

KIMBER PARK COMMONS

Draft Environmental Impact Report

August 2012

SCH # 2012052065

Prepared for:



Prepared by:



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Prepared for:

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Executive Summary

This summary provides a brief description of the proposed Kimber Park Commons project, project alternatives, and all potentially significant impacts identified during the course of the environmental analysis performed for the project pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. This summary is intended as an overview and should be used in conjunction with a thorough reading of the Draft EIR (EIR). The text of this report, including figures, tables and appendices, serves as the basis for this summary.

Summary of the Proposed Project

Location

The project site is located in the City of Fremont in Alameda County, California. Regional access to the City is provided via Interstate 680 (I-680) and Interstate 880 (I-880). The project site is comprised of an irregular shaped 12.72-acre parcel (Assessor's Parcel Number: 525-0312-050) located at 10 East Las Palmas in the northeastern portion of the City of Fremont. The project site is bounded on the southwest and southeast by East Las Palmas Avenue, to the northwest by Almeria Avenue and to the northeast by Canyon Heights Drive. Mission Boulevard (State Route 238) is located approximately 310 feet southwest of the southern edge of the project site.

Background

Background of the Project Site

The project site and surrounding area was historically used as a poultry breeding facility called Kimber Farms.

In 1973, the Fremont City Council approved the Kimber Park Planned District P-73-1 (Kimber Park PD), a residential development located on the former Kimber Farms. The Kimber Park PD included a 12.78-acre parcel within the center of the development for private recreational use and limited public access within the center of the development (the project site), but did not provide for common ownership or maintenance of the parcel. It has been maintained in private ownership since its creation. The current owner/applicant acquired the property in 2004. Generally, the western portion of the project site is developed with a tennis and swim club, including 13 tennis courts and a swimming pool. The eastern portion of the site is undeveloped.

Project Background

The General Plan land use designation for the project site was changed when the City adopted its General Plan Update in December 2011. The site had been designated "Low Density Residential – 2-3.5 du/acre," with permissible uses controlled through the Kimber Park PD. As part of the General Plan Update, City staff proposed that the land use designation of the project site be changed to "Private Open Space" to reflect the Kimber Park PD.

The owner of the site asked for the designation to remain unchanged to pursue an application for residential development. The City Council established the “Kimber Study Area” land use designation on the project site for a period of one year to allow the owner to process an application.

The Kimber Study Area designation is effective until December 14, 2012. It allows the property owner to apply for approval of a project incorporating residential development with a density no greater than two dwelling units per acre. If an application is approved during this timeframe, the City’s General Plan map would be revised to reflect the outcome of the project review and remove the Kimber Study Area designation. If the application is not approved within the 12-month period, the project site will be designated Private Open Space without further action.

Project Description

The proposed Preliminary Planned District is comprised of 18 single-family homes, which would be located primarily on the eastern portion of the project site around a common open space area. The proposed project also includes renovation of an existing private tennis and swim club, which would include retaining three of the existing 13 tennis courts, renovation of the existing clubhouse, swimming pool and spa, and the construction of a 3,540-square-foot childcare facility and 2,100-square-foot café for a total of 11,670 square feet. A pond would be constructed in the southwestern portion of the project site that would serve as a retention basin for stormwater runoff within the project site.

Areas of Known Controversy

To date there has been substantial public controversy associated with the conversion of a parcel that has been historically used for recreational purposes. Approximately 50 letters were received from residents in the City that identified a range of issues for inclusion in the Draft EIR, which are included in Appendix A of the Draft EIR. These issues have been addressed herein.

Summary of Project Environmental Impacts

Table S-1: Executive Summary of Project Impacts, which begins on the following page, provides a summary of the proposed project’s potentially significant impacts, the level of significance of the impact before mitigation, the mitigation measures proposed to reduce or avoid potentially significant effects, and the level of significance of the impact after mitigation.

Table S-1: Executive Summary of Project Impacts

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
Aesthetics			
<p>Impact 4.1-1: Implementation of the proposed project would alter the existing aesthetic character of the project site by redeveloping the project site to accommodate residential uses and the renovated swim and tennis club with site improvements that may alter the informal wooded and bermed character of the site and street frontage. The design features of the project seek to ensure compatibility through visual separation of structures, two-story and one-story construction, and tree protection. The conceptual plan may affect approximately 200 trees in various locations of the site with a potential for concentrated losses along the street frontage due to grading and access requirements of the proposed project.</p>	Potentially Significant	<p>Mitigation Measure</p> <p>MM 4.1-1: Implement a Tree Protection and Replacement Plan. The project applicant shall implement a tree protection and replacement plan that emphasizes retention of all types of mature large trees and limits changes to landscape character. At the time of submittal for a Precise Planned District a full arborist report and tagging of individual trees that assess the condition and health of all trees greater than six inches in diameter (dbh) shall be provided. The associated tree inventory of the arborist report shall display the full canopy extent of the trees to be removed and preserved on the project site, not just trunk location. Trees to be preserved shall be clearly indicated on project plans.</p> <p>The tree protection plan shall limit removal of groves of trees and allow for no more than 20 percent of all total trees on the project site to be removed, subject to the approval of the Precise Planned District by City Council. The following tree preservation measures shall be in place before construction activities begin:</p> <ul style="list-style-type: none"> ■ Protective tree fencing shall be erected around the dripline of trees to be protected. The fencing shall protect against contact from equipment, materials, and construction activities; and preserve roots and soil conditions in an intact and non-compacted state; and ■ A tree protection zone shall be identified, within which no soil disturbance is permitted. <p>Tree replacement requirements of the City's Tree Protection Ordinance shall be incorporated into the landscape plan. The accompanying landscape plan shall indicate and differentiate the</p>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
		location of existing trees with their full canopy and the placement of new trees and landscaping coordinated with grading and utility plans. The landscape plan shall not create the sense of a formal or traditional programmed yard landscape and streetscape for the residential homes, but instead shall conserve the informal character of existing conditions of berming and tree locations.	
<p>Impact 4.1-2: The project site is surrounded on three sides by existing development and approximately half of the project site is developed with existing recreation uses (i.e. tennis courts, swimming pool, spa, clubhouse, and associated parking areas). The proposed project would contribute to the existing light sources and glare within the project site. However, lighting and glare would not change significantly from existing conditions as the tree canopy would help diffuse glare and spillover lighting from much of the new development. In addition, the proposed project would be required to comply with the City's Municipal Code and General Plan.</p>	Less than Significant	No Mitigation Measures are necessary.	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
Air Quality			
<p>Impact 4.2-1: The proposed project would result in short-term air quality impacts associated with construction activities, including grading, operation of equipment, and demolition of existing tennis courts within the project site.</p>	<p>Potentially Significant</p>	<p>MM 4.2-1a: Implementation of Short-Term Construction Best Management Practices. The following BAAQMD Best Management Practices (BMPs) shall be included in the construction-contract specifications for the proposed project. The control measures shall be implemented during the duration of all proposed construction activities:</p> <ul style="list-style-type: none"> ■ All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. ■ All haul trucks transporting soil, sand, or other loose material off-site shall be covered. ■ All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. ■ All vehicle speeds on unpaved roads shall be limited to 15 mph. ■ All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. ■ Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. ■ All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified 	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
		<p>mechanic and determined to be running in proper condition prior to operation.</p> <ul style="list-style-type: none"> ■ Post a publicly visible sign with the telephone number and person to contact at the Town regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations. <p>MM 4.2-1b: Compliance with ACM and LBP Regulations During Renovation Activities. Pursuant to Cal OSHA regulations BAAQMD Regulation 11, Rule 2, each structure proposed for renovation within the project site shall be inspected by a qualified environmental specialist for the presence of ACM and Lead Based Paint LBP prior to renovation. If ACMs and LBPs are found during the investigation, a remediation plan shall be developed to ensure that these materials are removed and disposed of by a licensed contractor at an approved landfill facility in accordance with all federal, state, and local laws and regulations prior to demolition.</p>	

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
Impact 4.2-2: The proposed project would result in long-term operational emissions associated with mobile and area source emissions.	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
Impact 4.2-3: The proposed project would be consistent with population growth assumptions in the Clean Air Plan.	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
Impact 4.2-4: No major existing stationary or area sources of toxic air contaminants (TACs) were identified within 1,000 feet of the project site. The proposed project would not result in increased exposure of sensitive land uses in excess of applicable standards.	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
Impact 4.2-5: Carbon monoxide concentrations are low in the project vicinity and the proposed project would result in carbon monoxide concentrations that would be well below the State and Federal standards.	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
Impact 4.2-6: Future construction activities could generate airborne odors associated with the operation of construction vehicles. In addition, the proposed project would include a café, which could generate some limited odors during operation of the proposed project.	Less than Significant	No Mitigation Measures are necessary.	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
Biological Resources			
<p>Impact 4.3-1: The proposed project would result in the loss of or direct impacts to non-native annual grassland, ornamental woodland, and developed habitat. However these habitats are common within the project vicinity and within the state, and all of these land cover types occur in abundance on adjacent lands.</p>	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
<p>Impact 4.3-2: Implementation of the proposed project would affect several California native, perennial species such as redwoods, coast live oak, Monterey pine, Douglas fir, and coyote brush. These species and other native species observed on the project site are not regulated under state or federal laws or listed species by the CNPS.</p>	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
<p>Impact 4.3-3: The proposed project would result in impacts to common (non-special-status) insect, amphibian, reptile, and mammalian species that occur within the project site. These species would experience a direct loss of habitat with implementation of the proposed project and potentially result in the</p>	Less than Significant	No Mitigation Measures are necessary.	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
mortality, injury, disturbance, and displacement of individuals of some of these species.			
Impact 4.3-4: The special-status plant, <i>bristly leptosiphon</i> , has a very small potential to occur in the non-native grassland habitat on the project site. However, impacts or loss of such a population would not be expected to substantially affect the species persistence or substantially reduce the number or restrict the range of the species.	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
Impact 4.3-5: Several special-status wildlife species occur on the project site as transients, migrants, or foragers, but are not expected to breed on or immediately adjacent to the site or to be present in large numbers.	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
Impact 4.3-6: The number of loggerhead shrikes or dusky-footed woodrats that could be disturbed by project activities is very small compared to regional populations.	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
Impact 4.3-7: The project site is not expected to be used by more than a few individuals of California Tiger Salamander (CTS) and California Red Legged Frog (CRLF)	Potentially Significant	MM 4.3-7a: Limit Construction to Dry Season. The project applicant shall limit ground disturbing activities such as grading and tree removal to the dry season, when California tiger salamanders and California red-legged frogs are unlikely to be moving through the project site.	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
<p>and the loss of the habitat would not have a substantial effect on any one local population. Although potential injury or mortality of individual CTS or CRLF and loss of this habitat would be considered a less than significant impact, the potential for take of California tiger salamanders and California red-legged frogs could occur if precautionary measures are not implemented during construction activities on a site of this type.</p>		<p>MM 4.3-7b: Temporary Construction Barrier. Prior to any ground disturbance on the project site, a temporary barrier shall be constructed along the limits of grading and disturbance, where such limits abut undeveloped habitat, to prevent California tiger salamanders and California red-legged frogs from entering the project footprint during construction. The barrier shall consist of three-foot tall silt fencing buried to a depth of at least six inches below the soil surface. This barrier shall be inspected regularly and maintained and repaired as necessary to ensure that it is functional and is not a hazard to tiger salamanders or red-legged frogs on the outer side of the fence.</p> <p>MM 4.3-7c: On-site Construction Crew Education Program. A worker education program shall take place before the commencement of construction and a qualified biologist shall explain to construction workers how best to minimize the accidental take of California tiger salamanders and California red-legged frogs. The field meeting shall include topics on species identification, life history, descriptions, and habitat requirements during various life stages. Emphasis shall be placed on the importance of the habitat and life stage requirements within the context of project avoidance and minimization measures. The program would increase the awareness of the contractors and construction workers about existing federal and state laws regarding endangered species as well as increase their compliance with conditions and requirements of resource agencies.</p>	
<p>Impact 4.3-8: The project site may contain plants and wildlife species that would use the project site for breeding or foraging. However, the project site's location does not support linkages between habitat for dispersing species because the City presents a substantial impediment to</p>	<p>Less than Significant</p>	<p>No Mitigation Measures are necessary.</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
dispersal and because no additional habitat areas are located west of the project site.			
Impact 4.3-9: During project construction, runoff from the project site could contribute to soil erosion and cause sediment deposition downstream, and runoff from areas within active construction may be more likely to allow for undesirable erosion or carry unacceptable sediment loads.	Potentially Significant	Implementation of Mitigation Measure 4.5-4a and 4.5-4b (Geology and Soils).	Less than Significant
Impact 4.3-10: The project site contains a number of non-native and invasive plant species. Construction of the proposed project would result in temporary ground disturbance, which could promote invasion by these non-native species. If spread to other areas, could produce monotypic stands that could degrade habitat values for, and threaten special-status species and sensitive habitats.	Potentially Significant	<p>MM-4.3-10: Prevent spread of weeds and invasive species. The project applicant shall include the following BMPs for weed control in construction contract specifications to avoid and minimize the spread of invasive plant species:</p> <ul style="list-style-type: none"> ■ Prior to grading or soil disturbance, infestations of invasive species rated as high ecological impact by the Cal-IPC such as Himalayan blackberry, English ivy, and pampas grass shall be cleared of vegetation and all vegetative material should be incinerated off-site or disposed in a high-temperature composting facility that can compost using methods known to kill weed seeds, taking care to prevent any seed dispersal during the process by bagging material or covering trucks transporting such material from the site. ■ Following project construction, native seed from a local source shall be planted on all disturbed ground that will not be landscaped and maintained. This will prevent the germination of the majority of seeds from non-native, invasive plant species. In addition, non-invasive landscaping plantings will be established in areas to be landscaped, and 	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
		<p>native species should be used in landscaping to the extent practicable.</p> <ul style="list-style-type: none">■ Heavy equipment used in the project site shall be washed prior to and following work at the site, before the equipment is used in other ground disturbing activities, to prevent spread of weed seeds.	

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
<p>Impact 4.3-11: Tree removal in this analysis assumes that less than one-third of the trees are expected to be removed during project implementation. The project applicant has proposed to avoid and minimize tree removal and therefore tree removal may be less than what is assumed herein. However, the removal of trees at the project site would be considered a potentially significant impact.</p>	<p>Potentially Significant</p>	<p>Implementation of Mitigation Measure 4.3-1 (Aesthetics).</p>	<p>Less than Significant</p>
<p>Impact 4.3-12: The project site contains numerous native common bird species and includes nesting habitat for all these species. In addition, migratory and wintering birds forage on the project site during the spring, fall and summer. Implementation of the proposed project has the potential to result in direct injury or mortality of common bird species, specially eggs or young in nests.</p>	<p>Potentially Significant</p>	<p>MM 4.3-12a: Seasonal Avoidance. To the extent feasible, project activities shall be scheduled to avoid the nesting season. If project activities are scheduled to take place outside the nesting season, all impacts on nesting birds protected under the MBTA and Fish and Game Code of California would be avoided. The nesting season for most birds, including most raptors, in Alameda County extends from February 1st through August 31st.</p> <p>MM 4.3-12b: Pre-construction/Pre-disturbance Surveys. If it is not possible to schedule project activities between February 1st through August 31st, then pre-construction surveys for nesting birds shall be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. Surveys shall be conducted no more than seven days prior to the initiation of construction activities in any given area; because construction may be phased, surveys will be conducted prior to the commencement of each phase of construction. During each survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g., shrubs, ruderal grasslands, buildings) in and immediately adjacent to the impact areas for nests. If an active nest is found sufficiently close to</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
		<p>work areas to be disturbed by these activities, the ornithologist will determine the extent of a disturbance-free buffer zone to be established around the nest (typically 50 to 100 feet for non-raptors), to ensure that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during project implementation. In some circumstances, a qualified ornithologist, in consultation with the CDFG, can recommend that these buffers be modified based on topography, existing levels of disturbance, screening vegetation, and other factors.</p> <p>MM 4.3-12c: Inhibition of Nesting. If project activities will not be initiated until after the start of the nesting season, all potential nesting substrates (e.g., bushes, trees, grasses, and other vegetation) that are scheduled to be removed by the proposed project could be removed prior to the start of the nesting season (e.g., prior to February 1st). This will preclude the initiation of nests in this vegetation, and prevent the potential delay of the proposed project due to the presence of active nests in these substrates.</p>	
<p>Impact 4.3-13: The decline in the bird species richness and abundance resulting from habitat loss is expected to be relatively low with retention of so many trees, and the decrease in bird diversity and abundance due to a reduction in habitat.</p>	<p>Less than Significant</p>	<p>No Mitigation Measures are necessary.</p>	<p>Less than Significant</p>
<p>Impact 4.3-14: Given the territoriality and home range sizes of these species, the proposed project would not affect no more than one nest of barn owls, great-horned owls, red-shouldered hawks, red-tailed hawks, Cooper's hawks, American</p>	<p>Potentially Significant</p>	<p>MM 4.3-14a: Pre-construction/Pre-disturbance Surveys (for raptors other than burrowing owls and golden eagles). If it is not possible to schedule project activities between September 1st and January 31st, then pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. Surveys shall be conducted no more than seven days prior to the initiation of</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
<p>kestrels, and white-tailed kites, (and likely no more than three or four nests of all species combined). Each of these species is sufficiently abundant in the region that the loss of a single nest of any of these species would affect only a very small proportion of the regional populations of any one species. However, given the relatively high density of nesting raptors on the site and the important ecological roles that these raptors play as predators, breeding-season construction in the absence of mitigation measures could result in the loss of reproductive effort for several pairs of raptors, and at least locally (i.e., in the immediate vicinity of the project site), such an impact could have a lasting effect on the avifauna.</p>		<p>construction activities in any given area; because construction may be phased, surveys will be conducted prior to the commencement of each phase of construction. During each survey, the ornithologist will inspect all trees and other potential nesting habitats (e.g., shrubs, ruderal grasslands, buildings) in and immediately adjacent to the impact areas for nests.</p> <p>MM 4.3-14b: Breeding-Season Buffers (for raptors other than burrowing owls and golden eagles). If an active nest of raptors is found sufficiently close to work areas to be disturbed by these activities, the ornithologist shall determine the extent of a disturbance-free buffer zone to be established around the nest, excepting golden eagles [see below]), to ensure that no nests of species protected by the MBTA and Fish and Game Code of California will be disturbed during project implementation.</p> <p>An area of disturbance-free buffering of 300 feet typically provides for adequate separation for nesting raptors. In some circumstances, a qualified ornithologist, in consultation with the CDFG, can recommend that typical buffers be modified based on context of the site for reasons such as topography, existing levels of disturbance, screening vegetation, and other factors would make it unlikely for an impact to nesting raptors to occur. Final buffering zone distance is subject to the approval of the City.</p> <p>MM 4.3-12c: Pre-construction Surveys for Burrowing Owls. Pre-construction Surveys for Burrowing Owls. A qualified biologist shall conduct pre-construction surveys for burrowing owls on and within 300 feet of the proposed area of new disturbance prior to groundbreaking. Surveys shall be conducted in conformance with the take avoidance surveys described in the current CDFG-approved protocols (CDFG 2012). The initial survey shall be conducted two to four weeks prior to the initiation of construction, and three additional surveys shall be conducted subsequently, with the final survey conducted within 24 hours prior to construction initiation.</p>	

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
		<p>Surveys shall be conducted regardless of the time of year that work is scheduled to occur (i.e., during the breeding and non-breeding seasons) to ensure that the project will not result in the injury or mortality of any burrowing owls.</p> <p>If no burrowing owls are located during these surveys, no additional action would be warranted. However, if burrowing owls are located on or immediately adjacent to the project site, Mitigation Measures MM 4.3-14d shall be implemented and/or the following measures shall be implemented:</p> <p>In the unlikely event that burrowing owls nest on the project site, a 300-foot buffer subject to consultation with CDFG, within which no new project-related activity will be permissible, will be maintained between project activities and occupied burrows. This protected area will remain in effect around any burrows occupied during the nesting season (February 1st through August 31st) unless evidence indicates that nesting is not actively occurring.</p> <p>MM 4.3-12d: Passive Relocation of Burrowing Owls. If ground-disturbing activities will directly impact occupied burrows, the owls occupying burrows to be disturbed shall be passively relocated during the non-nesting season by a qualified biologist using one-way doors. No burrowing owls shall be evicted from burrows during the nesting season (February 1st through August 31st) unless evidence indicates that nesting is not actively occurring (e.g., because the owls have not yet begun nesting early in the season, or because young have already fledged late in the season).</p> <p>MM 4.3-12e: Breeding-Season Buffers (Golden Eagles). In the unlikely event that golden eagles are detected breeding near the project site, a buffer between the nest and project-related construction activities shall be established. To reduce the potential for golden eagles to abandon their nest or territory due to construction disturbance during their reproductive period, no project</p>	

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
		<p>activities shall occur within a viewshed buffer zone within around any eagle nest between January 15th and August 1st, or as determined by a qualified biologist (as the breeding season may be shorter). The appropriate dimensions of the viewshed buffer, defined as all project areas that are within close proximity to the nest and that can be seen by an eagle on the nest, shall be determined by a qualified biologist based on the location of the nest, the types of non-project related human activities that are occurring near the nest, and the locations of existing human activities near the nest. No new, project-related construction activities can occur within this viewshed buffer during the breeding season.</p> <p>MM 4.3-12f: Golden Eagle Construction Monitoring. To ensure nesting eagles are not disrupted by project activities during construction activities, a qualified biologist shall perform nest monitoring during any breeding-season (January 15th to August 1st, or as determined by the biologist if nesting is completed earlier) construction within 0.5 of a mile of any active nest. The biologist shall monitor the nest from a suitable distance (i.e., as to not disturb nesting eagles) at least three days/week during courtship and egg-laying phases, and at least once/week during subsequent reproductive stages, or as frequently as determined necessary by the biologist to determine whether construction activities are disturbing nesting eagles. If the biologist determines that project activities are disturbing eagles to the point that the eagles' reproductive activities could be abandoned, the biologist shall have the authority to stop work anywhere in the project area that he/she believes may disturbing the eagles. Work shall not start again until the biologist determines that the work can occur without disturbing the eagles.</p>	

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
<p>Impact 4.3-15: Construction of the proposed project will result in the permanent loss of vegetated habitat that either provides foraging habitat, or that supports populations of prey, for bats, potentially including the <i>Yuma myotis</i>, <i>California myotis</i>, western red bat, and pallid bat. The loss of individuals in a large colony of non-special-status bats (i.e., containing 20 or more individuals), or the loss of any pallid bats, due to the rarity of this species in the region, could affect regional populations of the species.</p>	<p>Potentially Significant</p>	<p>MM 4.3-15a: Pre-Construction Survey. A pre-construction/pre-demolition survey for roosting bats shall be conducted within 15 days prior to the commencement of any construction activities within 100 feet of trees providing potential roosting habitat. Such a survey shall focus on detecting bats that may be day-roosting in trees within or immediately adjacent to (i.e., within 100 feet of) the impact areas. The survey shall be conducted by a qualified bat biologist. If suitable roost sites are found and a visual survey is not adequate to determine presence or absence of bats (which would be particularly likely in the case of potential roost trees), acoustical equipment shall be used to determine occupancy. If no evidence of bat roosts is found, any trees that contain potential roosting sites (such as cavities) and that are proposed for removal shall be removed within 15 days following completion of the survey.</p> <p>MM 4.3-15b: Breeding Season Buffer. If a day roost is found during the maternity season (April 1st until the young are flying, typically after August 31st) in a tree within 100 feet of the impact areas, a qualified bat biologist (in consultation with the CDFG) shall determine the width of a buffer that will be established around the roost. No construction-related activity shall occur within the buffer. Although a 100-foot buffer around a maternity roost is standard, the biologist may determine that a reduced buffer is appropriate. No tree containing a maternity roost shall be removed or otherwise physically disturbed during the maternity season.</p> <p>MM 4.3-15c: Bat Relocation. Outside the maternity season, a day roost may be removed after individual bats are safely evicted under the direction of a qualified bat biologist. Eviction shall occur between September 1st and March 31st, but shall not occur during long periods of inclement or cold weather (as determined by the bat biologist) when prey are not available or bats are in torpor. If feasible, one-way doors shall be used to evict bats from tree roosts. If use of a one-way door is not feasible, or the exact location of the</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
		<p>roost entrance in a tree is not known, the trees with roosts that need to be removed shall first be disturbed by removing some of the trees' limbs not containing the bats. Such disturbance shall occur at dusk to allow bats to escape during the darker hours. These trees shall then be removed the following day. All of these activities shall be performed under the supervision of the bat biologist.</p> <p>MM 4.3-15d: Alternative Roost Structure. If a pallid bat day roost is located within a tree to be removed, an alternative bat roost structure shall be provided by the County. The design and placement of this structure shall be determined by a bat biologist, in consultation with the CDFG, based on the location of the original roost and the habitat conditions in the vicinity. The roost structure shall be built to specifications as determined by a bat biologist and CDFG, or it may be purchased from an appropriate vendor. The structure shall be placed as close to the impacted roost site as feasible. This bat structure shall be erected at least one month (and preferably a year or more) prior to removal of the original roost structure. A bat biologist shall monitor this structure during the breeding season for up to two years following completion of the Project, or until it is found to be occupied by bats (whichever occurs first), to provide information for future projects regarding the effectiveness of such structures in minimizing impacts to bats</p>	
Cultural Resources			
<p>Impact 4.4-1: The proposed project has been previously disturbed from its prior use as a recreation area for the former Kimber Farms and more recently as the tennis and swim club. The project site is therefore not anticipated to contain any archaeological, cultural or pre-historic</p>	<p>Potentially Significant</p>	<p>MM 4.4-1: Halt Work/Archaeological Evaluation/Site-Specific Mitigation. If any potential cultural artifacts are encountered during site grading or other construction activities, all ground disturbance within 50 feet of the discovery shall be halted until a qualified archaeologist can identify and evaluate the resource(s) and, if necessary, recommend mitigation measures to document and prevent any significant adverse effects on the resource(s). The archeological consultant shall immediately notify the project sponsor</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
<p>resources. However, site preparation and grading could disrupt undiscovered archaeological and cultural resources of importance under CEQA and/or eligible for listing on the California Register.</p>		<p>and the City staff of the encountered archeological deposit. If the deposit does not qualify as an archaeological resource, then no further protection or study is necessary. If the deposit does qualify as an archaeological resource then the impacts shall be avoided by project activities. If the deposit cannot be avoided, adverse impacts to the deposit shall be mitigated. Mitigation may include, but is not limited to archaeological data recovery. Upon completion of the assessment by the archaeologist, a professional-quality report shall be submitted to the City, the project applicant, and the Northwest Information Center at Sonoma State University in Rohnert Park. The project applicant shall fund and implement the mitigation in accordance with Section 15064.5(c) through (f) of the CEQA Guidelines and Public Resources Code 21083.2.</p>	
<p>Impact 4.4-2: The EIR for the <i>City of Fremont General Plan</i> concluded that although no paleontological resources are known to exist within the project site, the presence of unknown paleontological resources could be discovered during site preparation and grading activities, which would be considered a potentially significant impact.</p>	<p>Potentially Significant</p>	<p>MM 4.4-2: Halt Work/Paleontological Evaluation/Site-Specific Mitigation. If paleontological resources are encountered during subsurface construction activities, all work within 50 feet of the discovery shall be redirected until a qualified paleontologist can evaluate the finds and make recommendations. If the paleontological resources are found to be significant, they shall be avoided by project construction activities and recovered by a qualified paleontologist. Upon completion of the recovery, a paleontological assessment shall be conducted by a qualified paleontologist to determine if further monitoring for paleontological resources is required. The assessment shall include: 1) the results of any geotechnical investigation prepared for the project site; 2) specific details of the construction plans for the project site; 3) background research; and 4) limited subsurface investigation within the project site. If a high potential to encounter paleontological resources is confirmed, a monitoring plan of further project subsurface construction shall be prepared in conjunction with this assessment. After project subsurface construction has ended, a report documenting monitoring, methods, findings, and further recommendations regarding paleontological resources shall be</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
		prepared and submitted to the Director of Community Development.	
<p>Impact 4.4-3: There are no known human remains interred outside of formal cemeteries to exist within the project site. However, human remains could be discovered during site preparation and grading activities, which would be considered a potentially significant impact.</p>	Potentially Significant	<p>MM 4.4-3: Halt Work/Coroner’s Evaluation/Native American Heritage Consultant/Compliance with Most Likely Descendent Recommendations. In the event that human remains are encountered during grading and site preparation activities, all ground-disturbing work within 50 feet of the remains shall cease immediately and a qualified archaeologist shall notify the Office of the Alameda County Coroner and advise that office as to whether the remains are likely to be prehistoric or historic. If determined to be prehistoric, the Alameda County Coroner’s Office shall notify the Native American Heritage Commission of the find, which in turn will then appoint a “Most Likely Descendent. (MLD).” The MLD in consultation with the archaeological consultant and the project sponsor will advise and help formulate an appropriate plan for treatment of the remains, which might include recordation, removal, and scientific study of the remains and any associated artifacts. After completion of the analysis and preparation of the report of findings, the remains and associated grave goods shall be returned to the MLD for burial.</p>	Less than Significant
Geology & Soils			
<p>Impact 4.5-1: Seismic ground shaking is likely to occur within the project vicinity in the event of a major earthquake on one of the nearby faults resulting in the exposure of people and/or structures to potentially significant adverse effects, including the risk of loss, injury or death.</p>	Potentially Significant	<p>MM 4.5-1: Preparation of Design-Level Geotechnical Report. The project applicant shall consult with a registered geotechnical engineer to prepare a design level geotechnical report that incorporates the recommendations in the preliminary geotechnical investigation (July 2012), including: grading, water wells, foundation design criteria, retaining walls, concrete-on-grade construction, excavation, drainage, on-site utility trenching, and pavement design. This report shall be submitted in conjunction with a Building Permit application. Prior to final inspection, the project applicant shall provide certification from a qualified professional that the proposed</p>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
		project was constructed in accordance with the design-level geotechnical investigation.	
Impact 4.5-2: The proposed project could expose people or structures to potential substantial adverse effects of liquefaction.	Potentially Significant	Implementation of Mitigation Measures 4.3-1a and 4.5-1 (Geology and Soils).	Less than Significant
Impact 4.5-3: Active or potentially active faults are located within the project vicinity, including the Calaveras and Hayward Faults. However, the project site is not located on a fault trace and future development associated with the proposed project will be performed in accordance with 2010 California Green Building Code, as adopted by the City of Fremont and the goals and policies of the City of Fremont General Plan.	Less than significant	No mitigation measures are necessary.	Less than Significant
Impact 4.5-4: Implementation of the proposed project may result in soil erosion or the loss of topsoil during short-term construction activities within the project site.	Potentially Significant	<p>MM 4.5-4a: Stabilization of Cut and Fill Slopes During the Rainy Season. All cut- and fill slopes shall be stabilized as soon as possible after completion of grading. No grading shall occur between October 15th and April 15th unless authorization in writing by the City and approved erosion control measures are in place.</p> <p>MM 4.5-4b: Implementation of Storm Water Pollution Prevention Plan (SWPPP). Prior to issuance of grading permit, the project proponent shall file a Notice of Intent (NOI) as required by Regional Water Quality Control Board regarding stormwater discharges associated with construction activities. Upon completion</p>	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
		<p>of construction activities, a Notice of Termination shall be filed.</p> <p>Prior to issuance of any building or grading permits, a Storm Water Pollution Prevention Plan (SWPPP) shall be prepared by the project contractors and submitted to the Regional Water Quality Control Board for review and comment and to the City in conjunction with the Building/Grading/Site work permit and shall be found to be acceptable by the City prior to ground disturbance activities. The SWPPP shall be prepared to Regional Water Quality Control Board standards, Association of Bay Area Government's Manual of Erosion and Sedimentation Control Measures (2005) or the California Stormwater Quality Association's (CASQA) Best Management Practice (BMP) Handbooks for Construction and for New Development and Redevelopment (2009) requirements, and shall identify erosion minimization and control provisions, pollution detection provisions, and pollution elimination/ minimization provisions appropriate to the proposed project for construction and post-construction activities. The SWPPP shall include best available technology, engineering, and design solutions such as the use of silt screens, hay bales, modern trash screens, energy dissipaters, and/or absorbent devices. Stormwater runoff water quality monitoring procedures shall be clearly detailed in the SWPPP.</p>	
<p>Impact 3.5-5: Implementation of the proposed project would not lead to development on expansive soil. With adherence to the City's Building Code and CBC requirements.</p>	<p>Less than Significant</p>	<p>No Mitigation Measures are required.</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
Greenhouse Gas Emissions and Climate Change			
Impact 4.6-1: The proposed project greenhouse gas emissions but would not conflict with or obstruct the implementation of greenhouse gas reduction measures under AB 32.	Less than Significant	No Mitigation Measures are required.	Less than Significant
Impact 4.6-2: The proposed project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. This is considered a less than significant impact.	Less than Significant	No Mitigation Measures are required.	Less than Significant
Hazards and Hazardous Materials			
Impact 4.7-1: During construction of the proposed project, there is the potential for the transport, use, or disposal of hazardous materials, which could create a hazard to the public or the environment.	Potentially Significant	Implementation of Mitigation Measure MM 4.5-4b (Geology and Soils)	Less than Significant Impact
Impact 4.7-2: The proposed project includes renovation of several structures at the tennis and swim club, which may contain asbestos containing materials (ACM) and/or lead based paint (LBPs).	Potentially Significant	Implementation of Mitigation Measure 4.2-1 b (Air Quality)	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
<p>Impact 4.7-3: The project site is not located on a hazardous material site pursuant to Government Code Section 65962.5. Based a review of the Phase I ESA prepared for the project site and a search on the State Water Resources Control Board's GeoTracker database, there are approximately two Leaking Underground Storage Tank sites located within a half mile of the project site that are currently being monitored by the Regional Water Quality Control Board. However, based on the direction of the groundwater flow in the project vicinity, these sites are not anticipated to affect environmental conditions at the project site. However, hazardous materials could be accidentally discovered during construction activities..</p>	<p>Potentially Significant</p>	<p>MM 3.7-3: Stop Work if Hazardous Materials are Discovered During Construction Activities. If unknown wastes of suspect materials are discovered during construction activities associated with the proposed project, the project applicant shall immediately stop work in the vicinity of the suspected contaminants; remove workers and the public from the area; notify the City; secure the area; and notify the Hazardous Waste/Materials Coordinator at the City. In the event that testing indicates the presence of hazardous materials beyond acceptable thresholds, a work plan shall be prepared in order to remediate the soil in accordance with all applicable federal, state and local regulations prior to the issuance of a grading permit.</p>	<p>Less than Significant</p>
<p>Impact 3.7-4: The proposed project includes construction of a childcare center at the renovated swim and tennis club and a private pre-school is located within a quarter mile of the project site. The proposed project would not introduce hazardous materials beyond those associated with typical residential and recreational uses.</p>	<p>Less than Significant</p>	<p>No Mitigation Measures are necessary.</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
Therefore, the proposed project would not emit hazardous materials in the vicinity of a school.			
Impact 3.7-5: According to the City of Fremont General Plan, the project site is located within a Fire Hazard Severity Zone. Therefore, the proposed project would be required to apply the buildings standards and other regulations contained in the California Building Standards Code as adopted and amended by the City of Fremont in accordance with Chapter 13 of the City's Municipal Code.	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
Hydrology and Water Quality			
Impact 4.8-1: The proposed project includes restoration of an existing well in the southwestern portion of the project site. Construction activities anticipated by the proposed project could adversely affect groundwater quality via interface with this groundwater well.	Potentially Significant	MM 4.8-1: Implement Measures to Protect Groundwater Quality. In order to protect the groundwater basin, the well within the project site shall either be protected or properly destroyed prior to construction activities. If the well in the southwestern portion of the project site is to remain, a letter indicating the project applicant's intent shall be sent to the Alameda County Water District. If the well is: no longer required by any regulatory agency, no longer monitored on a regular basis; and/or damaged, lost, or the surface seal is jeopardized in any way during the construction process, the well must be destroyed in compliance with the City's Well Ordinance. If the applicant decides to abandon the well it must be properly destroyed prior to construction activities.	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
<p>Impact 4.8-2: The proposed project would not result in adverse impacts to the amount of available groundwater available, degrade groundwater quality, or decrease groundwater recharge at the project site or project vicinity.</p>	<p>Less than Significant</p>	<p>No Mitigation Measures are necessary</p>	<p>Less than Significant</p>
<p>Impact 4.8-3: Future construction associated with the proposed project may violate water quality standards or waste discharge requirements.</p>	<p>Less than Significant</p>	<p>No Mitigation Measures are necessary</p>	<p>Less than Significant</p>
<p>Impact 4.8-4: Construction and operation of the proposed project would not substantially alter the existing drainage patterns of the area or result in substantial erosion or siltation on- or off-site, nor would it increase the rate or amount of surface runoff in a manner that would result in flooding on or off site. The project includes a net reduction in impervious surfaces and requirements to further treat all runoff per NPDES C.3 requirements.</p>	<p>Less than Significant</p>	<p>No Mitigation Measures are necessary</p>	<p>Less than Significant</p>
<p>Impact 4.8-5: The project site is largely built-out and stormwater flows with implementation of the proposed project are expected to be similar or slightly reduced due to improved management practices proposed within the proposed</p>	<p>Less than Significant</p>	<p>No Mitigation Measures are necessary</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
Specific Plan. In addition, compliance with existing regulations would ensure that impacts are minimized.			
<p>Impact 4.8-6: According to the City of Fremont General Plan, the project site is not located within a dam failure inundation area. Therefore, the proposed project would not expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam.</p>	Less than Significant	No Mitigation Measures are necessary	Less than Significant
Noise			
<p>Impact 4.9-1: The proposed project could result in short-term construction-related noise and vibration that could exceed applicable noise standards at nearby noise sensitive land uses.</p>	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
<p>Impact 4.9-2: The proposed project would increase noise levels slightly from a slight increase in noise levels from mobile sources (vehicular traffic) from the proposed project.</p>	Less than Significant	No Mitigation Measures are necessary.	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
Recreation			
<p>Impact 4.10-1: The proposed project could increase the use of existing neighborhood and regional parks or other recreational facilities. However, there are a significant number of neighborhood and citywide parks in the immediate vicinity that would be available to new residents and the proposed project provides a common park/open space area in the center of the project site that would provide recreational amenities for the proposed project.</p>	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
Transportation and Circulation			
<p>Impact 4.11-1: Based on the analysis, the City level of service standards, all of the signalized intersections would continue to operate at acceptable levels of service (LOS D or better) during both the AM and PM peak hours of traffic under existing plus conditions.</p>	Less than Significant	No Mitigation Measures are necessary.	Less than Significant
<p>Impact 4.11-2: The proposed project includes four driveways on Almeria Avenue between Benavente Avenue and Canyon Heights Drive; three driveways along East Las</p>	Less than Significant	No Mitigation Measures are necessary.	Less than Significant

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
<p>Palmas Avenue; with a fourth driveway proposed on Canyon Heights Drive. The number of driveways could result in a traffic safety risk due to the low volumes of traffic on local roadways.</p>			
<p>Impact 4.11-3a: The proposed project is required to provide adequate emergency access in compliance with the City of Fremont Transportation Engineering Division and the City of Fremont Fire Department standards.</p>	<p>Less than Significant</p>	<p>No Mitigation Measures are necessary.</p>	<p>Less than Significant</p>
<p>Impact 4.11-3b: The proposed project is situated at one of two points of access (i.e. Las Palmas Avenue/Mission Boulevard and Mackintosh Street/Mission Boulevard) to the existing neighborhood and would add daily and peak hour trips to the existing street network, but at volumes that would not substantially limit access to the area or affect traffic operations.</p>	<p>Less than Significant</p>	<p>No Mitigation Measures are necessary.</p>	<p>Less than Significant</p>
<p>Impact 4.11-4: The proposed project includes sidewalks along the frontage of East Las Palmas Avenue, Almeria Avenue, and Canyon Heights Drive. However, the proposed project does not incorporate the existing 12-foot wide pedestrian path</p>	<p>Less than Significant</p>	<p>No Mitigation Measures are necessary.</p>	<p>Less than Significant</p>

Project Impacts	Level of Significance Without Mitigation	Summary of Mitigation Measures	Resulting Level of Significance
located within the frontage of the project site along Almeria Avenue, but alternative safe routes for pedestrians will be provided. This would be considered a less than significant impact.			

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Summary of Cumulative Considerable Effects

The proposed project would not result in a significant cumulative impact on any of the environmental resources analyzed in the Draft EIR.

Summary of Alternatives

CEQA Guidelines require that an EIR describe and evaluate alternatives to the project that could eliminate significant adverse project impacts or reduce them to a less-than-significant level. The following alternatives are evaluated in this EIR in the Chapter 4 – CEQA Considerations.

- Alternative #1 – No Project Alternative;
- Alternative #2 – Expanded Club Alternative (No Housing); and
- Alternative #3 - Clustered Residential Alternative (Replacing Club)
- Alternative #4 – Reduced Residential Density Alternative (In Addition to Club)

CEQA Guidelines Section 15126.6(e)(2) requires that the environmentally superior alternative be identified. If the environmentally superior alternative is the No Project Alternative, the EIR shall identify an environmentally superior alternative among the other alternatives. Alternative #1-No Project Alternative would be the environmentally superior alternative. Among the other alternatives, Alternative #3-Clustered Residential Alternative (Replacing Club) would be considered the environmentally superior alternative.

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