWD currently uses the south end of Niles Boulevard to access ACWD recharge facilities along Alameda Creek located southeast of the Project site. Prior to the Niles Boulevard street vacation, ACWD requests a minimum 15 foot wide, non-exclusive easement for access to its facilities along Alameda Creek.

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Site improvements must be designed to maintain ACWD direct vehicle access from private Street A to the Alameda Creek trail.

2. Groundwater: Local and imported water is percolated into the Niles Cone Groundwater Basin through percolation both in Alameda Creek and the adjacent recharge ponds in the Quarry Lakes Regional Recreational Area. The first-encountered groundwater located within the Project area is the Above Hayward Fault Aquifer, which is pumped at ACWD's Peralta-Tyson Wellfield and is used as part of ACWD's potable water supply. To help replenish the Above Hayward Fault Aquifer, ACWD conducts active recharge within the segment of Alameda Creek located approximately 100 feet southeast of the Project area. Therefore, it is imperative that ACWD protects the water quality and ensures the continued use of the groundwater basin for water supply for ACWD's customers. ACWD requests that the following potentially significant impacts to the protection of groundwater be addressed by the DEIR:

   a. Groundwater Well Protection/Destruction: In order to protect the groundwater basin, ACWD regulates the construction, repair, and destruction of wells, exploratory holes, and other excavations located within the City of Fremont under Alameda County Water District Ordinance No. 2010-01. Therefore, each well located within the Project area must be either protected or properly destroyed prior to construction activities.

      Historical records indicate the existence of at least seven (7) abandoned wells located within the Project area. Any abandoned wells located within the Project area must be properly destroyed prior to grading and/or construction activities. Since most of the wells have not been located, ACWD requests that Project proponents coordinate with ACWD so that: a) ACWD can assist in identifying abandoned wells, and b) any wells identified or discovered during construction are properly destroyed in accordance to ACWD specifications.

   b. Drilling Permit Requirement: As required by ACWD's Well Ordinance No. 2010-01, drilling permits are required prior to the start of any subsurface drilling activities for wells, exploratory holes, and other excavations. Application for a permit may be obtained from ACWD's Engineering Department, at 43885 South Grimmer Boulevard, Fremont or online at http://www.acwd.org. Before a permit is issued, the applicant is required to deposit with ACWD, cash or check in a sufficient sum to cover the fee for issuance of the permit or charges for field investigation and inspection. All permitted work requires scheduling for inspection; therefore, all drilling activities must be coordinated with ACWD prior to the start of any field work.

3. Hazards and Hazardous Materials (pages 70-74):

   a. Mitigation Measure HAZ-1 (page 73) should be revised to acknowledge that as part of ACWD's Groundwater Protection Program, ACWD entered into Cooperative Agreements with the California Regional Water Quality Control Board – San Francisco Bay Region (Regional Board) and the City of Fremont which allow ACWD to provide assistance and local oversight of investigation and remediation at sites where the pollution is attributed to spills or leaks from structures other than underground fuel tanks. Therefore, ACWD requests that the mitigation measure include the requirement that the updated Risk Management Plan and revised land use conditions for the Project site are also submitted to ACWD at the same time that they are provided to the Regional Board. Interim results provided to the Regional Board should also be provided to ACWD at the same time so that ACWD has the opportunity to provide comments before they are considered finalized.

   b. Although the Initial Study states that remediation efforts are "independent of the proposed project," the ability to install a public water system within the Project would be conditioned upon confirmation that the soil does not pose a risk to the health and safety of workers either during installation of the public water system or during its long-term routine operation and maintenance.

      The *Supplemental Site Characterization Report* documented testing for dioxin compounds across the site. For characterization purposes, the site was partitioned off into "Decision Units" 1, 2 and 3. In the initial screening, many samples were collected; however, individual samples were composited into only a few master samples for laboratory analysis. Subsequently, higher resolution sampling in Decision Unit 3 was conducted based on detections of elevated levels in the initial screening and over excavation of contaminated soil occurred in the Decision Unit 3 area. Although the spatial average (given by compositing) in Decision Units 1 and 2 did not exceed 50 picogram per gram (pg/g) (the residential standard accepted by the Regional Board), the average reached 45 and 50 pg/g in two of the composite samples collected from Decision Unit 2. This could be the result of the combination of hot spots in conjunction with clean soil. ACWD is concerned construction crews installing, operating, or maintaining the public water system could encounter such hot spots if effective steps are not taken.

      Therefore, ACWD requests an additional mitigation measure be included in the DEIR to ensure that the public water system extension and all appurtenances will be constructed in "clean corridors," which would be assured by either further testing of native soil along the proposed public water system alignments or by use of clean imported fill as backfill for all trenches excavated for any part of the public water system.

4. Hydrology and Water Quality (page 75-80):

   a. Reference is made to the Hydrology and Water Quality Section that explains all site drainage would be collected into the storm drains and routed to one of 12 bioretentions basins and that water not infiltrated at the bioretention basins would be routed by storm drains to a hydromodification vault at the southeast corner (for a second round of treatment). Then the water would be routed by storm drain and discharged into Alameda Creek upstream of ACWD Rubber Dam #3. The Initial Study then states: "With compliance with the above-described requirements and the construction of water treatment facilities, operational impacts related to potential violation of water quality standards and substantial degradation of water quality would be less than significant. This impact will not be further addressed in the EIR."

      The Initial Study does not adequately address ACWD's previously stated concerns with regards to the existing outfall structure and discharge of on-site storm water upstream of Rubber Dam #3 (RD3). This should be more thoroughly evaluated in the DEIR.

      i. As stated in ACWD's January 14, 2015 comment letter, ACWD is planning to relocate the discharge location of the existing storm drain located at the south end of Niles Boulevard in the vicinity of Alameda Creek as part of the Lower Alameda Creek Fish Passage Improvements Rubber Dam 3 Fishway project.

      ii. The enclosed record clearly reflects ACWD's concerns related to stormwater collection and discharge for this site which has had a history of hazardous materials contamination and which is located adjacent to critical water supply facilities and operations. It is ACWD's understanding that historical site drainage was handled in large part by the onsite sanitary sewer system, and that special site drainage provisions were incorporated during site cleanup and preparation activities. Such provisions included discharge of treated stormwater downstream of ACWD's RD3 and its impoundment of Alameda Creek water for groundwater recharge and service to the Tri Cities area. Discharge of site storm drainage into the RD3 impoundment as proposed is of long concern to ACWD and the DEIR does not adequately analyze the potential impacts of this change on the environment or ACWD's water supply operations. ACWD has discussed this concern with City staff and has informed the project proponent of its intent to require that site stormwater be discharged downstream of RD3 and requests that this also be included as a mitigation measure to help address these issues.

   b. Reference is made to Hydrology and Water Quality Section discussion of construction activities and the potential impact on water quality through discharge

of contaminated runoff or spills of fuels and construction-related chemicals. Given the proximity of the project to Alameda Creek and ACWD's water supply, it is imperative that the highest level of Best Management Practices be employed at the construction sites for stormwater management, chemical and materials handling, and refueling operations. Therefore, ACWD requests the DEIR include a requirement that Project proponents provide ACWD the opportunity to review and comment on the Stormwater Pollution Prevention Plan that is developed for the Project.

In addition, since construction activities could result in the accidental release of hazardous materials that could impact Alameda Creek, ACWD would like to work cooperatively with Project proponents and requests the development of an emergency communications plan that would ensure ACWD is quickly notified in the event of a fuel or other chemical spill during construction activities.

c. Although the Initial Study states that the remediation efforts are independent of the proposed Project, the *Supplemental Site Characterization Report* documented the results of two soil samples, collected in the former Fuel Oil Storage Area, with detections of 2,4-Dinitrotoluene (2,4-DNT) of 1 mg/kg. Although not considered a threat for residential occupancy, concentrations at this level greatly exceed the 0.00074 mg/kg Regional Board Environmental Screening Level (ESL) for the protection of groundwater used as a drinking water source. The implementation of Low Impact Development measures as described in Section C.3 of the Municipal Regional Stormwater NPDES Permit are designed to remove pollutants typical in stormwater and may not be adequate for sites with other known pollutants of concern.

   As a result, soil containing 2,4-DNT should be removed or remediated where feasible, or covered by an impermeable surface where remediation is not feasible in order to protect the groundwater basin. In particular, care should be taken to ensure reasonable absence of 2,4-DNT in soil beneath permeable areas where surface water may collect and pond, such as the proposed bioretention areas, inlets, and underground piping in the former Fuel Oil Storage Area. In addition, grading, drainage, and other features of a future stormwater management system should be designed to minimize pollutant loading into Alameda Creek. Therefore, ACWD requests the DEIR: 1) evaluate and more thoroughly consider the pollutant treatment mechanism of the bioretention system and potential loading into Alameda Creek; and 2) require coordination with ACWD regarding any drainage design and stormwater management and implementation.

5. <u>Utilities and Infrastructure:</u>

ACWD will require adequate connections between the new and existing public water distribution system to prevent dead-ends in water mains and to provide for system looping. Based upon the submitted site plan, these connections would include a connection at the eastern terminus of the existing water main within Niles Boulevard, a

connection in the vicinity of Second Street, and maintain the existing connection to the water main within Third Street. This would require extending the existing water main in Niles Boulevard and the installation of onsite water mains within the proposed onsite private streets fronting the townhomes. Depending on the configuration of the proposed connections to the existing public water system, ACWD may require that additional line valves be installed on existing public water mains. The Initial Study should be revised to identify these connections to the existing distribution system.

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

    a. Michelle Myers, Groundwater Resources Manager, at (510) 668-4454, or by email at michelle.myers@acwd.com, for coordination regarding ACWD's groundwater resources, groundwater wells, and drilling permits.

    b. Chris Delp, Project Engineering Supervisor, at (510) 668-4422, or by email at chris.delp@acwd.com, for coordination regarding existing and proposed ACWD facilities.

    c. Juniet Rotter, Development Services Supervisor, at (510) 668-4472, or by email at juniet.rotter@acwd.com, for coordination regarding public water systems and water service.

Again, thank you for the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report for the Niles Gateway Mixed-Use Project.

Sincerely,

Steven D. Inn
Manager of Water Resources

jr/cs
By Email
Enclosures
cc: Toni Lyons, ACWD
Chris Delp, ACWD
Shane O'Nesky, ACWD
Juni Rotter, ACWD
Steven Inn, ACWD
Michelle Myers, ACWD
Thomas Niesar, ACWD
Leonard Ash, ACWD

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July 14, 2017

David Wage, Project Planner
City of Fremont
Community Development Department
Planning Division
39550 Liberty Street
Fremont, CA 94538

Dear Mr. Wage:

Subject: PLN2014-00338 Niles Gateway Mixed-Use

The Alameda County Water District (ACWD) thanks you for the opportunity to comment on the Niles Gateway Mixed-Use Project, PLN2014-00338, located at 37899 Niles Boulevard. ACWD previously reviewed and provided comments to the City of Fremont that are still applicable, in letters dated: May 13, 2008 on the Notice of Preparation and Draft Environmental Impact Report for the demolition of the structures at the subject property; November 3, 2008 on the Notice of Preparation and Draft Environmental Impact Report; May 25, 2011 on the Preliminary Plan Review Procedure; and January 14, 2015 on the Draft Initial Study and Mitigated Negative Declaration. Enclosed is a copy of each letter for your consideration as the project resumes. The Project proponent is encouraged to review all previous comments so that future submittals will address ACWD comments.

Since ACWD's previous comments, we offer the following additional comments for inclusion into the project:

1. Storm Drain Discharge to Alameda Creek

   a. The site storm drain drainage must be designed to discharge downstream of the District's Rubber Dam 3 (RD3). ACWD staff has discussed this requirement with City staff previously.

2. Landscaping

   a. Trees and shrubs should be of proper size, location, and type so as not to interfere with ACWD's RD3 rooftop antenna radio communication path, drop branches on the.

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antenna, or contribute to debris that might clog the future RD3 Fishway channel or grating

b. Irrigation shall be planned so that drainage will not contribute to flooding of ACWD's electrical pullboxes or other ACWD facilities.

c. Trees and shrubs shall not be located within 5 feet of existing water mains or ACWD facilities. Reference is made to ACWD Standard Detail CL-4-08.

3. Protection of Existing ACWD Facilities

a. ACWD has existing facilities in the area along the southeast property line including electrical pullboxes and underground conduit which shall remain protected in place and accessible from the creek access trail.

b. IEEE 519 requires power users to maintain the utility system to less than 5% harmonic imbalance. The developer shall design utility system loading considering that ACWD plans to install equipment at the RD3 fishway facility that may contribute to existing system harmonics (reference SCH#2013032074).

4. Noise and Lighting Considerations

a. In addition to the existing site lighting at ACWD's RD3 facility, ACWD plans to install additional lighting as part of ACWD's RD3 fishway project (reference SCH#2013032074). Noise is produced from the RD3 facility when air blowers in the building inflate the dam, pressure relief valves vent air to maintain proper dam pressure, or the audible alarm is sounded to deter vandalism. Cranes may also be used periodically to remove or maintain equipment at the site. ACWD has no intention of modifying or curtailing its facilities or activities in any way due to the development of the Project. The developer should design to minimize light and sound impacts of ACWD's operations on the new residents.

b. Due to the proximity of ACWD's RD3 facility to the development, disclosures shall be signed by the developer and buyers of units in Lots 10 and 11 and potentially the buyers of units in Lots 4, 9, and 12, with the developer required to record their signed disclosures with the Alameda County Clerk.

5. Site Access for ACWD Construction Projects

a. Construction for the ACWD RD3 Fishway may use Niles Boulevard to deliver materials or equipment to the RD3 site. ACWD's construction traffic will access the site from the creek trails. The development's proposed construction should accommodate ACWD's construction activity described in ACWD's CEQA documents (SCH#2013032074).

We appreciate your consideration of these comments. If you have any questions or require additional information, please contact the following ACWD staff: Chris Delp at (510) 668-4422 (landscaping, electrical, existing and proposed facilities, site access) and Juni Rotter at (510) 668-4472 (storm drainage).

Sincerely,

FOR Ed Stevenson
Manager of Engineering and Technology Services

jr/mh
By Email
Enclosures
cc: Toni Lyons, ACWD
Chris Delp, ACWD
Shane O'Nesky, ACWD
Juni Rotter, ACWD
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ALAMEDA COUNTY WATER DISTRICT

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May 13, 2008

Jennifer Craven, Associate Planner
City of Fremont
Community Development Department
P.O. Box 5006
Fremont, CA 94537-5006

Dear Ms. Craven:

Subject: Comments on the *Notice of Preparation for a Draft Environment Impact Report* and *Public Review Draft Henkel Demolition Project Initial Study*, dated April 2008

Alameda County Water District (ACWD) thanks you and the City of Fremont for this opportunity to comment on the subject CEQA documents related to the proposed demolition of structures at the Henkel property at 37899 Niles Boulevard, Fremont.

Background

Since the early to mid-1980's, ACWD, the City of Fremont Fire Department, and the Regional Water Quality Control Board (Regional Board) have coordinated closely on environmental regulatory matters specific to this subject property. In particular, ACWD has had a strong interest in the regulation of storm water discharges from the site, and in the investigation and cleanup of soil and groundwater related to known subsurface releases of chemicals, which have included herbicides (2,4-D, 2,4,5-T), pesticides (chlordane and heptachlor), fuel oil, metals (arsenic, lead, nickel, copper, cobalt, and hexavalent chromium), naphthalene and silvex. On these water-quality-related concerns, ACWD has served as a reviewing and commenting agency to the Regional Board, which has been, and continues to be, the lead agency. Application of ACWD's direct authority in reference to this property has been limited to matters relating to water service and enforcement of the City's well ordinance.

Our high degree of interest in water quality-related issues specific to the Henkel property is motivated by the site's extremely sensitive location within the recharge area of the Niles Cone Groundwater Basin. Approximately 40 percent of water served by ACWD to our customers in Fremont, Newark, and Union City comes from groundwater pumped from this basin. Within the Niles area, ACWD operates two major drinking water wellfields, and an elaborate system of inflatable dams and percolation ponds to ensure that the aquifer system is amply replenished with high quality source water (see Figure 1, attached). A significant amount of recharge (replenishment) water is percolated to the aquifer system through the bed of Alameda Creek, specifically, the segments of the creek that pass through Niles. When one or more of the rubber

dams are inflated, the water level in the creek rises, allowing both an increase in rate of in-stream percolation, and the diversion of impounded water to off-stream percolation ponds.

Located at the apex of alluvial fan, the Niles area has geologic characteristics that are highly amenable for such operations: very permeable soils from shallow depths to a highly productive, unconfined groundwater aquifer below. Therefore, while the Niles area, in general, is the most sensitive part of the groundwater basin to releases of chemicals, the Henkel property is in a particularly critical location; it fronts the segment of Alameda Creek in which ACWD actively operates for groundwater recharge. We note that the north end of Rubber Dam No. 3 is located less than 50 feet from Henkel's southerly property line, and approximately only 260 feet from the existing pavement within the Henkel site (see Figure 2, attached). In-stream percolation at significant rates occurs in both the upstream and downstream sides of Rubber Dam No. 3 (Rubber Dam 1 controls the impounding of water on the downstream side of Rubber Dam 3). Any contaminants entering the creek from the site therefore would have a very-heightened potential for infusion into the important underlying aquifer. In addition, the drinking water beneficial use of groundwater in the vicinity of the site is also highly vulnerable to releases of contaminants to the subsurface at this facility. Therefore, investigations and cleanup of soil related to past releases of chemicals to subsurface soils at the site have merited a great deal of interest and scrutiny from ACWD. Equally important, we have a keen interest in ensuring 1) the prevention of future releases of fuel or other hazardous chemicals at this site, and 2) that adequate measures are undertaken so that future site conditions minimize, and don't increase, the capacity of transmission of contaminants to surface water or groundwater.

General Comments

After having reviewed the Draft Initial Study (DIS) and Notice of Preparation (NOP), ACWD sees no reason to fundamentally object to this project in concept; however, we do see a substantive basis for comment toward fulfillment of the following objectives:

* Ensure protection of ACWD water mains and appurtenances.

* Prevent wells on the site and in the immediate off-site areas from becoming damaged or buried during construction. Damaged or improperly abandoned wells can become potential conduits facilitating vertical migration of contaminants through the subsurface to underlying groundwater.

* Prevent contaminated runoff or deleterious materials from reaching Alameda Creek through storm water conveyances or overland flow.

* Ensure proper coordination of project activities with ongoing soil remediation efforts so that a) remediation activities are not impeded, and b) opportunities are maximized to address contamination either encountered or rendered accessible by project activities.

In reference to the fourth bulleted item above, the NOP/DIS emphasizes that the project includes only demolition-related activities, and not the cleanup of contaminated soil and investigation of

soil and groundwater, which are ongoing and under the lead regulatory authority of the Regional Board. Conceptually, this is a reasonable and understandable limitation in project scope. However, project-related activities, depending on the manner that they are carried out or scheduled, could have the potential to affect, either beneficially or negatively, achievement of desirable end results of these cleanup efforts.

Specific Comments

1. Location

At the top of Page 5 of the DIS, the discussion of location does not note that Alameda Creek is a source of recharge for the ACWD-managed Niles Cone Groundwater Basin, and that the property is located adjacent to ACWD's groundwater recharge infrastructure (e.g., Rubber Dam 3). The Draft Environmental Impact Report (DEIR) should include this information and acknowledge the drinking water beneficial uses of groundwater under the site and in the general area.

2. Potential Impacts to Water in Alameda Creek

a. The NOP and DIS do not include any significant discussion of potential impacts to water quality in Alameda Creek. The Henkel Property is located directly adjacent to ACWD's water supply facilities in Alameda Creek, and therefore, any storm water runoff from the site has the potential to impact water quality in the creek during construction, and the runoff routed to the local storm drain system will ultimately enter Alameda Creek. The DEIR should evaluate potentially significant impacts to water quality, considering Alameda Creek's use as a water supply.

b. In reference to Page 9 of the DIS, the Storm Water Pollution Prevention Plan should include mention of Alameda Creek as a source of water supply for groundwater recharge and require notification of ACWD in the event of any hazardous materials incidents. ACWD should also be provided with a copy of the Storm Water Pollution Prevention Plan. These requirements should be noted in the DEIR as mitigation measures for water quality as well.

3. Coordination with Efforts to Investigate and Cleanup Contaminated Soil and Groundwater

a. On page 33 of the DIS, it is stated that "...contaminants to be remediated are in shallow soils that do not intersect the groundwater level..." This is not necessarily an incorrect statement, but its accuracy depends on the intended definition of 'shallow', and presumes that no new information will develop that will change the current expectation on the extent of soils to be remediated. The expected depths of remediation at various locations within the site have been estimated based on depths where actual levels have been identified as exceeding site-specific cleanup levels.

b. Report on Status of Remediation of Soil Impacted with Herbicides. Henkel submitted a work plan, dated February 8, 2007, documenting interim results of efforts to remediate soils impacted by herbicides, and proposing steps to complete remediation and verification sampling of herbicides. Regional Board provided a detailed comment letter, dated August 30, 2007, to which Henkel responded in a letter dated September 26, 2007. This is the last correspondence received by ACWD on the herbicide issue. We understand (through verbal communication with Cherie McCaulou of the Regional Board on May 2, 2008) that a report documenting the results of more recent efforts to clean up soil containing 2,4-D has since been provided to the Regional Board. However, ACWD has not been provided a copy. As previously noted, the location of proposed demolition activities is within areas where site contaminants, including herbicides, have been detected in soils. Therefore, this matter is relevant to the proposed project. Before Henkel advances further in the CEQA permitting process for this demolition project, the local agencies should be provided copies of this report and have the opportunity to provide comments to the Regional Board as to the adequacy of the efforts to remediate on-site soils containing 2,4-D.

c. Report on Status of Remediation of Soil Impacted with Fuel Oil. In addition to efforts to excavate soil containing herbicides, Henkel has recently attempted to remediate, in situ, oil-contaminated soils at the Fuel Oil Storage Area (FOSA). Remediation efforts have involved injections of reagents into the subsurface with the intention of oxidizing the contamination. A brief interim progress report on these efforts was provided to the Regional Board in September 2007. However, a more detailed, up-to-date written report evaluating the success of the remediation efforts is needed before Henkel advances further in the permitting process for the demolition project. The FOSA is clearly within the part of the site where demolition is proposed. Potentially, excavation activities that take place during construction, especially demolition, may offer an excellent opportunity to reasonably address contamination that may not have been successfully removed by the abovementioned recent efforts. Thus, a report documenting and evaluating soil remediation activities should give a clear picture of the extent of remaining oil contamination with use of maps, tables containing confirmation soil sampling data, and other information as appropriate. Copies of the report should be provided to the local agencies as well as the Regional Board.

d. Contingency Response Plan/Work Plan for Remediation Activities. We appreciate that Henkel has already submitted work plans for cleanup of soil containing various types of contaminants; however, a supplemental contingency plan/work plan (hereinafter referred to as "Plan") is needed to explain specifically how remediation efforts will be coordinated with project activities, since it is important that procedures are in place to ensure demolition work occurs within the interests of the remedial efforts. It seems highly likely that contaminated soil could be encountered, rendered accessible by, and handled by demolition contractors. Potentially the best opportunities for addressing certain contaminated soil may arise within the duration of project activities. Therefore, in consideration of these concerns, the Plan should include, but not necessarily be limited to, the following, as appropriate:

i. Provisions to ensure that project activities are monitored or supervised by personnel with knowledge of the remediation efforts and the extent of contamination;
ii. Provisions to collect additional samples, should access or conditions created by project activities merit additional samples (in supplement of previous investigations) to define the vertical and lateral extent of the contamination or verify the successful remediation of encountered contamination;
iii. Remedial actions to occur simultaneously with, or in coordination with, project activities, including pre-planned actions and those that would be undertaken in response to unexpected encounters of contaminated soil during project activities;
iv. Provisions to notify Regional Board staff of imminent project activities so that Regional Board (and other local agency staff, as appropriate) may evaluate their relevance to the soil cleanup efforts, and have the opportunity to be present at the site during sampling and/or remediation activities, or to witness other important developments specific to the investigation and cleanup efforts;
v. Provisions to notify Regional Board and local agency staff of confirmation sampling results prior to backfilling of any excavation where contaminated soil was removed or suspected, unless immediate backfilling is required for safety reasons; and
vi. Procedures related to the stockpiling, treatment, and confirmation sampling of any contaminated soil, or potentially contaminated soil.

On May 2, 2008, ACWD discussed the substance of the above items 3b, 3c and 3d with Cherie McCaulou, the Regional Board case handler assigned to the cleanup efforts at Henkel, and she expressed her concurrence.

If the Plan cannot be completed and submitted to the Regional Board and the local agencies (ACWD and the City of Fremont) prior to issuance of the DEIR, it should be included in the DEIR. The DEIR should include text that pledges that project activities will not commence until 1) the Plan has been revised as required to address any comments from the Regional Board (in consultation with the local agencies), and 2) the Regional Board has indicated approval of the Plan.

4. Use of Clean, Imported Fill (should imported fill be needed)

The DEIR should discuss steps to ensure any fill imported to the site as part of the project is free of contamination. This could involve a sampling program at the off-site source, or other documentation/certification.

5. Response to Spills or Accidental Releases of Hazardous Substances

The DEIR should include detailed measures and procedures to ensure the prevention of accidental spill or release of chemicals brought on the site as part of the project (e.g., fuels), and an emergency response plan that would be implemented in the event of a release (e.g.,

include measures to prevent fluids from reaching storm inlets or conveyances, and removal of impacted soils). The emergency response plan should include notification of ACWD due to the close proximity of our groundwater recharge facilities and potential releases from the site to impact water quality.

6. Groundwater Well Protection/Destruction

In order to protect the groundwater basin, each well located within the project area must be either protected or properly destroyed prior to or during construction activities. Since the Henkel property has a number of active monitoring wells that are currently monitored, ACWD requests a letter indicating the monitoring wells that are to remain and how they will be protected during construction activities. In addition, any abandoned wells located within the project area must be properly destroyed prior to construction and/or grading activities. If a well is damaged or the surface seal is jeopardized in any way during construction activities, the well must be destroyed in compliance with the City of Fremont Well Ordinance.

As the enforcing agency for the City of Fremont's Well Ordinance, an ACWD permit is required prior to the start of any well destruction or subsurface drilling activities. Application for a permit may be obtained from ACWD's Engineering Department, at 43885 South Grimmer Boulevard, Fremont, CA 94538 or online at http://www.acwd.org/engineering/drilling_permit.php5. Before a permit is issued, the applicant is required to deposit with ACWD, cash or check in a sufficient sum to cover the fee for issuance of the permit or charges for field investigation and inspection. All permitted work requires scheduling for inspection; therefore, all drilling activities must be coordinated with ACWD prior to the start of any field work.

7. Protection of Water Mains and Appurtenances

ACWD maintains water distribution mains and appurtenances located along the westerly edge of the property (see Figure 3, attached). These facilities are currently in use by ACWD and are located within an easement dedicated to ACWD. During demolition and improvements to the site, the property owner should ensure that water facilities are protected in place. The existing ACWD main is constructed of AC pipe which is particularly susceptible to loading and vibration which may result from grading and other surface activities. Care should be taken when working in the vicinity of the existing main, and the current earth cover over the main must not be substantially increased or reduced. No channels or bioswales should be constructed over the main or within ACWD's easement.

8. Site Access

We request that the DEIR include text that pledges that Henkel will accommodate, under reasonable terms, access to the site by ACWD personnel when there is a basis for such visits including, but not necessarily limited to:

a. Inspection of wells during phases of work when there is a substantial risk of damaging or burying wells, and following project activities to determine if wells were ultimately damaged or buried.

b. Inspection of, or inspections to ensure the protection of, water mains and appurtenances.

c. Participation with Regional Board and/or City of Fremont staff in on-site meetings, or in the witnessing of soil sampling, remediation activities, or other important milestones in the ongoing investigation and cleanup of soil and/or groundwater.

d. Review of best management practices instituted under the Storm Water Pollution Prevention Plan.

We greatly appreciate your consideration of these comments. For coordination or questions related to water quality, please contact Mike Halliwell at 510-668-4412. For coordination and questions related to other issues (i.e., water service, water mains, and appurtenances), please contact Ed Stevenson at 510-668-4472.

Sincerely,

Paul Piraino
General Manager

mh/tf
By E-mail
Attachments
cc: Leonard Ash, ACWD
Doug Chun, ACWD
Patricia Dustman, ACWD
Mike Halliwell, ACWD
Steven Inn, ACWD
Laura Hidas, ACWD
Michelle Meyers, ACWD
Robert Shaver, ACWD
Ed Stevenson, ACWD
Jay Swardenski, City of Fremont Fire Department
Cherie McCaulou, Regional Board
Jack Garavanta, Henkel

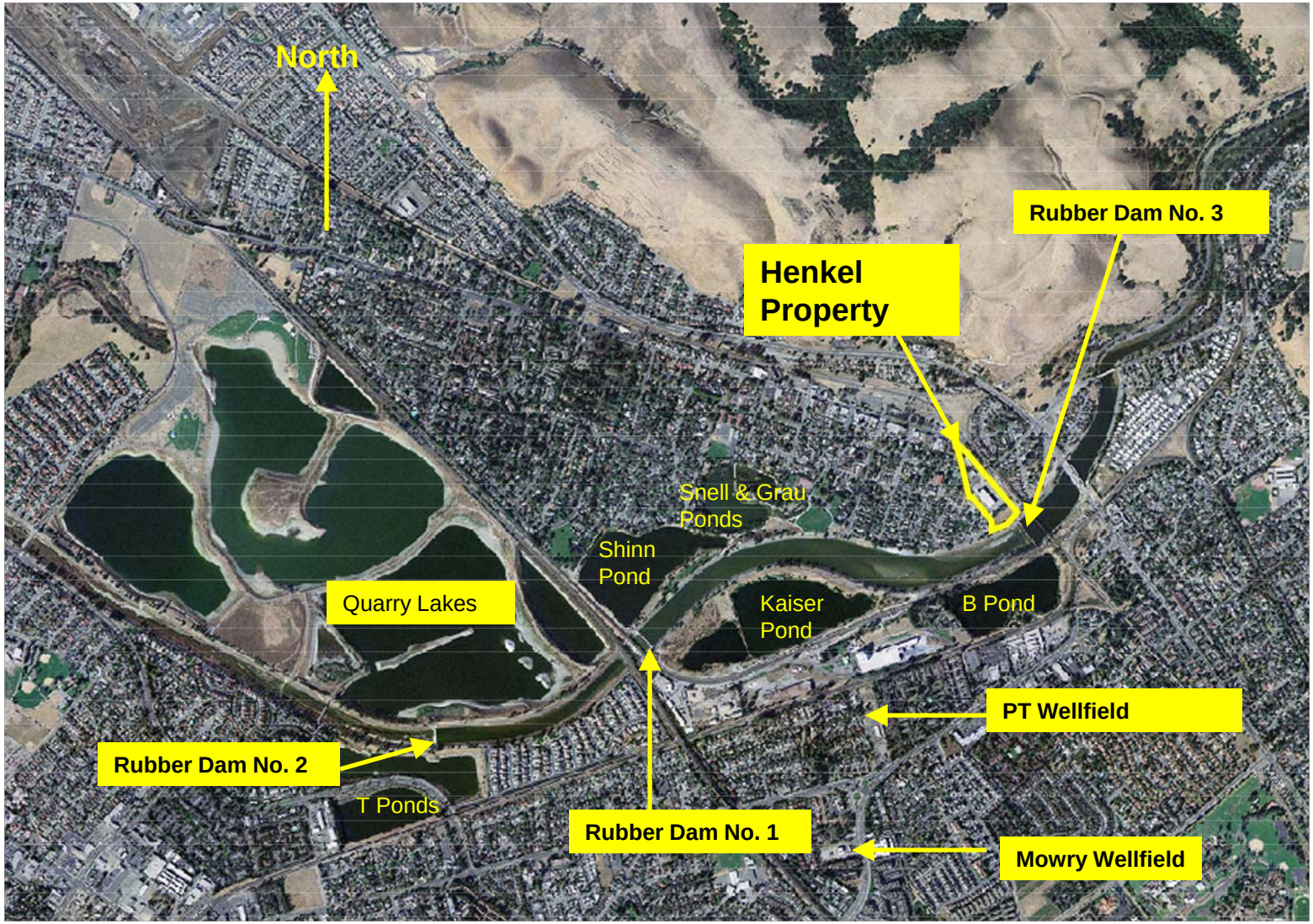

Figure 1: Site Location, & ACWD Groundwater Recharge & Production Facilities in the Niles Area

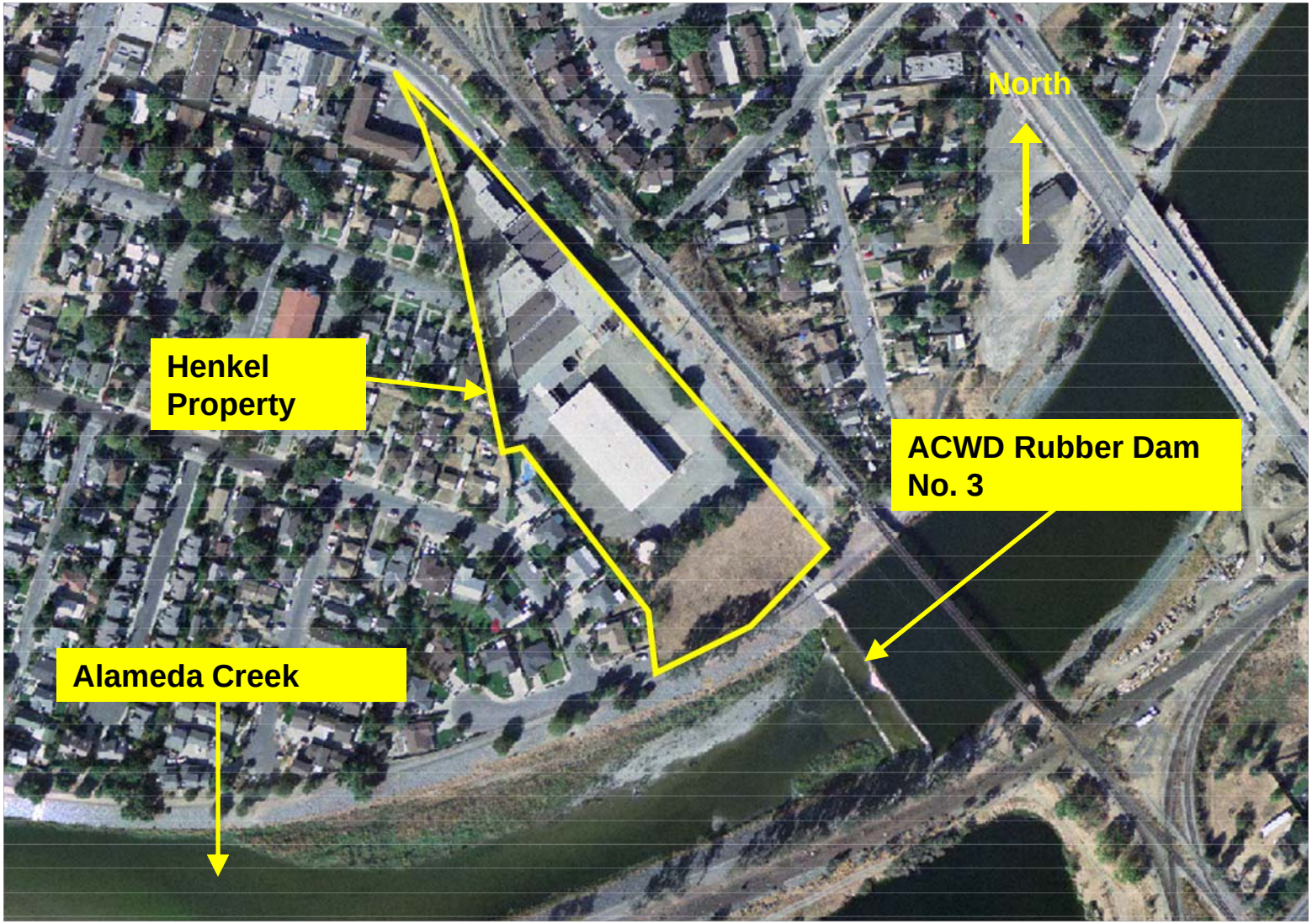

Figure 2: Site Location, Alameda Creek, & ACWD Rubber Dam No. 3

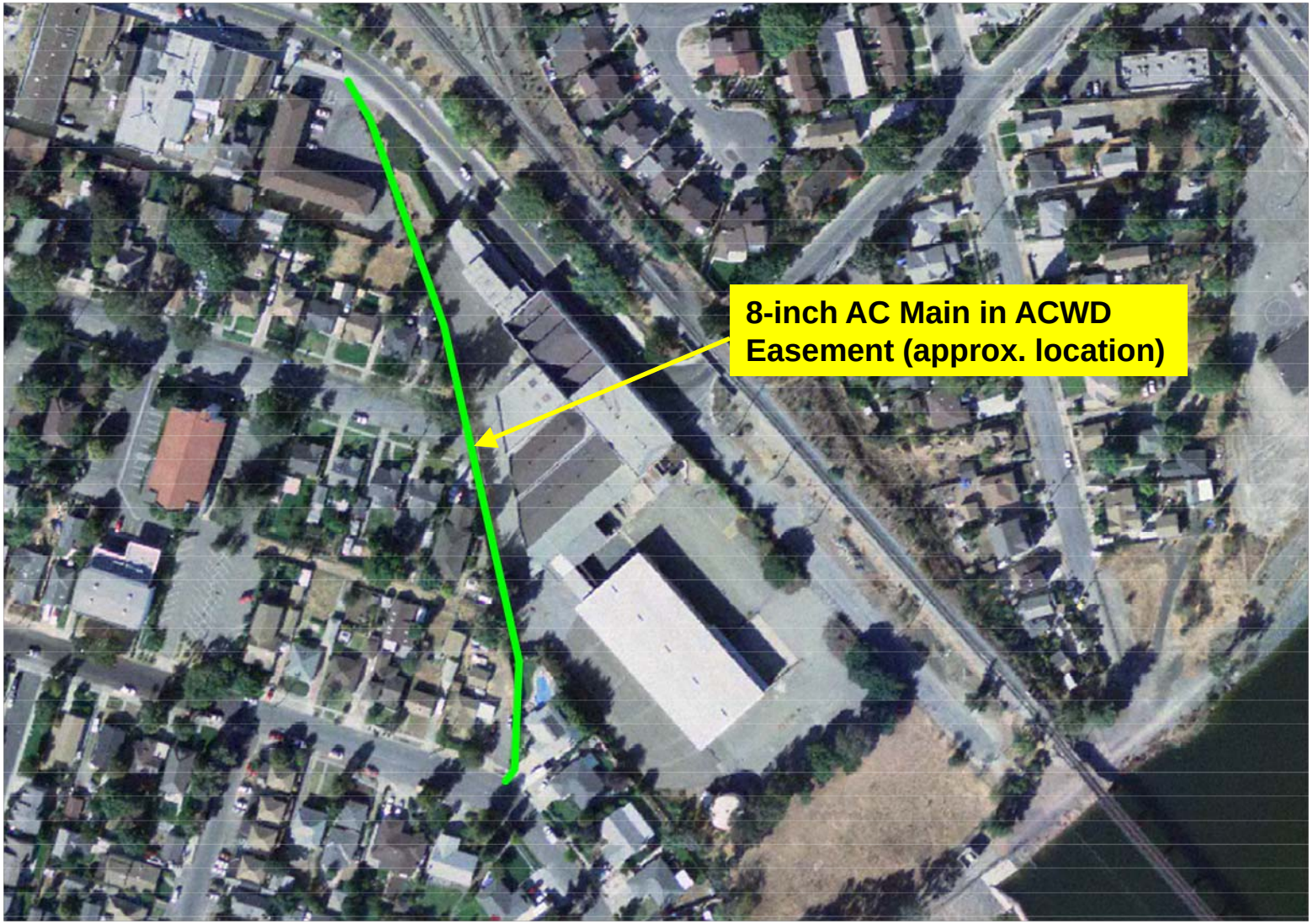

Figure 3: ACWD 8-inch AC Main in ACWD Easement

ALAMEDA COUNTY WATER DISTRICT

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General Manager
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Finance Manager/Treasurer
ROBERT SHAVER
Engineering Manager
WALTER L. WADLOW
Operations Manager

November 3, 2008

Jennifer Craven, Associate Planner
City of Fremont
Community Development Department
P.O. Box 5006
Fremont, CA 94537-5006

Dear Ms. Craven:

Subject: Comments on the Draft Environmental Impact Report for Henkel Property Demolition Project, dated September 2008

The Alameda County Water District (ACWD) appreciates this opportunity to comment on the Draft Environmental Impact Report (DEIR) for the subject project. The issues of concern to ACWD were detailed in our May 13, 2008 letter in response to the Draft Initial Study and Notice of Preparation (NOP). The following updates these comments in consideration of information provided in the DEIR, the revised Initial Study (IS), and the Storm Water Pollution Prevention and Erosion Control Plan (SWPPP):

Protection of Water Quality

In our May 13, 2008, letter, we explained that the site is in a highly sensitive location because it directly overlies a very productive aquifer within the recharge area of the Niles Cone Groundwater Basin, and fronts the segment of Alameda Creek in which ACWD conducts groundwater recharge operations. Therefore, recharge water and groundwater supplies could be highly vulnerable to chemical spills and urban runoff at this site. We would like to take this opportunity to also advise the City and the applicant that there are several ongoing projects to restore Alameda Creek as a habitat for Steelhead trout, which is listed as a threatened species under the federal Endangered Species Act (ACWD has already completed a project to install fish screens). In consideration of these circumstances, it is particularly critical that construction and development of this property follow strategies and Best Management Practices (BMP's) to minimize the pollutant loading in storm water and the chances of a chemical release impacting surface water or underlying groundwater.

A major element of this Project will be re-grading and alteration of the drainage pattern within the interior of the Henkel property. When the site was an active chemical manufacturing and packaging facility, runoff originating in a large interior portion of the Henkel property was controlled through temporary storage in a 200,000 gallon tank prior to discharge to the sanitary sewer under a permit issued by Union Sanitary District. The land is presently vacant and, according to the IS, the sanitary sewer no longer receives this runoff. Under the auspices of this Project, 3,000 cubic yards of soil will be redistributed so that this interior area will be drained by inlets to the storm drain on Niles Boulevard, which based on our review of a map in the SWPPP, appears to discharge to Alameda Creek through a connection to a conduit on Third Street. The western area of the site will continue to be drained by an on-site storm drain that empties into an outfall within the segment of Alameda Creek fronting the site. Outfalls to these aforementioned storm lines are located between ACWD Rubber Dams No. 1 and No. 3, which are operated by ACWD for purposes of recharging the Niles Cone Groundwater Basin.

ACWD was pleased to see some of our concerns associated with storm water runoff addressed in the SWPPP. However, key issues of concern remain and are described below.

Pollution Prevention Measures in Force for the Project and the Post-Project Period Prior to Redevelopment:

In lieu of including specific information on measures to protect water quality, the DEIR and IS give reference to the SWPPP, which was prepared to cover the duration of the Project construction activities and post-Project conditions prior to re-development of the site. Despite containing critical information relevant to this Project, the SWPPP was not included as an attachment to the DEIR or IS. Our review of the SWPPP indicates that it does not include a provision to notify ACWD in the event of a significant chemical release. Therefore, we request a modification to the SWPPP to include a provision for direct and immediate notification of ACWD in the event of a significant release or spill so that we will have the opportunity to take quick action to protect groundwater and surface water. Such emergency action by ACWD could include, for example, lowering a downstream rubber dam in the event that a significant amount of motor fuel were released during construction activities to a storm drain (we can provide a telephone number monitored by ACWD personnel 24 hours per day, 7 days per week). The SWPPP, as it contains important information that support the conclusions in the IS and DEIR, should be made part of the CEQA documents.

Increase in Future Storm Drainage, as Enabled by this Project:

The DEIR and IS note that although the site's contribution of drainage area to inlets that feed the storm drain along Niles Boulevard will increase by 100 percent, no net increase in volume of runoff from the site (to Alameda Creek) will result because the runoff coefficient will be reduced with removal of buildings and pavements under this Project. This is misleading to the extent that it is highly likely that the runoff coefficient will increase with future redevelopment. Thus an increase in pollutant loading to Alameda Creek should be considered a cumulative impact in the Final EIR (FEIR). The FEIR should therefore discuss, to the extent possible or foreseeable, potential impacts to the quality of water in Alameda Creek and its use as a critical source of groundwater recharge as well as fish habitat, under probable long-term conditions (that is, after the site is redeveloped). The volume of runoff, per se, is less of a concern for ACWD than pollutant loads from the site input to the creek by storm drains. Accordingly, the discussion should focus on measures to minimize pollutant loads from this site to the creek, regardless of whether the volume of runoff water discharged from the site is expected to increase, decrease, or not change.

Coordination with Ongoing Soil Remediation Efforts

ACWD concurs with statements made in the DEIR that removal of the buildings would facilitate opportunities for further remediation at this site. The Regional Board is the lead agency overseeing the cleanup, and the Regional Board is aware of our recommendations to ensure that Project activities, and the timing thereof, are consistent with the objective of maximizing opportunity to successfully achieve cleanup goals for this site. Accordingly, further comment on this issue has not been included herein.

Protection of ACWD 8-inch Water Main

Our previous comment on this issue appears to have been satisfactorily addressed through a mitigation measure included in the DEIR.

Abandoned Wells

While Mitigation Measure HYDRO-1 addresses the monitoring wells located within the project area, it does not address the abandoned wells. ACWD's May 13, 2008, letter states that "any abandoned wells located within the project area must be properly destroyed prior to construction and/or grading activities." ACWD has recognized for decades that abandoned wells could serve as vertical conduits for contaminants and therefore pose a significant threat to the water quality in the Niles Cone Groundwater Basin.

Historical records indicate the existence of six (6) abandoned water wells located within the project area (see Figure 1, attached). Only one of the six abandoned wells has been located by ACWD. The remaining five well locations are approximate and have not been field verified. Neither the Initial Study nor the DEIR address the

abandoned wells located on the property. Therefore, ACWD requests the EIR include a mitigation measure requiring the proper destruction of all abandoned wells prior to grading activities.

We greatly appreciate your consideration of these comments. For questions or coordination on issues related to water quality, please contact Mike Halliwell at (510) 668-4412. For questions or coordination on issues related to water service, water mains, and appurtenances, please contact Ed Stevenson at (510) 668-4472.

Sincerely,

Robert Shaver

for Paul Piraino,
General Manager

mh/ps
Attachment
By email

cc: Robert Shaver, ACWD
Steven Inn, ACWD
Patricia Dustman, ACWD
Ed Stevenson, ACWD
Mike Halliwell, ACWD
Michelle Meyers, ACWD
Leonard Ash, ACWD
Doug Chun, ACWD
Steve Dennis, ACWD
Laura Hidas, ACWD
Emmanual Da Costa, ACPWA
Jay Swardenski, City of Fremont Fire Department
Cherie McCaulou, Regional Board
Jack Garavanta, Henkel

WELL LOCATION MAP

37899 Niles Blvd.

Date 10/28/2008

By : A. Shorno

Map Not to Scale Locations Approximate

LEGEND

Monitoring Well

Water Well

N
W E
S

ACWD
ALAMEDA COUNTY WATER DISTRICT

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Assistant General Manager-Engineering
SHELLEY BURGETT
Manager of Finance
STEVE PETERSON
Manager of Operations and Maintenance
ALTARINE C. VERNON
Manager of Administrative Services

May 25, 2011

Cliff Nguyen (cnguyen@fremont.gov)
City of Fremont, Planning Department
P.O. Box 5006
Fremont, CA 94537-5006

Subject: Comments on Niles Creekside Preliminary Review Procedure, PLN 2011-0229

Dear Mr. Nguyen:

The Alameda County Water District (ACWD) thanks you for this opportunity to comment on the application for a Preliminary Review Procedure (PRP) for the proposed residential development at 37899 Niles Boulevard, Fremont. As you know, this property was historically the site of industrial facilities, including a cannery in the early part of the 20th century, and in later years a chemical manufacturing and packaging plant under the name Parker Amchem and then Henkel Corporation. Henkel remains the responsible party for ongoing investigation and cleanup of soil and groundwater degraded through releases that occurred over the course of past industrial operations.

ACWD's long-standing interest in environmental issues at the site stems from the property's sensitive location, which overlies a critical drinking water aquifer and borders the segment of Alameda Creek actively managed by ACWD for groundwater recharge. This aquifer supplies the Peralta-Tyson Wellfield, which in Fiscal Year 2010-2011 pumped 7,000 acre-feet into the distribution system serving the Tri-Cities. ACWD's specific interests include water service and protection of water distribution mains and appurtenances, proper maintenance of any monitoring wells to remain in place, proper destruction of wells to be abandoned, institution of appropriate measures to control runoff pollution into Alameda Creek, and support of California Regional Water Quality Control Board's (Regional Board) regulatory oversight directing investigation and cleanup of pollutants in soil and groundwater beneath the site. The following paragraphs summarize and update the status of these issues and concerns since our letters of May 18, 2008, and November 3, 2008 (attached), which communicated our comments to the City of Fremont on the Notice of Preparation and Draft Environmental Impact Report for the demolition of structures at the subject property.

1. <u>Investigation and Cleanup of Soil and Groundwater</u>

The Regional Board is the lead agency for regulatory oversight regarding investigation and cleanup of soil and groundwater at the site. Relevant constituents of concern (COCs) have

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included herbicides, pesticides, fuel oil, metals (particularly chromium and arsenic), and MTBE. ACWD has been working closely with the Regional Board on this case and has provided technical comment. In recent conversations with Regional Board staff, ACWD has recommended the following steps before the site is redeveloped:

a. A final set of groundwater samples to verify the absence of significant concentrations of COCs (other than extractable hydrocarbons at the Fuel Oil Storage Area) in groundwater at specific locations where past investigations or monitoring have not provided such verification.
b. An evaluation of whether removal of oil-contaminated soil at the former Fuel Oil Storage Area could be feasible prior to or during site construction, with consideration that access has been greatly improved with demolition of structures from the site.
c. Preparation of a satisfactory plan for long-term management of contamination that cannot be feasibly removed. As needed, the building and infrastructure layout should accommodate such long-term management of residual pollutants.
d. Preparation of a contingency plan for actions to be taken should additional contaminated soil be unexpectedly encountered during site construction.

2. Groundwater Well Protection/Destruction

In order to protect the groundwater basin, ACWD regulates the construction, repair, and destruction of wells, exploratory holes, and other excavations located within the City of Fremont under Alameda County Water District Ordinance No. 2010-01. Therefore, each well located within the project area must be either protected or properly destroyed prior to construction activities.

Since the Henkel property has a number of active monitoring wells that are currently monitored, ACWD requests a letter indicating the monitoring wells that are to remain and how they will be protected during construction activities. If a well is damaged or the surface seal is jeopardized in any way during construction activities, the well must be destroyed in compliance with ACWD Ordinance No. 2010-01.

Historical records indicate the existence of abandoned wells located within the project area. Any abandoned wells located within the project area must be properly destroyed prior to grading and/or construction activities. Since most of the wells have not been located, ACWD requests that project proponents coordinate with ACWD so that: a) ACWD can assist in identifying abandoned wells, and b) any wells identified or discovered during construction are properly destroyed in accordance to ACWD specifications.

3. Drilling Permit Requirement

As required by ACWD's Well Ordinance No. 2010-01, drilling permits are required prior to the start of any subsurface drilling activities for wells, exploratory holes, and other excavations. Application for a permit may be obtained from ACWD's Engineering Department, at 43885 South Grimmer Boulevard, Fremont or online at http://www.acwd.org/engineering/drilling_permit.php5. Before a permit is issued, the applicant is required to deposit with ACWD, cash or check in a sufficient sum to cover the

fee for issuance of the permit or charges for field investigation and inspection. All permitted work requires scheduling for inspection; therefore, all drilling activities must be coordinated with ACWD prior to the start of any field work.

4. Long-Term Control of Runoff Pollution to Alameda Creek

Grading, drainage, and other features of a future stormwater management system should be designed to minimize pollutant loading into Alameda Creek per the acknowledgement that a portion of water in the creek will be recharged to groundwater and then eventually served to the public as drinking water. ACWD requests an opportunity to comment on drainage design and stormwater pollution prevention documents at the appropriate stage in the review process.

5. Water Service and Water System Configuration

ACWD's Development Services Division reviewed the drawings titled "Preliminary Review Process Application for the Niles Creekside Condominium & Townhomes Project," dated May 2, 2011, and offers the following comments based upon that review:

a. The most likely water service configurations would appear to involve individual domestic water meters to individual residential units for the duplex, triplex, townhome and live/work units, and master-metered domestic water services to the podium-style residential buildings, all served from a combination of existing and new public water mains.

b. ACWD requests that the City require private sub-metering of all master metered units.

c. ACWD will require adequate connections between the new and existing public water distribution system to prevent dead-ends in water mains and to provide for system looping. Based upon the submitted site plan, these connections would include a connection at the eastern terminus of the existing water main within Niles Boulevard, a connection in the vicinity of Second Street, and a connection to the existing water main within Chase Court. This would require extending the existing water main in Niles Boulevard and the installation of onsite water mains within the proposed onsite streets fronting the townhomes, duplex units, and triplex units, as well as extending a new water main within the proposed emergency vehicle access easement (EVAE) connecting to Chase Court. Depending on the configuration of the proposed connections to the existing public water system, ACWD may require that additional line valves be installed on existing public water mains.

d. Easements dedicated to ACWD shall be provided for all water mains and District-owned appurtenances located on private property and outside the public right-of-way. Easements dedicated to ACWD will require a plat and legal description, prepared by a licensed surveyor, to District standards, along with a current title report for any property or properties affected by the easement. The applicant should contact ACWD Engineering Department for more information.

District will require, as a condition of water service to the project, a new water line easement be granted for any existing onsite public water mains not removed from service as part of the project. For example, a new water line easement for the existing water main near the western project boundary shall extend to the westerly property line, shall be at least 15-feet in width (or greater if necessary to access and maintain the water main), and shall not permit the planting of trees within 5-feet of the water main. Site Plan sheet A1, shows tree plantings proposed in the vicinity of the existing water main. Once a new water line easement is provided for the existing onsite public water mains, ACWD will quitclaim the existing water line easement.

e. If the project provides adequate gridding of the water system, ACWD may consider removing the existing water main between Second Street and Niles Boulevard from service. As noted above, the Site Plan, sheet A1, shows tree plantings proposed in the vicinity of the existing water main. In the event the existing water main is removed from service between Second Street and Niles Boulevard, then this area would be available for tree plantings. However, unless and until the existing water main is removed from service, the proposed tree locations within 5-feet of the existing water main are not acceptable.

f. ACWD will require that any ACP mains removed from service as part of the project shall be removed from the ground and disposed of in accordance with applicable laws, regulations and safe handling practices.

6. <u>Public Water System Design Standards</u>

a. All public water system extensions shall be installed per ACWD's Standard Specifications for Water Main Installation. These Standard Specifications provide installation standards as well as clearance requirements from adjacent utilities, structures, and other existing and proposed site improvements. ACWD's Standard Specifications for Water Main Installation is available on ACWD's website at http://www.acwd.org/standard_specifications.php, or copies may be purchased from ACWD's Engineering Department.

b. The ability to install a public water system onsite will be conditioned upon confirmation that the soil or groundwater does not pose a risk to health and safety either during installation of the public water system or during its long-term operation and maintenance. Analytical data must be provided to demonstrate that workers installing or maintaining these subsurface utilities will not be exposed to unacceptable levels of soil and/or groundwater contamination.

c. The minimum 26-foot street widths and drive areas shown on the proposed site plan may or may not provide for required minimum clearances between District mains and other utilities. This will largely depend on locations of storm drain and sanitary sewer lines, joint trenches, and other utilities.

d. Each live/work unit, duplex unit, triplex unit, and townhome unit will need an individual meter and meter box. Approximate sizes for standard meter boxes are either

36-inches x 24-inches, 16-inches x 46-inches, or 16-inches x 26-inches depending on meter size and fire sprinkler junction configuration. Space must be provided in suitable locations for the installation of meters and meter boxes.

e. If sized greater than 2-inches, master domestic meters serving the podium buildings shall be contained within below-ground vaults, whose sizes shall be determined by the meter size and associated appurtenances. Generally, such vaults may measure 5-feet wide by 7-feet long or could be as large as 6-feet wide by 10-feet long. Vaults, or any part thereof, on private property must be located within easements dedicated to ACWD and these easements must extend a minimum of 5-feet around the perimeter of the vault. The vault and service lines should be located to provide a minimum clearance of five feet from other utilities and from trees. Space must also be provided for the required private above ground backflow prevention devices.

f. Banks of meters may be appropriate if the specific configuration is approved by ACWD. If meter banks are used, ACWD will require that each meter and meter box be labeled with the address of the unit it serves.

g. ACWD requires a minimum of five-foot horizontal clearance between water meters, service lines or mains and the nearest utility.

h. Irrigation and other non-residential domestic services, if needed, will require an approved, above-ground backflow prevention device. Adequate space and access must be provided for the meter, meter box and the adjacent backflow prevention device.

7. Contingency for Response to Accidental Spills of Hazardous Materials

At the appropriate point in the design process, the applicant should include provisions to respond to spills or accidental releases of hazardous substances during construction, and to notify the appropriate agencies (e.g., ACWD, the City, and the Regional Board) in the event of spill of a hazardous substance during construction.

8. Use of Clean Imported Fill

If site grading requires fill from off-site sources, the material should be free of pollutants. The developer should be able to produce certification as to the origin and/or quality of such imported soil.

We appreciate your consideration of these comments. If you have any questions or require additional information, please contact the following ACWD staff: Mike Halliwell at 668-4412 (water quality), Michelle Myers at 510-668-4454 (wells and drilling permits), and Leonard Ash at 668-4418 (water service, water mains, and appurtenances).

Sincerely,

Robert Shaver
Assistant General Manager-Engineering

mh/ps
By Email
cc: Robert Shaver, ACWD
Steven Inn, ACWD
Mike Halliwell, ACWD
Michelle Myers, ACWD
Ed Stevenson, ACWD
Leonard Ash, ACWD
Doug Chun, ACWD
Laura Hidas, ACWD
Jay Swardenski, City of Fremont, Fire Department
Cherie McCaulou, Regional Water Quality Board
Kamal Obeid, Landtech Consultants

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STEVEN D. INN
Water Resources

STEVE PETERSON
Operations and Maintenance

ED STEVENSON
Engineering and Technology Services

January 14, 2015

Clifford Nguyen, Urban Initiatives Manager
City of Fremont
Community Development Department
Planning Division
39550 Liberty Street
Fremont, CA 94538

Dear Mr. Nguyen:

Subject: Draft Initial Study and Mitigated Negative Declaration for the Niles Mixed-Use Project

The Alameda County Water District (ACWD) wishes to thank you for the opportunity to comment on the Draft Initial Study and Mitigated Negative Declaration for the Niles Mixed-Use Project (Project) located at 37899 Niles Boulevard.

ACWD staff has reviewed the Draft Initial Study and Mitigated Negative Declaration (IS/MND) and offers the following comments for your consideration:

1. Groundwater: Local and imported water is percolated into the Niles Cone Groundwater Basin through percolation both in Alameda Creek and the adjacent recharge ponds in the Quarry Lakes Regional Recreational Area. The water is subsequently recovered through ACWD's groundwater production wells and provided as a potable supply to a population of over 334,000 in the cities of Fremont, Newark, and Union City. The first-encountered groundwater located within the Project area is the Above Hayward Fault Aquifer, which is pumped at ACWD's Peralta-Tyson Wellfield and is used as part of ACWD's potable water supply. To help replenish the Above Hayward Fault Aquifer, ACWD conducts active recharge within the segment of Alameda Creek located approximately 100 feet southeast of the Project area. Therefore, it is imperative that ACWD protects the water quality and ensures the continued use of the groundwater basin for water supply for ACWD's customers. ACWD requests that the following potentially significant impacts to the protection of groundwater be addressed by the IS/MND:

    a. Groundwater Well Protection/Destruction: In order to protect the groundwater basin, ACWD regulates the construction, repair, and destruction of wells, exploratory holes, and other excavations located within the City of Fremont under Alameda County Water District Ordinance No. 2010-01. Therefore, each well

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located within the Project area must be either protected or properly destroyed prior to construction activities.

Since the subject property has a number of monitoring wells that are currently monitored, ACWD requests the IS/MND include the requirement of a Wellhead Protection Plan to be reviewed and approved by the City and ACWD prior to the issuance of a grading permit. If a well is damaged or the surface seal is jeopardized in any way during construction activities, the well must be destroyed in compliance with ACWD Ordinance No. 2010-01.

Historical records indicate the existence of at least seven (7) abandoned wells located within the Project area. Any abandoned wells located within the Project area must be properly destroyed prior to grading and/or construction activities. Since most of the wells have not been located, ACWD requests that Project proponents coordinate with ACWD so that: a) ACWD can assist in identifying abandoned wells, and b) any wells identified or discovered during construction are properly destroyed in accordance to ACWD specifications.

b. Drilling Permit Requirement: As required by ACWD's Well Ordinance No. 2010-01, drilling permits are required prior to the start of any subsurface drilling activities for wells, exploratory holes, and other excavations. Application for a permit may be obtained from ACWD's Engineering Department, at 43885 South Grimmer Boulevard, Fremont or online at http://www.acwd.org. Before a permit is issued, the applicant is required to deposit with ACWD, cash or check in a sufficient sum to cover the fee for issuance of the permit or charges for field investigation and inspection. All permitted work requires scheduling for inspection; therefore, all drilling activities must be coordinated with ACWD prior to the start of any field work.

2. Access to ACWD Facility Sites: ACWD currently uses the south end of Niles Boulevard (location of proposed Linear Park) to access ACWD recharge facilities along Alameda Creek located southeast of the Project area. ACWD is planning to construct new facilities along Alameda Creek in the vicinity of the south end of Niles Boulevard. Therefore, ACWD requests the City and Project proponents coordinate closely with ACWD relative to access and improvements along Niles Boulevard.

3. Hazards/Hazardous Materials (pages 55-58):

   a. Mitigation Measure HAZ-1 (page 57) should be revised to acknowledge that as part of ACWD's Groundwater Protection Program, ACWD entered into Cooperative Agreements with the California Regional Water Quality Control Board – San Francisco Bay Region (Regional Board) and the City of Fremont which allow ACWD to provide assistance and local oversight of investigation and remediation at sites where the pollution is attributed to spills or leaks from structures other than underground fuel tanks. Therefore, ACWD requests that the

mitigation measure include the requirement that ACWD be provided documentation of the implementation of the excavation work proposed in the *Remedial Action Work Plan*. Such documentation should be provided at the same time that it is provided to the Regional Board. Interim results provided to the Regional Board should also be provided to ACWD at the same time so that ACWD has the opportunity to provide comments to the Regional Board on the adequacy of the cleanup before it is considered finalized.

b. Although the IS/MND states that remediation efforts are "independent of the proposed project," the ability to install a public water system within the Project would be conditioned upon confirmation that the soil does not pose a risk to the health and safety of workers either during installation of the public water system or during its long-term routine operation and maintenance.

The *Supplemental Site Characterization Report* documented testing for dioxin compounds across the site. For characterization purposes, the site was partitioned off into "Decision Units" 1, 2 and 3. In the initial screening, many samples were collected; however, individual samples were composited into only a few master samples for laboratory analysis. Subsequently, higher resolution sampling in Decision Unit 3 was conducted based on detections of elevated levels in the initial screening. Although the spatial average (given by compositing) in Decision Units 1 and 2 did not exceed 50 picogram per gram (pg/g) (the residential standard accepted by the Regional Board), the average reached 45 and 50 pg/g in two of the composite samples collected from Decision Unit 2. This could be the result of the combination of hot spots in conjunction with clean soil. ACWD is concerned construction crews installing, operating, or maintaining the public water system could encounter such hot spots if reasonable steps are not taken.

Therefore, ACWD requests an additional mitigation measure be included in the IS/MND to ensure that the public water system extension and all appurtenances will be constructed in 'clean corridors', which would be assured by either further testing of native soil along the proposed public water system alignments or by use of clean imported fill as backfill for trenches excavated for the public water system.

4. <u>Hydrology and Water Quality (page 59-64)</u>:

a. ACWD is planning to relocate a portion of the existing storm drain located at the south end of Niles Boulevard in the vicinity of Alameda Creek as part of planned facility construction in this area. ACWD requests that the City and Project proponents coordinate closely with ACWD regarding any changes to the storm drainage system within Niles Boulevard, including the scope and timing of those changes.

b. Reference is made to the Hydrology and Water Quality Section, part d and f (page 63), that states: "The proposed project would install an onsite storm drainage system consisting of a network of bioretention areas, inlets, and underground piping. Runoff would be conveyed to an existing storm drainage line within the Niles Boulevard dead end segment that discharges into Alameda Creek" and that Mitigation Measure HYD-1 and Mitigation Measure HYD-2 would reduce impacts to a level of less than significant.

   Although the IS/MND states that the remediation efforts are independent of the proposed Project, the *Supplemental Site Characterization Report* documented the results of two soil samples, collected in the former Fuel Oil Storage Area, had detections of 2,4-Dinitrotoluene (2,4-DNT) of 1 mg/kg. Although not considered a threat for residential occupancy, concentrations at this level greatly exceed the 0.00074 mg/kg Regional Board Environmental Screening Level (ESL) for the protection of groundwater used as a drinking water source.

   Soil containing 2,4-DNT should be removed or remediated where feasible, or covered by an impermeable surface where remediation is not feasible in order to protect the groundwater basin. In particular, care should be taken to ensure reasonable absence of 2,4-DNT in soil beneath permeable areas where surface water may collect and pond, such as the proposed bioretention areas, inlets, and underground piping in the former Fuel Oil Storage Area. In addition, grading, drainage, and other features of a future stormwater management system should be designed to minimize pollutant loading into Alameda Creek. Therefore, ACWD requests Project proponents coordinate any drainage design and stormwater pollution prevention planning and implementation with ACWD.

5. Utilities and Service Systems – Water Supply (page 85-87): The ACWD service area and the State of California are currently experiencing a water supply shortage emergency. ACWD has taken steps to encourage water use reductions throughout its service area. On March 13, 2014, ACWD declared a water shortage emergency and adopted ACWD Ordinance No. 2014-01, imposing broad water use restrictions, water use prohibitions, and other measures, including restrictions on water use for purposes other than domestic use, public health, and fire protection. These restrictions will remain in place through the end of the water shortage emergency. In addition, ACWD may adopt additional water use restrictions or implement other measures should they become necessary.

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

   - Stephanie Nevins, Water Conservation Supervisor, at (510) 668-4207, or by e-mail at stephanie.nevins@acwd.com, for coordination regarding water supply issues.

- Michelle Myers, Well Ordinance Supervisor, at (510) 668-4454, or by e-mail at michelle.myers@acwd.com for coordination regarding groundwater resources, groundwater wells, and drilling permits.

- Robert Gonzales, Project Engineering Supervisor, at (510) 668-4421, or by e-mail at robert.gonzales@acwd.com, for coordination regarding changes to the storm drainage system and access and improvements along Niles Boulevard.

- Ed Stevenson, Manager of Engineering and Technology Services, at (510) 668-4401, or by e-mail at ed.stevenson@acwd.com, for coordination regarding public water systems and water services.

Again, thank you for the opportunity to comment on the Draft Initial Study and Mitigated Negative Declaration for the Niles Mixed-Use Project.

Sincerely,

Steven D. Inn

Steven D. Inn
Manager of Water Resources

la/ps
By E-mail
cc: Ed Stevenson, ACWD
Robert Gonzales, ACWD
Shane O'Nesky, ACWD
Michelle Myers, ACWD
Mike Halliwell, ACWD
Thomas Niesar, ACWD
Stephanie Nevins, ACWD
Leonard Ash, ACWD
File: ACWD 2003-0022

Public Works Agency
Alameda County

CONSTRUCTION AND DEVELOPMENT SERVICES DEPARTMENT
Construction Services (510) 670-5450 • FAX (510) 732-6173
Development Services (510) 670-6601 • FAX (510) 670-5269

Daniel Woldesenbet, Ph.D., P.E., Director

951 Turner Court • Hayward, CA 94545-2651 • www.acpwa.org

February 28, 2018

Mr. David Wage
Project Planner
39550 Liberty Street
City of Fremont
Fremont, CA 94537

Dear Mr. Wage:

Subject: PLN2014-00338 Niles Gateway Mixed-Use Project

Reference is made to your letter transmitting Notice of Preparation of the Draft Environmental Impact Report and Public Scoping Meeting for the subject project application located at 37899 Niles Boulevard in the City of Fremont.

This project was previously reviewed by this office as PLN2011-00229 and PLN2014-00338. Comments provided as contained in the enclosed June 16, 2017 letter are still applicable.

Detailed comments will be provided once improvement plans are submitted to us for review.

If you have any questions, please call me at (510) 670-5209.

Very truly yours,

Rosemarie De Leon
Assistant Engineer
Construction and Development Services

Enclosure

RDL/rdl

Public Works Agency
Alameda County

CONSTRUCTION AND DEVELOPMENT SERVICES DEPARTMENT
Construction Services (510) 670-5450 • FAX (510) 732-6173
Development Services (510) 670-6601 • FAX (510) 670-5269

Daniel Woldesenbet, Ph.D., P.E., Director

951 Turner Court • Hayward, CA 94545-2651 • www.acpwa.org

June 13, 2017

Zone 5, Line A

David Wage
Project Planner
City of Fremont
39550 Liberty Street
Fremont, CA 94538

Dear Mr. Wage:

Subject: PLN2014-00338 Niles Gateway Mixed-Use
37899 Niles Boulevard, Fremont

Reference is made to your letter dated June 1, 2017, transmitting an application PLN2014-00338, to consider a HARB Conceptual Review, General Plan Amendment, Planned District Rezoning-Preliminary and Precise Planned District, Vesting Tentative Tract Map Private Street, Preliminary Grading Plan, EIA for the eventual Mitigated Negative Declaration to allow Niles Gateway Mixed-Use Project, located 37899 Niles Blvd in the Niles Community Plan Area.

The property is located adjacent to the Alameda Creek, Zone 5, Line A project. There is currently an existing storm drain pipe, Line N-13 along Valejo Street. This stormdrain line will eventually connect to the Flood Control District Zone 5, Line A (Alameda Creek) project.

Per our cursory review of the transmitted material, we hereby offer the following preliminary general comments and suggestions regarding storm drainage that should be considered in the determination of project status:

1. The existing outfall shown on the tentative map is in wrong location. Verify location and delineate clearly on the tentative map.

2. Any proposed development of the property should provide measures to prevent the discharge of contaminated materials into public storm drainage facilities. Storm Water Quality Control issues must be appropriately addressed. It is the responsibility of the Applicant to comply with the RWQCB's C.3 requirements and other Federal or local water quality standards and regulations.

3. Development of this site is not to augment runoff to the District's flood control facility. If there is augmented runoff, off-site and/or on-site mitigation measures will be necessary. If development is associated with a higher runoff coefficient than the originally C-value proposed, the augmented runoff will have to be mitigated. Also, off-site and/or on-site mitigation measures may be necessary to accommodate the augmented runoff including obtaining off-site drainage rights.

4. It will be necessary to determine if the existing storm drain pipes where you proposed to connect into will have the adequate capacity to accept runoff from the site.

5. Prior to issuance of any building permits on this site, a detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist may be submitted to our office for review. The proposed curb elevations are not to be less than 1.25 feet above the hydraulic grade line, as shown in figure 14 of the Hydrology and Hydraulic Criteria Summary, and no point shall the curb grade be below the energy grade line.

   Copies of the Drainage Review Checklist and Criteria Summary are available from our office.

6. An encroachment permit from the Alameda County Flood Control and Water Conservation District must be acquired prior to the commencement of any work within the District's right of way.

7. No surface runoff will be allowed to flow over the existing bank. An on-site drainage system is needed to discharge runoff to the creek.

8. Do not block runoff from adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate all areas tributary to the project area.

9. Do not augment runoff to adjacent properties.

10. This office recommends that all storm drains be no less than 12-inches in diameter to minimize maintenance problems.

11. Any water well, cathodic protection well, or exploratory boring that is shown on this map, is known to exist, is proposed, or is located during the course of field operations must be properly destroyed, backfilled, or maintained in accordance with applicable groundwater protection ordinances. The owner or other responsible party should call the Alameda County Water District for additional information.

Should you have any questions, you can contact me at (510) 670-5209.

Very truly yours,

Rosemarie De Leon
Assistant Engineer
Construction and Development Services

From: deni caster [mailto:deni_jc@yahoo.com]
Sent: Sunday, May 06, 2018 7:11 PM
To: David Wage; Kristie Wheeler
Subject: Niles Gateway - newly found documents

To: David Wage, Kristie Wheeler

In conversation with Niles residents, a Protect Niles member was provided with copies of correspondence from 1960 - pre-incorporation of the City of Fremont, regarding the dumping of steel "sleg" in the general area of the Niles Gateway site. In general meetings of the Planning Commission and the City Council, community members voiced concern over their understanding that there was "rubble" in the areas that will be developed. We had requested that trenching be done to a 30' depth around the site to confirm that it was solid ground, and not rubble. This is a concern about the safety and integrity of the buildings that will be raised there.

As respects areas on our propes
low areas, I investigated this
Bros. Contractors to dispose of
from the BARTD job and found th
presently use some fill materia
surplus material in this reach
so we had decided not to add t
material to be imported into th

Remember, while a plant has existed on that site from the turn of the century, the layout of the land has changed dramatically over the course of time. We are now providing documentation to back up our concerns. This also relates to the current condition of Chase Ct that indicates there is this type of rubble under the street and many of those homes built in at the time of Chase Ct.

Protect Niles strongly suggests that the City of Fremont take the information in these letters into consideration before the EIR is completed.

Sincerely,
Deni Caster
Member, Protect Niles

FROM

ALAMEDA COUNTY WATER DISTRICT
38050 FREMONT BOULEVARD
FREMONT, CALIFORNIA 94537
Phone: (415) 797-1970

TO ① S. R. Sayers ② CHS

FROM: M. P. Whitfield

SUBJECT: Slag deposits of Pacific States Steel

DATE: August 29, 1968

FOLD ↑

I have given Pacific States Steel permission to use our Vallejo Street gate in Niles so that they may dump slag on properties (not District property) that lie northeasterly of the Alameda Creek Channel downstream from the Southern Pacific bridge.

I believe they will commence removing the slag next Wednesday, September 4, 1968, and Joe Fastwood is interested in knowing whether we have any areas which we want leveled off or filled in with slag on our property.

Would you have someone from your Department check into this matter and let me know what their findings are some time next week.

PLEASE REPLY TO → SIGNED [illegible]

Clarence [illegible] Tuesday

9/3/68

Stan

Stan - See my memo of 8/30/68 attached

DATE | SIGNED [illegible]

GRAYARC CO., INC., BROOKLYN 32, N. Y.

THIS COPY FOR PERSON ADDRESSED

ACWD Pacific States Steel
9-05-86

ALAMEDA COUNTY WATER DISTRICT

INTEROFFICE MEMORANDUM

TO: Karl Ngan

DATE: 09/05/86

FROM: Hugh Poustinchi H.P.

SUBJECT: STATUS ON PACIFIC STATE STEEL CO.

It is evident that the Pacific State Steel Co. (PSS), is financially unable to provide funds for the cleanup of the chemical contamination on the PSS property. However, efforts are being made by the officials of the company to form a joint venture with a Union City developer to use 34 acres of this property for housing development. The 34 acres are located between the Southern Pacific R.R. tracks and Mission Boulevard, south of the entrance to the property. The officials hope that the revenues received from this project will pay for the cleanup of the rest of the property. It is intended to remove the sludge deposited on this part of the property before commencement of construction. The RWQCB personnel are going along with the idea of the housing development since they realize that the groundwater in this vicinity has not been contaminated and there is no immediate threat to the waters of the state. They also know about the financial situation of the PSS and are concerned about the 500 people who receive pensions from the company.

The main contaminants on the site, according to the samples taken from the cooling pond, are high nickel, zinc, oil and grease. Considering the aforementioned, no significant steps has been taken to clean the site especially during the last two years. However, several alternatives for the cleanup have been considered.

HPP:cl

Pacific States Steel
ACWD 5-1-85

ALAMEDA COUNTY WATER DISTRICT

INTEROFFICE MEMORANDUM

TO: Earl Lenahan

DATE: May 1, 1985

FROM: Hugh Poustinchi H.P.

SUBJECT: REGIONAL WATER QUALITY CONTROL BOARD MEETING WITH PACIFIC STATES STEEL COMPANY

On April 19, 1985 I attended the above meeting. The list of attendees is attached.

The Pacific States Steel Co. (PSS) has been informed by RWQCB that the slag in the cooling pond must be investigated for contamination, and it may have to be removed from the area.

Fang Maw Lee, Ph.D., from TA Engineering Co., Inc., indicated at the meeting that about 10,000 cubic yards of slag may have to be removed. The removal will be extremely costly, about $1.8 million, which is beyond the PSS financial capability to pay. He stated that the company has a good size basement under one of its buildings with concrete walls and floors and he wanted to know if PSS will be allowed to move the slag to this basement. Fang said that this is the most economically feasible alternative. The exact size of the basement is not known at the present time, however, it is expected that it will be able to accommodate most of the slag deposited in the pond. Another alternative suggested by Fang was to create a disposal site somewhere on the property with clay or synthetic liner meeting the RWQCB specifications. He said that the company desperately wants to eliminate the cost of the hauling away the slag and the disposal fee which it cannot afford to pay. He said that eventually the PSS properties will be improved and sold for development. I indicated that it will be very hard to sell a property with a solid disposal site on it.

The samples taken from different parts of the pond and the slag deposits indicate high nickel, oil and grease content. Ken Theisen from RWQCB stated that more sampling from the slag deposit is needed to make a decision as to what to do with it. He said that a report must be prepared by PSS Co. to evaluate the alternatives discussed in the meeting as to how to mitigate the problem. The report must be submitted to the Board within the next four weeks.

After the meeting I said to Ken that about 1.5 years ago Bob Samaniego from RWQCB, who was conducting the investigation at that time, indicated to me that he did not think that the slag was really threatening the ground water quality in the PSS area. Bob did not recommend removal of the slag.

RWQCB Meeting with Public this Site 4/19/85

Name	Agency	Telephone
Ken Thelen	RWQCB	464-0803
Bob Wenk	"	464-0725
Fang Hsu Lee	TA Engineering	376-5500
Dean Ahlberg	"	"
[illegible]	ACHD	791-1970

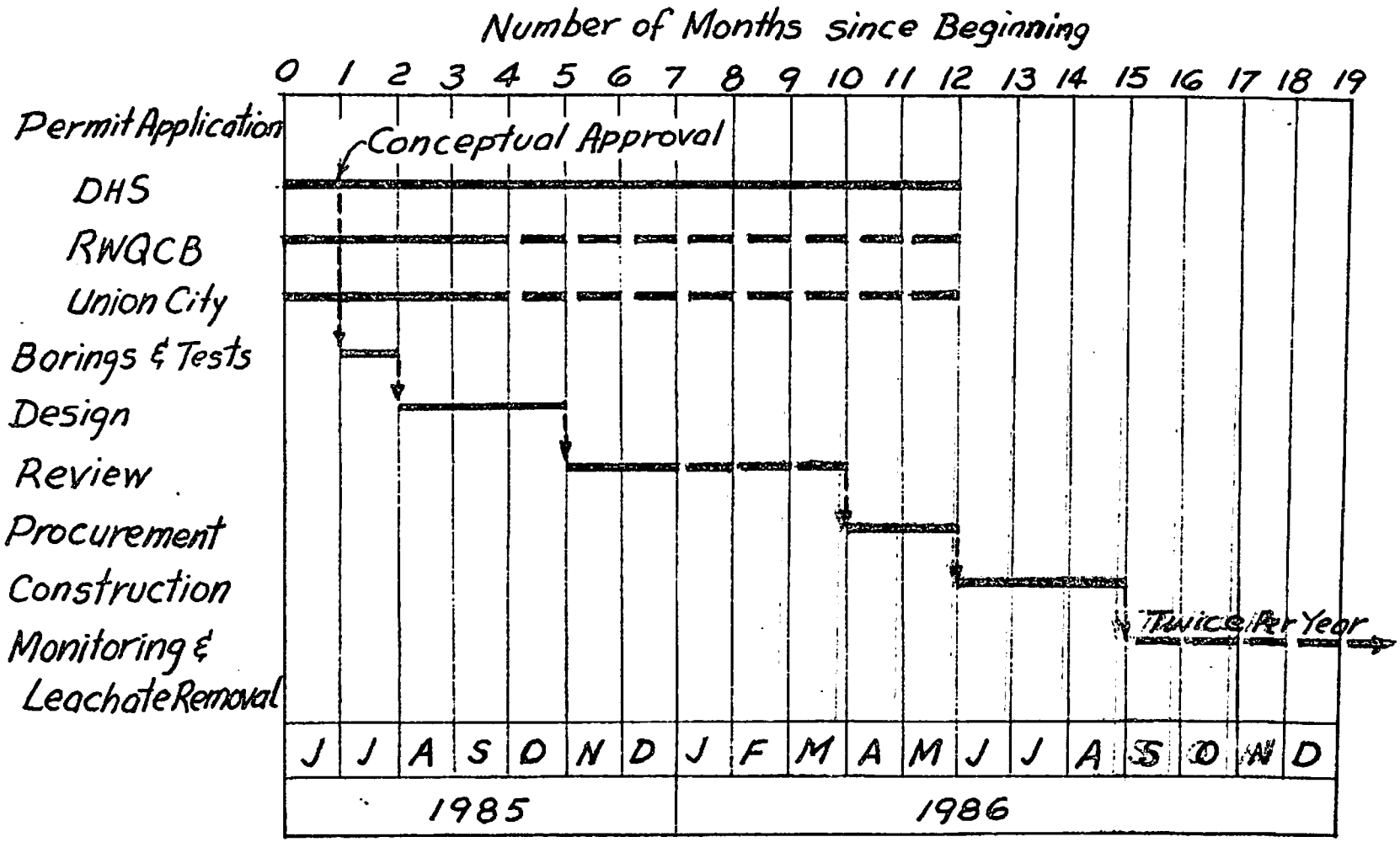
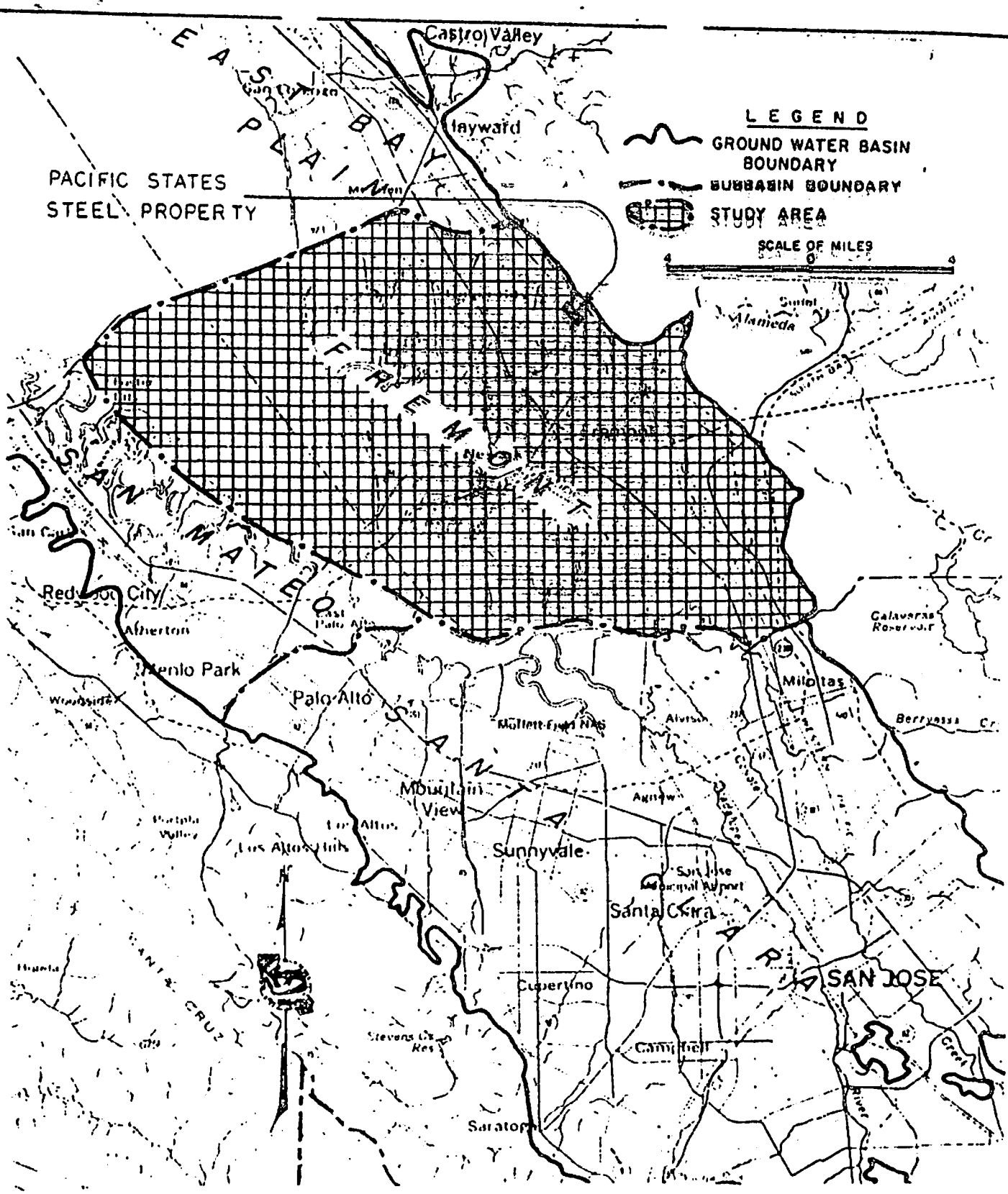


FIGURE 9 PROPOSED IMPLEMENTATION SCHEDULE



REFERENCE: STATE DEPARTMENT OF WATER RESOURCES

TA ENGINEERING CO., INC. 920 COUNTRY CLUB DRIVE MORAGA, CALIFORNIA 94556	PACIFIC STATES STEEL REGIONAL GROUND WATER MAP	SCALE 1" = 4 MILES	DATE 5-13-85
		PROJECT NO. 85-EM-106	
		DRAWING NUMBER FIGURE 3	REV 0

ALAMEDA COUNTY WATER DISTRICT — INTER-OFFICE MEMORANDUM

TO: S. R. Saylor — DATE: August 30, 1968

FROM: C. H. Smith

SUBJECT: Slag Deposits of Pacific States Steel

With regard to Mr. Whitfield's memo of August 29, 1968 concerning giving Pacific States Steel permission to use our Vallejo Street gate in order to dump slag on properties owned by Radgwick & Banke and also as to whether we have any areas in which we could use some of this slag, the following comments are made.

While in the process of inspecting Dikes #1, 2 and 3, I met Mr. Radgwick of Radgwick & Banke and a foreman from Pacific States Steel. Mr. Radgwick was apparently calling the man from the steel company where he wanted the slag dumped in order to build up the areas as he desired. I inquired of the steel company employee as to why they wished to use access across our property rather than the somewhat shorter route that they were presently using.

He indicated that although they had no complaints as yet, they were concerned that they might receive some complaints of heavy traffic or dust and noise from their trucks and that they were trying to take the shortest route possible through developed areas. He was aware that Mr. Whitfield had given the steel company permission to cross the property; however, Mr. Radgwick indicated that they would probably continue to use the present entrance until objections or complaints are received.

I advised them that the area just downstream of the SPRR was low and that if they planned to use this route they should build it up about 1½ or 2 feet as under present conditions it was under water when we had our Dike #2 at maximum operating level. The man from the steel company indicated that if they decided to use this route they would build it up, but I believe it would be to our advantage as well as theirs to build it up now rather than waiting for the time that they need it, at which time it may be under water.

As respects areas on our property we could use steel company slag to build up the low areas, I investigated this possibility in connection with a request by Silva Bros. Contractors to dispose of all or parts of 60,000 yards of reject material from the BARTD job and found that there were certain areas in which we could presently use some fill material, but I discovered there were 200,000 yards of surplus material in this reach of the Alameda Creek Federal Flood Control Project so we had decided not to add to the cost of this project by allowing additional material to be imported into the area.

In addition to the aforementioned material that we can use on the road between Dike #1 and 2, I believe that we could also stockpile some material at Dike #1, 2 and 3 as I believe the material which we are getting from the BARTD job to stockpile for dike construction will probably be rather silty and I believe we will have a much better fill material if we could mix the slag and silty material together.

Clarence H. Smith

CHS:emo

Clarence H. Smith

ALAMEDA COUNTY WATER DISTRICT

INTEROFFICE MEMORANDUM

TO: Karl Ngan

DATE: 09/05/86

FROM: Hugh Poustinchi H.P.

SUBJECT: STATUS ON PACIFIC STATE STEEL CO.

It is evident that the Pacific State Steel Co. (PSS), is financially unable to provide funds for the cleanup of the chemical contamination on the PSS property. However, efforts are being made by the officials of the company to form a joint venture with a Union City developer to use 34 acres of this property for housing development. The 34 acres are located between the Southern Pacific R.R. tracks and Mission Boulevard, south of the entrance to the property. The officials hope that the revenues received from this project will pay for the cleanup of the rest of the property. It is intended to remove the sludge deposited on this part of the property before commencement of construction. The RWQCB personnel are going along with the idea of the housing development since they realize that the groundwater in this vicinity has not been contaminated and there is no immediate threat to the waters of the state. They also know about the financial situation of the PSS and are concerned about the 500 people who receive pensions from the company.

The main contaminants on the site, according to the samples taken from the cooling pond, are high nickel, zinc, oil and grease. Considering the aforementioned, no significant steps has been taken to clean the site especially during the last two years. However, several alternatives for the cleanup have been considered.

HPP:cl

H.P. 2d H

STATE OF CALIFORNIA

GEORGE DEUKMEJIAN, Governor

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION
1111 JACKSON STREET, ROOM 6040
OAKLAND 94607

Phone: Area Code 415
464-1255

OCT 2 4 1984

October 23, 1984

File No. 2199.9171(RWM)tmh

Job 16651

Mr. Joseph Eastwood
Pacific States Steel Corp.
35124 Alvarado-Niles Road
Union City, CA 94587

Dear Mr. Eastwood:

This letter is to confirm my understanding of the next sequence of actions that is to be accomplished concerning the investigation and clean up of the Pacific States Steel property.

During the on site meeting held on October 12, 1984, Regional Board staff expressed their concern about the following items:

1) Possible percolation of contaminants to underlying ground waters from the former process waste pond.

2) Potential discharge to surface waters or percolation to ground waters of heavy metal contaminants from slag piles existing on site.

3) Discharge of contaminated stormwater to the Alameda County Flood Control channel (Line M) from the proposed stormwater drainage scheme.

In reference to the above items, Pacific States Steel shall accomplish the following tasks:

1) <u>Sampling and analysis of soils from the former process waste pond</u>

Samples shall be collected at the 3 locations specified by the Regional Board staff; namely, one location shall be at the north end of the pond in the immediate vicinity of the former process discharge pipe, the second location shall be at the excavated pit in the center of the pond, and the third location shall be at the south end of the pond. Discrete samples shall be collected at 3 foot intervals to a minimum depth of 10 feet below the bottom elevation of the pond. Analysis shall be for oil and grease, pH, zinc, lead, copper, cadmium, arsenic, and nickel.

2) Sampling and analysis of soils from beneath slag piles in the former pond water discharge field.

Discrete soil samples shall be taken at the surface, 2', 5', and 10' depths from beneath slag piles at 2 locations with analysis for zinc, lead, copper cadmium, arsenic, nickel, and pH. In addition, similar sampling and analysis shall be done in the vicinity of the point of discharge of the effluent pipe from the former waste pond.

3) Monitoring of ground water in the vicinity of the former waste pond.

After a review of the geohydrology of the area, one ground water monitoring well shall be installed directly downgradient from the waste pond. Water samples shall be collected from this well and existing well 4S/1W-18G2 and analyzed for pH, zinc, lead, copper, cadmium, arsenic, nickel, and oil and grease.

4) Sampling of runoff to drainage canal

Based on our observations of October 12, 1984, it appears that stormwater runoff from the slag pile north of the access road would discharge directly into the drainage canal. Therefore, during the coming winter months, representative grab samples should be taken from discharge streams from this area. Also, samples shall be collected from the drainage canal at a point both upstream and downstream from the subject facility. Grab samples will be taken each day for 5 days immediately following the first storm of 1" rainfall in 24 hours and for 5 days following a storm of 1" rainfall in 24 hours after half the average seasonal rainfall has fallen.

5) Monitoring of discharge from stormwater collection system to drainage canal

It is our understanding that stormwater collected from the property is proposed to be discharged to the drainage canal on a permanent basis. Documentation should be submitted verifying that no industrial waste lines are connected to the system, and the location and condition of abandoned connections, if any, should be identified. A description of the drainage plan with design calculations showing anticipated hydrographs and/or needed storage capacity of the proposed equalization pond should also be submitted. Prior to discharging, a monitoring program shall be initiated in accordance with requirements issued by Regional Board staff.

Please submit a proposal and time schedule to accomplish the above tasks within 10 working days of receipt of this letter. Any questions regarding the contents of this letter should be directed to Robert Marek at (415) 464-4225.

Sincerely,

Richard K McMurtry

Richark K. McMurtry
Senior Engineer

cc: Jerry Marcotte, DOHS/Toxics
Stephen J. Russel
William Kerry
Karen Smith
Richard R. Pasini
Earl Lenahan

ALAMEDA COUNTY WATER DISTRICT

INTEROFFICE MEMORANDUM

TO: KARL NGAN

DATE: 05/24/84

FROM: EARL LENAHAN

SUBJECT: PACIFIC STATES STEEL COOLING POND

The Pacific States Steel cooling pond has been under investigation as a source of groundwater pollution for many years. The Department of Health Services and Regional Water Quality Control Board have been involved at ACWD's request since they first inventoried industrial waste ponds for groundwater contamination.

The State investigation at Pacific States Steel has shown high concentrations of cadmium, chromium, copper, lead, nickel, zinc and 0.38 mg/kg of phenol in the sludge. The pond water had very small concentrations of zinc, copper, and bis (2-ethylhexyl) phthalate. Nothing above the Title 22 MCL's have been found in nearby Newark Aquifer wells.

Richard McMurtry of the Regional Board staff on May 22, 1984 told me that someone wants to develop the property and he expects more cooperation than in the past. Mr. McMurtry wants them to: (1) pump the water from the pond to waste on land; (2) measure the depth of the sludge so the material can be removed (3) remove the sludge; and (4) sample the well that could not be sampled earlier. He does not expect to find anything in the well. Then the pond can be filled with dirt. The people who want to develop the property want to fill in 90 percent of the pond and keep 10 percent for a storm water surge pond.

Mr. McMurtry is planning to send a letter soon to Pacific States Steel to get the work moving.

The tests performed on groundwater included the EPA and Title 22 metals, Title 22 general minerals and inorganics, purgeable aromatics by EPA Method 602, and cyanide.

Results of Leachate Testing

The results of the chemical analyses indicate that the landfill leachate contains relatively high concentrations of general minerals such as sodium, chloride, and sulfate. In addition, concentrations of benzene, ethylbenzene, and toluene were found in one of the leachate samples. Trace amounts of various metals and cyanide were also found in the leachate.

Results of Groundwater Testing

The results of the groundwater testing indicates that some degredation of the groundwater from the upgradient side of the landfill to the downgradient side may have occurred. Groundwater Wells W-107 and W-108 indicate increased levels of sodium and sulfate, two major constituents of the landfill leachate. Well W-107 also indicates a slight increase in the cadmium level. The cadmium level was still well below the Drinking Water Standard of 10 ppb.