

Introduction

This chapter describes the background of the Union City Station District Mixed-Use Development Project (herein after referred to as Proposed Project or project); provides a brief overview of the Proposed Project; identifies the intent and scope of this environmental impact report (EIR); describes the environmental impact review requirements that must be met prior to project approval; and describes the organization of this document.

Background

Intermodal Station District and Transit Facility Plan

The City of Union City (City) completed the Intermodal Station District and Transit Facility Plan (Station District Plan) in June 2001. Portions of this document were incorporated into the City's 2002 General Plan update. The environmental impacts of this Plan were analyzed as a specific project in the EIR for the Amendment to the City of Union City Community Redevelopment Plan (Redevelopment Plan EIR). The Station District Plan calls for high-density development around an Intermodal Station that will provide regional transportation connections. The planned Intermodal Station is focused around the existing Union City Bay Area Rapid Transit (BART) station and will include a passenger-rail station, that would accommodate Capital Corridor and possibly Dumbarton Rail and Altamont Commuter Express (ACE) trains. BART is currently undergoing a renovation to expand passenger capacity and to facilitate the creation of a two-sided station that will eventually connect the passenger-rail station to the BART station and connect both facilities to the Proposed Project area. A project to enhance transit, pedestrian, and bicycle circulation in and around the BART station was also recently completed.

The process to develop the Station District Plan was based on team participation that included several transit agencies, private citizens, City officials, and City staff. The team approach resulted in a land use plan and conceptual design solution that addressed the needs of the transit providers and the local community.

Purpose of the Environmental Impact Report

The City has prepared this EIR to provide the public, responsible agencies, and trustee agencies with information about the potential environmental effects of the Proposed Project. This EIR was prepared in compliance with the California Environmental Quality Act (CEQA) of 1970 (as amended) and the State CEQA Guidelines (14 California Code of Regulations [CCR] 15000 et seq.)

As described in the CEQA Guidelines, Section 15121(a), an environmental impact report (EIR) is a public information document that assesses potential environmental effects of a proposed project, as well as identifies mitigation measures and alternatives to the project that could reduce or avoid adverse environmental impacts (14 CCR 15121[a]). CEQA requires that state and local government agencies consider the environmental consequences of projects over which they have discretionary authority. This proposed mixed-use development project constitutes a “project” under CEQA. An EIR is an informational document used in the planning and decision-making process. It is not the purpose of an EIR to recommend either approval or denial of a project.

The procedures required by CEQA “...are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which would avoid or substantially lessen such significant effects.” (13 California Public Resources Code [PRC] 21002). As a general rule, CEQA policy states: “Public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” However, “...in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof” (13 PRC 21002). Stated differently, under CEQA, a lead agency must make certain determinations before it can approve or carry out a project if the EIR reveals that the project would result in one or more significant environmental impacts.

The lead agency must certify the final EIR. According to the CEQA Guidelines, “certification” consists of three separate steps. The agency’s decision-making body must conclude, first, that the document “...has been completed in compliance with CEQA;” second, that the body has reviewed and considered the information within the EIR prior to approving the project; and third, that “...the final EIR reflects the lead agency’s independent judgment and analysis.” (14 CCR 15090[a], 13 PRC 21082.1[c]).

Before approving a project for which a certified final EIR has identified significant environmental effects, the lead agency must make one or more of the following specific written findings for each of the identified significant impacts (14 CCR 15091[a]).

1. Changes or alternations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. Such changes or alternations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

If significant environmental effects remain following the adoption of all feasible mitigation measures or alternatives, the lead agency must adopt a “statement of overriding considerations” before it can proceed with the project. The statement of overriding consideration must be supported by substantial evidence in the record (14 CCR 15092-3).

These overriding considerations include the economic, legal, social, technological, or other benefits of the project. The lead agency must balance these potential benefits against the project’s unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a project outweigh the unavoidable adverse environmental effects, the lead agency may consider the adverse environmental impacts to be acceptable (14 CCR 15093[a]). These benefits should be set forth in the statement of overriding considerations, and may be based on the final EIR and/or other information in the record of proceedings (14 CCR 15093[b]).

Tiered EIR

Tiering is a method to streamline EIR preparation by allowing a Lead Agency to focus on the issues that are ripe for decision and exclude from consideration issues already decided or not yet ready for decisions (Guidelines secs. 15152; 15385). The concept of tiering anticipates a multi-tiered approach to preparing EIRs. The first-tier EIR covers general issues in a broader program-oriented analysis, including important program resource and mitigation commitments required to be implemented at the project-level. Subsequent tiers incorporate by reference the general discussions from the broader document, concentrating on the issues specific to the proposed action being evaluated. (CEQA Guidelines Section 15152.)

When an EIR has been prepared and certified for a program or plan consistent with CEQA’s tiering requirements, a Lead Agency for a later project pursuant to or consistent with the program or plan should limit the EIR on the later project to effects that were not examined as significant effects on the environment in the prior EIR. In those situations where a programmatic document does not specifically address and analyze the impacts and mitigation measures necessary for a project-level action, the project-level environmental review can be

streamlined by tiering from the program-level documents. Agencies are encouraged to tier their CEQA analysis to avoid repetition of issues and to focus on the issues for decision at each level of review. Subsequent CEQA compliance involves either the preparation of a focused EIR or Negative Declaration.

In the case of the Proposed Project, a program EIR was prepared and certified in 2002 for the Amendment to the City of Union City Community Redevelopment Plan (Jones & Stokes 2001a and 2002b). Chapter 3M of the Redevelopment Plan EIR analyzed the impacts of the Station District Plan, of which the mixed use development was a major component.

In addition, an EIR was prepared and certified for the City of Union City General Plan in 2001 (Jones & Stokes 2001b). The General Plan EIR analyzed the impacts associated with implementation of the policies contained in the City's General Plan that are intended to guide growth and development in the City.

For purposes of tiering, significant environmental effects have been "adequately addressed" in the first-tier document if the Lead Agency determines that the significant environmental effects:

- have been mitigated or avoided as a result of the prior EIR and findings adopted in connection with that prior EIR;
- have been examined at a sufficient level of detail in the prior EIR to enable those effects to be mitigated or avoided by site-specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project; or,
- cannot be mitigated to avoid or substantially lessen the significant impacts despite the project proponent's willingness to accept all feasible mitigation measures, and the only purpose of including analysis of such effects in another EIR would be to put the agency in a position to adopt a statement of overriding considerations with respect to the effects.

A project EIR is used when site-specific details are known and the project is ready to be implemented in the near future; therefore, it is considered the appropriate environmental document for the Proposed Project. The EIR will be used by the Lead Agency (the City) to evaluate the Proposed Project's environmental impacts; it can be further used to impact the Lead Agency's determination to modify, approve, or deny approval of the Proposed Project based on the analysis it provides.

Scope of the EIR

The requirement to prepare this Draft EIR arises from an application from Barry Swenson Builder (Applicant) to develop a portion of the Station District. This Draft EIR contains a description of the Proposed Project, a description of the environmental setting, discussions of Proposed Project impacts, discussions of measures to be implemented to mitigate impacts found to be significant, as well

as an analysis of Proposed Project alternatives. An initial study was prepared for the Proposed Project to determine whether an EIR would be required.

In accordance with State CEQA Guidelines (14 CCR 15082[a], 15103, 15375), the City circulated an Initial Study/Notice of Preparation (IS/NOP) of an EIR for the Proposed Project on April 21, 2008 (see Appendix A, Initial Study/Notice of Preparation). The IS/NOP, in which the City was identified as Lead Agency for the Proposed Project, was circulated to the public; to local, state, and federal agencies; and to other interested parties. The purpose of the IS/NOP was to inform responsible agencies and the public that the Proposed Project could have significant effects on the environment and to solicit their comments. Concerns raised in response to the IS/NOP were considered during preparation of this Draft EIR (see Appendix B, Scoping Comment Letters).

The Initial Study identified areas in which the Proposed Project could have significant or potentially significant impacts. These areas are analyzed in this Draft EIR. Areas in which the Proposed Project was found to have no impacts are not analyzed in this document.

This Draft EIR evaluates the potential impacts of the Proposed Project in relation to the following environmental topical areas:

- Aesthetics;
- Air Quality;
- Biological Resources;
- Climate Change;
- Cultural Resources;
- Geology, Seismicity, and Soils;
- Hazards and Hazardous Materials;
- Hydrology and Water Quality;
- Land Use;
- Noise;
- Population and Housing;
- Public Services, Utilities, and Recreation; and,
- Transportation and Circulation.

This Draft EIR also analyzes the following:

- Growth-inducement;
- Significant Unavoidable Impacts;
- Irreversible and Irretrievable Commitment of Resources;
- Cumulative Impacts; and,

- Alternatives to the Proposed Project.

The Initial Study did not identify any potential impacts related to agricultural resources or mineral resources. Therefore, this Draft EIR does not evaluate the potential for impacts related to those topical areas.

Public Review

This Draft EIR will be circulated to local, state, and federal agencies and to interested organizations and individuals who may wish to review and comment on the report. Its publication marks the beginning of a 45-day public review period. Written comments or questions concerning this Draft EIR should be addressed to the contact information below. Submittal of written comments via e-mail would be greatly appreciated.

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All documents mentioned herein or related to this project can be reviewed any City of Union City business day between the hours of 8:00 A.M. and 6:00 P.M. Monday through Thursday and 8:00 A.M. and 5:00 P.M. every other Friday (alternate Fridays the City offices are closed) at the Union City Economic and Community Development Department, located at the following address:

34009 Alvarado-Niles Road
Union City, CA 94587-4497

Final EIR and EIR Certification

Written and oral comments received in response to the Draft EIR will be addressed in a Response to Comments document, which, together with the Draft EIR, will constitute the Final EIR. After review of the Proposed Project and the Draft EIR, City staff will recommend to the Union City City Council whether to approve or deny the project. This governing body will then review the project, the Final EIR, staff recommendations, and public testimony and decide whether to certify the EIR and whether to approve or deny the project.

If the City Council or other agency approves the Proposed Project in spite of significant impacts identified by the EIR that cannot be mitigated, the Council or other agency must state in writing the reasons for its actions. A Statement of Overriding Considerations must be included in the record of the project approval and mentioned in the Notice of Determination (14 CCR 15093[c]).

Mitigation Monitoring and Reporting

CEQA requires lead agencies to “...adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment” (13 PRC 21002). Throughout the EIR, mitigation measures have been clearly identified and presented in language that would facilitate establishment of a monitoring and reporting program. Any mitigation measures adopted by the City as conditions for approval of the project would be included in a monitoring and reporting program to verify compliance. A draft of the mitigation monitoring and reporting program for the Proposed Project would be included with the final EIR for this project.

Terminology Used in this EIR

This Draft EIR uses the following terminology to describe environmental effects of the Proposed Project.

- **Significance Criteria:** A set of criteria used by the lead agency to determine at what level or “threshold” an impact would be considered significant. Significance criteria used in this EIR include some that are set forth in the CEQA Guidelines (or can be discerned from the CEQA Guidelines); criteria based on factual or scientific information; criteria based on regulatory standards of local, state, and federal agencies; and criteria based on goals and policies identified in the general and specific plans of the City.
- **Beneficial Impact:** A project impact is considered beneficial if it would result in the improvement of an existing physical condition in the environment (no mitigation required).
- **No Impact:** A no impact response is provided if, based on the current environmental setting, the stated impact simply does not apply in the context of the Proposed Project.
- **Less-Than-Significant Impact:** A project impact is considered less than significant when it does not reach the standard of significance and would therefore cause no substantial change in the environment (no mitigation required).
- **Potentially Significant Impact:** A potentially significant impact is an environmental effect that may cause a substantial adverse change in the environment; however, additional information is needed regarding the extent of the impact to make the determination of significance. For CEQA purposes, a potentially significant impact is treated as if it were a significant impact.
- **Significant Impact:** A project impact is considered significant if it results in a substantial adverse change in the physical conditions of the environment. Significant impacts are identified by the evaluation of project effects in the context of specified significance criteria. Mitigation measures and/or project alternatives are identified to reduce these effects to the environment.

- **Significant Unavoidable Impact:** A project impact is considered significant and unavoidable if it would result in a substantial adverse change in the environment that cannot be avoided or mitigated to a less-than-significant level if the project is implemented.
- **Cumulative Significant Impact:** A cumulative impact can result when a change in the environment results from the incremental impact of a project when added to other related past, present, or reasonably foreseeable future projects. Significant cumulative impacts may result from individually minor but collectively significant projects.

The EIR also identifies particular mitigation measures that are intended to lessen project impacts. The CEQA Guidelines (14 CCR 15370) define mitigation as:

- (a) avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- (c) rectifying the impact by repairing, rehabilitating, or restoring the impacted environment;
- (d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and
- (e) compensating for the impact by replacing or providing substitute resources or environments.

EIR Organization

This Draft EIR is organized into seven chapters as discussed below.

Executive Summary. A summary of the project description, a description of issues of concern, project alternatives, and a summary of environmental impacts are provided in this chapter.

Chapter 1.0, Introduction. Chapter 1.0 describes the project background, purpose and organization of the EIR and its preparation, review, and certification process.

Chapter 2.0, Project Description. Chapter 2.0 describes the project background, outlines project objectives, and summarizes components of the Proposed Project.

Chapter 3.0, Environmental Analysis. Chapter 3.0 introduces the section that includes thirteen subsections (3.1–3.13). Each subsection addresses a specific resource area (e.g., biological resources, air quality, noise, etc.). Each describes the existing environmental setting as it relates to that topic, discusses environmental impacts associated with project construction and operation that relate to that topic, and identifies mitigation measures for each significant (or potentially significant) impact.

Chapter 4.0, Other CEQA Considerations. Chapter 4.0 discusses several issues for which CEQA requires analysis, including cumulative impacts, significant irreversible changes, and the potential for the Proposed Project to induce urban growth and development.

Chapter 5.0, Alternatives. Chapter 5.0 describes alternatives to the Proposed Project. The alternatives are analyzed at a restricted level of detail relative to the Proposed Project, and are presented in order to identify options that could mitigate environmental impacts.

Chapter 6.0, List of Preparers and Consultants. Chapter 6.0 provides the names of the EIR authors and consultants, and the agencies or individuals consulted during preparation of the EIR.

Chapter 7.0, References Cited. Chapter 7.0 provides a list of printed references and persons consulted during the preparation of this EIR.

Appendices. The appendices consist of the Initial Study/Notice of Preparation (IS/NOP), comments received during the 30-day IS/NOP review period, project plans and technical background reports and data related to the subsections of Chapter 3.0.

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