



## City of Alameda • California

### Use of the Previously Certified Environmental Impact Report for Harbor Bay Isle

Pursuant to CEQA Guidelines Section 15162, there have been no significant changes in circumstances that require revisions to the previously certified Environmental Impact Report. The proposed project is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The proposed project does not raise important new issues about the significant impacts of the environment beyond those previously analyzed in the certified Environmental Impact Report. Therefore, the City of Alameda can take action on the project as being within the scope of the certified Environmental Impact Report.

#### PROJECT DESCRIPTION AND LOCATION

**PLN16-0165 - Westmont of Harbor Bay Assisted Living. Applicant: Chris Garwood for Pacific Union Land Investors LLC.** Amendment to Development Plan PLN15-0092 (Esplanade site) to allow construction of an approximately 105,500-square-foot, two-story senior assisted living facility on an approximately 5.5 acre site located at 2900 Harbor Bay Parkway. The site is located within a CM-PD Commercial Manufacturing Planned Development Zoning District in the Harbor Bay Business Park.

County Assessor's Parcel Number 074-1362-049-03

The 1981 Harbor Bay Business Park Planned Development was evaluated previously in an Environmental Impact Report prepared by A. D. Little and certified by the City Council on March 5, 1977. A subsequent Addendum to the Environmental Impact Report was approved on April 4, 1989. The environmental impacts of this project were addressed by the Final Environmental Impact Report and the Addendum to the Final Environmental Impact Report. Specifically, the following impacts were reviewed and found to be adequately considered by the FEIR:

- Aesthetics
- Air Quality
- Geology & Soils
- Energy
- Hydrology & Water Quality
- Noise
- Population & Housing
- Public Services
- Biological Resources
- Traffic

## ANALYSIS:

In 2008, the City of Alameda Planning Board determined that the original Esplanade Project was consistent with the original Harbor Bay Business Park Planned Development Plan, which was evaluated previously in an Environmental Impact Report prepared by A. D. Little. In 2008, the Planning Board found that under Section 15162 of the CEQA Guidelines, no additional environmental review was required for the application. Staff is able to make the same recommended findings based upon the following evidence on the record:

The project site has no value as habitat for endangered, rare or threatened species. The Harbor Bay Isle Environmental Impact report analyzed the impacts of Harbor Bay development on wildlife, migratory birds and jackrabbits. The biological survey for the proposed assisted living facility concludes that the proposal does not substantially change the determination of the previously certified Environmental Impact Report. The area of the proposed development is currently a vacant 5.5 acre project site. The vacant site has no habitat value for any endangered, rare, or threatened wildlife species. A burrowing owl and other raptors, snowy plover, California least tern, and passerine nesting bird survey was conducted by Monk & Associates Environmental Consultants at the project site on May 4, 2016, and no evidence of the presence of these species were observed on or within a zone of influence of the site (Exhibit 4). A condition of approval will also require an additional survey be conducted 14 days prior to construction.

During the survey, four black-tailed jackrabbits were observed on the project site. No young were present on the site at the time of the survey and no burrows or rabbit dens were detected. The black-tailed jackrabbit is not a protected species in California as they are quite common in ruderal areas, grasslands, and crop fields. The back-tailed jackrabbit's highly adaptable nature to anthropogenic communities and highly disturbed areas make them a robust species and they successfully relocate to nearby open spaces when necessary.

Approval of the project would not result in any substantial changes in the environmental determination in regards to traffic, noise, and air navigation. The previously certified Harbor Bay Isle Environmental Impact Report analyzed the impacts of the Harbor Bay development on traffic, noise, and air navigation. The traffic analysis, noise analysis, and Airport Land Use Commission analysis conclude that the proposed assisted living facility will not substantially change the determinations of the previously certified Environmental Impact Report. The proposed project will not result in any significant traffic, noise, air quality or water quality impacts because the project is a less intensive use than the previously approved office building use. A traffic and parking analysis conducted by TJKM traffic consultants shows that the new senior care facility proposal generates considerably fewer trips on a daily basis and especially both of the a.m. and p.m. peak hours as compared with the original office complex. Moreover, the project meets the required parking ratio of one parking space per three beds, and therefore represents no substantial change in the project traffic generation and parking demand from the previous approval. The project also received an approval letter from the

Alameda County Airport Land Use Commission in regards to compliance with the safety, noise, and height development requirement of the adjacent Oakland Airport. The Noise analysis conducted by AGD Acoustics determined that the project can meet city, state, and county requirements in regards to noise levels through the implementation of standard CNEL building requirements.

Andrew Thomas,  
Assistant Director of Community Development

June 22, 2016

Exhibits:

1. Biological Survey
2. Traffic Analysis
3. Noise Analysis
4. Airport Analysis

May 6, 2016

Pacific Union Land Company  
675 Hartz Avenue, Suite 300  
Danville, California 94526

Attention: Mr. Christopher Garwood

**RE: Preconstruction Surveys for Nesting Birds, including Western Snowy Plover,  
California Least Tern, Western Burrowing Owl, and other Raptors  
Westmont Harbor Bay Project, Alameda, California**

Dear Mr. Garwood:

## **1. INTRODUCTION**

This letter- report has been prepared to present the results of Monk & Associates' (M&A) nesting bird survey. The survey was completed for all nesting birds including passerines (small perching birds), western snowy plover (*Charadrius alexandrinus nivosus*), California least tern (*Sterna antillarum brownii*), western burrowing owls (*Athene cunicularia hypugaea*) and other raptors (birds of prey) on the proposed Westmont Harbor Bay project site (herein referred to as the project site) in Alameda, California (Figures 1, 2 and 3). California Natural Diversity Database (CNDDB) records for the western snowy plover and the California least tern occur within a two-mile radius of the project site. Surveys for these federally listed species were therefore necessary to confirm their presence or absence on the project site. In this report we discuss the legal status of nesting birds/raptors, our field survey methods, the results of our nesting bird surveys, and our recommendations.

## **2. PROJECT SITE DESCRIPTION**

The 5.4-acre project site is located at Adelphian Way, Alameda, California (Figures 1 and 2). The project site is a vacant, ruderal (weedy) field that parallels the Bay Farm Islands Shoreline Trail and the Alameda Harbor.

Immediately to the north of the project site is the Alameda Ferry Terminal with an associated paved parking lot. To the east of the project site are high-density, single-family homes and multi-family apartments which are separated from the project site by Adelphian Way and a man-made lagoon. To the west of the project site is the Bay Farm Shoreline trail that parallels Alameda Harbor. To the south of the project site is a commercial business park with an associated paved parking lot. Figure 3 shows this property as a ruderal field, similar to the project site; however, since the time that aerial photograph was taken, construction of a second building in the commercial business park was underway.

Ruderal vegetation is present throughout the project site, and includes perennial pepperweed (*Lepidium latifolium*), black mustard (*Brassica nigra*), slender wild oat (*Avena barbata*), scarlet pimpernel (*Lysimachia arvensis*), and winter vetch (*Vicia villosa*). At the time of M&A's May survey this vegetation was approximately two feet tall.

### **3. PROPOSED PROJECT**

The applicant proposes to build an assisted living and memory care facility for seniors on the 5.4- acre project site.

### **4. LEGAL PROTECTION FOR NESTING BIRDS**

#### **4.1 Federal Migratory Bird Treaty Act**

The Migratory Bird Treaty Act of 1918 (16 U.S.C. §§ 703-712, July 3, 1918, as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986 and 1989) makes it unlawful to “take” (kill, harm, harass, shoot, etc.) any migratory bird listed in Title 50 of the Code of Federal Regulations, Section 10.13, including their nests, eggs, or young. Migratory birds include geese, ducks, shorebirds, raptors, songbirds, wading birds, seabirds, and passerine birds (such as warblers, flycatchers, swallows, etc.).

#### **4.2 California Fish and Game Code § 3503, 3503.5, 3511, and 3513**

California Fish and Game Code §3503, 3503.5, 3511, and 3513 prohibit the “take, possession, or destruction of birds, their nests or eggs.” Disturbance that causes nest abandonment and/or loss of reproductive effort (killing or abandonment of eggs or young) is considered “take.” Such a take would also violate federal law protecting migratory birds (Migratory Bird Treaty Act).

#### **4.3 Legal Protection for Western Burrowing Owl**

Western burrowing owls are classified in the State of California as a “species of special concern.” This designation provides protection for these species pursuant to the California Environmental Quality Act (CEQA). Burrowing owls are also protected under the federal Migratory Bird Treaty Act (16 U.S.C. 703-711 and 50 CFR 10.13), and their nests, eggs, and/or young are protected by California Fish and Game Code §3505, §3503.5, and §3800. The Migratory Bird Treaty Act as amended makes it unlawful to kill, harm, or harass any migratory bird listed in Title 50 of the Code of Federal Regulations, Section 10.13, including their nests, eggs, or young.

#### **4.4 Legal Protection for Western Snowy Plover**

The western snowy plover is a federally listed threatened species (March 5, 1993) and a California species of special concern (1978). The Pacific coast populations of the western snowy plover breed primarily on coastal beaches from southern Washington to southern Baja California, Mexico. Sand spits, dune-backed beaches, unvegetated strands, open area around estuaries and beaches at river mouths are the preferred coastal habitats for nesting (USFWS 1993)<sup>1</sup>. Snowy plovers breed in loose colonies with the number of adults at coastal breeding sites ranging from 2 to 318. On the Pacific coast, larger concentrations of breeding birds occur in the south than in the north, suggesting that the center of the plovers’ coastal distribution lies closer to

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<sup>1</sup> USFWS (U.S. Fish & Wildlife Service). 1993. Endangered and threatened wildlife and plants; determination of threatened status for the Pacific Coast population of the western snowy plover. Federal register, Vol. 58, No. 42. pps. 12864-12874.

the southern boundary of California (USFWS 1993)<sup>1</sup>. The breeding season extends from early March to late-September. In winter, snowy plovers are found on many of the beaches used for nesting but also on beaches not used for nesting. They also visit manmade salt ponds and estuarine sand and mud flats (USFWS 1999)<sup>2</sup>. The wintering season generally extends roughly from October to February but often overlaps the nesting season with birds arriving on wintering areas as early as midsummer. The closest known CNDDDB record for the western snowy plover was recorded in 1974 when one adult and one chick were observed approximately 0.2-mile north of the project site (CNDDDB Occurrence No. 90). There are no records for western snowy plover on the project site.

#### **4.5 Legal Protection for California Least Tern**

The California least tern was federally listed as endangered in its entire range on June 2, 1970 (Federal Register 35: 16047). Critical habitat has not been designated for this species. It is also a state listed endangered species. The California least tern is a small gray and white seabird with long, narrow, black-tipped wings and a black cap. It is the smallest of the North American terns. Typically, these terns forage in shallow estuaries and lagoons, diving head first into the water after a wide variety of small fish. Today, the breeding range of these terns is limited to San Francisco Bay and a few areas along the coast from San Luis Obispo County to San Diego County. It nests on coastal, sandy, open areas usually around bays, estuaries, and creek and river mouths. Nests are scrapes or depressions in the sand that the birds often adorn with small fragments of shell or pebbles; a typical clutch size is 2 eggs. The California least tern nests in colonies of approximately 25 pairs. The California least tern is a migratory species, it arrives in California by late April and departs by August. During the winter months, they head south to the Pacific coast of Central America (Zeiner et al. 1990<sup>3</sup>, Shuford 1993<sup>4</sup>). The closest known CNDDDB record for the California least tern was recorded in 1969, when a large colony of individuals was observed nesting on large, sandy flats approximately 0.5-mile northeast of the project site (CNDDDB Occurrence No. 2). There are no records for California least tern on the project site.

### **5. SURVEY METHODS**

On May 4, 2016, M&A biologist Ms. Caitlyn Bishop conducted a western burrowing owl and other raptor, snowy plover, California least tern, and passerine (perching bird) nesting bird survey on the project site and within a zone of influence. Survey methods for nesting passerine

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USFWS (U.S. Fish & Wildlife Service). 1999. Endangered and threatened wildlife and plants; designation of critical habitat for the Pacific Coast population of the western snowy plover; final rule. Federal register, Vol. 64, No. 234. pps. 68507-68544.

<sup>3</sup> Zeiner, D.C., W.F. Laudenslayer, Jr., K.E. Mayer, and M. White. 1990a. California's wildlife, volume II, birds. State of California, the Resources Agency, Department of Fish and Game, Sacramento, California.

<sup>4</sup> Shuford, W.D. 1993. The Marin County breeding bird atlas: A distributional and natural history of coastal California birds. California Avifauna Series 1. Bushtit Books, Bolinas, California.

birds included examining all trees and bushes on and adjacent to the project site for active nests. Survey methods for western snowy plovers and California least terns included scanning the project site with a high-powered Nikon scope for nesting individuals on the ground before walking meandering transects throughout the site to look for direct and indirect evidence of plover and tern presence. Survey methods for western burrowing owls included scanning the project site with binoculars ahead of walking meandering transects throughout the site to look for direct and indirect evidence of burrowing owl presence. Any California ground squirrel (*Otospermophilus beecheyi*) burrow encountered on these transects was inspected for evidence of use by a western burrowing owl. Evidence of occupation includes a visual sighting of this owl species or the presence of its molt feathers, white wash, pellets, or prey remains. High-powered binoculars and the spotting scope were also used to scan ahead and look for burrowing owls that may be perched near a burrow or on top of a fence or earthen mound.

The survey also included examinations for direct and indirect evidence of raptor nesting. Indirect evidence includes the presence of fresh white-wash (i.e., excrement) in a tree or on the ground below a nest, adult molt feathers, down or feathers from young and/or adults located in relatively high concentrations in the vicinity of a nest, and evidence of kills (i.e., plucking posts and solitary kills) or pellet piles may indicate use of a tree or locality by nesting raptors.

Finally, when raptors or passerine birds were observed, their behavior was interpreted to determine if they might be nesting in the vicinity of the project site. Behaviors that would indicate nesting in the vicinity would include any exhibit of defensive behavior, territorial behavior, or other behavior indicating that a nesting bird was unusually interested in our presence in the area. Other observations that would likely indicate nesting would include observation of adult birds carrying food to the nest, adults exchanging food, or adults feeding young that had recently fledged from the nest.

## 6. SURVEY RESULTS

No western burrowing owls, snowy plovers, California least terns or any other active bird nests were observed on or within a zone of influence of the project site during the May 4, 2016 survey. Bird species observed during surveys included black phoebe (*Sayornis nigricans*), mourning dove (*Zenaida macroura*), northern mockingbird (*Mimus polyglottos*), house finch (*Carpodacus mexicanus*), American crow (*Corvus brachyrhynchos*), California towhee (*Pipilo crissalis*), chestnut-backed chickadee (*Poecile rufescens*), Anna's hummingbird (*Calypte anna*), and snowy egret (*Egretta thula*). No defensive behavior was exhibited by any bird observed that would indicate it was being protective over a nesting attempt or young.

During the survey, four black-tailed jackrabbits (*Lepus californicus*) were observed on the project site. No young were present on the site at the time of the survey and no burrows or rabbit dens were detected. These rabbits were observed foraging and roaming the project site's open field. The black-tailed jackrabbit is not a protected species in California as they are quite common in ruderal areas, grasslands, and crop fields. In fact, black-tailed jackrabbits are

considered “harvest species” in the California Code of Regulations<sup>5</sup>. Harvest species are defined by the California Fish and Game Code as animals that can be hunted or “taken” for personal use with no limit with a hunting or fishing license. The black-tailed jackrabbit’s highly adaptable nature to anthropogenic communities and highly disturbed areas make them a robust species and they successfully relocate to nearby open spaces when necessary. The lawn associated with the residential homes that occur directly east of the project site and Shoreline Park that occurs approximately 0.1 mile north of the project site may provide suitable habitat for jackrabbits once construction on the project site commences.

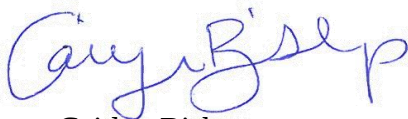
According to the University of California Agricultural and Natural Resources Statewide Integrated Pest Management Program<sup>6</sup>, black tailed jackrabbits have been found to be detrimental to gardens and landscaped areas, and cause damage including chewing through irrigation lines. Wild, fallow habitats, such as those found on the project site provide suitable cover for rabbits during the day. At dawn and dusk, jackrabbits have been known to travel typically between 1 and 2 miles to feed on herbaceous vegetation commonly found in private gardens and open, landscaped areas, such as those found in the vicinity of the project site. Therefore, no mitigation is warranted for impacts to black-tailed jackrabbits on the project site.

## 7. CONCLUSIONS AND RECOMMENDATIONS

No nesting birds were found on the project site or within a zone of influence during M&A’s nesting bird survey conducted on May 4, 2016. M&A believes that no considerations for nesting birds/raptors, western burrowing owls, western snowy plovers, or California least terns are warranted for commencement of construction on the project site provided construction commences within the next 14 days. If construction is postponed greater than 14 days it would be necessary for a follow up nesting survey to ensure that no nesting activity has commenced on the project site.

Should you have any questions, or wish to discuss any other aspect of this survey or report, please do not hesitate to call me at (925) 947-4867 extension 208.

Sincerely,



Caitlyn Bishop  
Staff Biologist

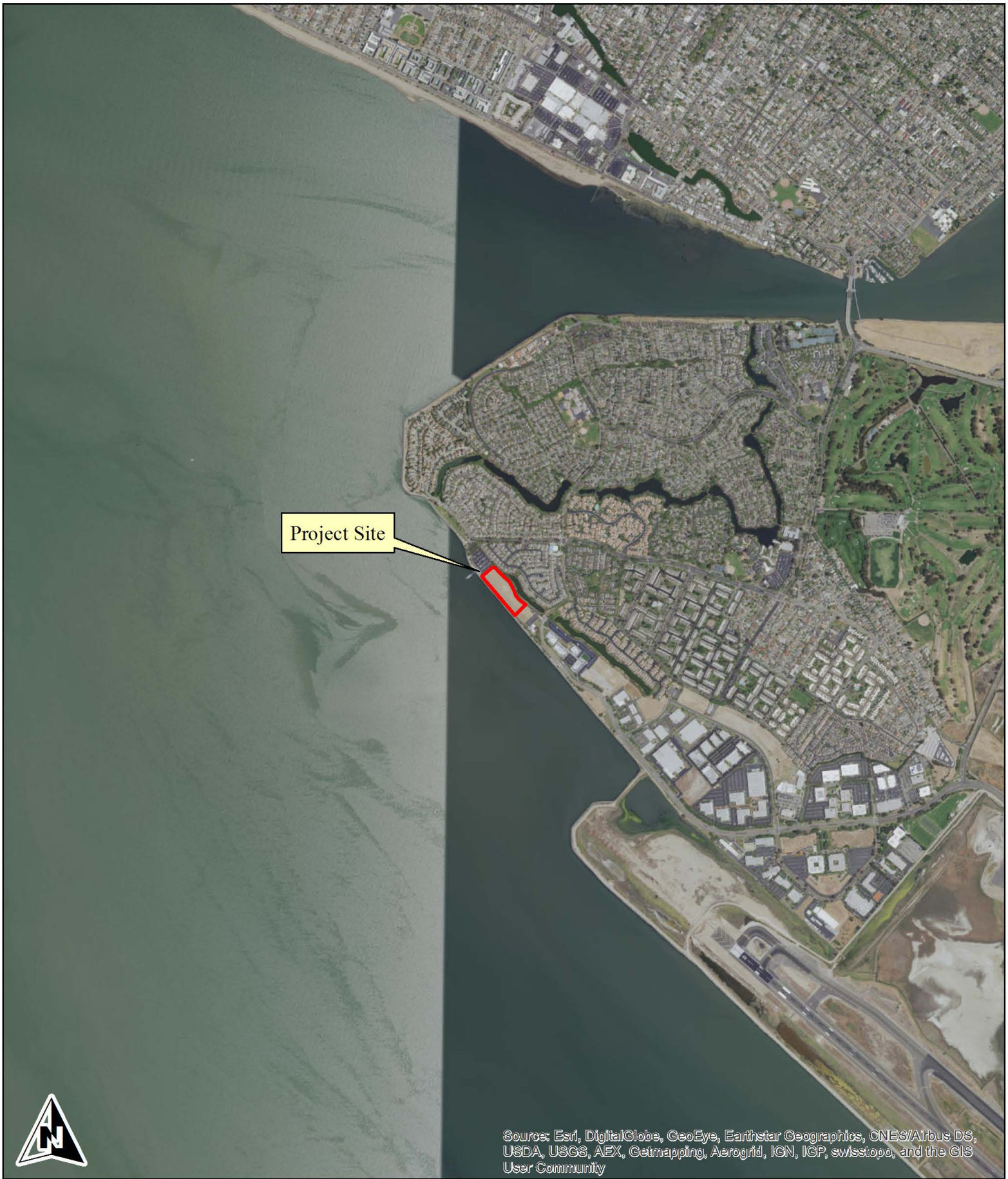
Attachments: Figures 1-3

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<sup>5</sup> Harvest species are defined as Game Birds (Fish and Game Code § 3500), Game Mammals (Fish and Game Code § 3950), and Fur-bearing Mammals and Nongame Animals as designated in the [California Code of Regulations. Definition taken from the CDFW’s Complete List of Amphibian, Reptile, Bird and Mammal Species in California. July 2014.](#)

<sup>6</sup> University of California Agricultural and Natural Resources Statewide Integrated Pest Management Program <http://www.ipm.ucdavis.edu/PMG/PESTNOTES/pn7447.html>

County: Alameda  
Map Preparation Date: March 4, 2016



Project Site



Monk & Associates  
Environmental Consultants  
1136 Saranap Avenue, Suite Q  
Walnut Creek, California 94595  
(925) 947-4867

0 0.1 0.2 0.4 0.6 0.8 1 Miles

Figure 2. Adelphian Way Project Site  
Location Map  
Alameda, California

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS,  
USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS  
User Community

Section: 25;T2S R3W  
37°44'9.13"N 122°15'9.48"W  
7.5-Minute Hunters Point quadrangle  
Aerial Photograph Source: ESRI  
Map Preparation Date: March 4, 2016



Project Site

Adelphian Way



Monk & Associates  
Environmental Consultants  
1136 Saranap Avenue, Suite Q  
Walnut Creek, California 94595  
(925) 947-4867

Sources: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS,  
USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS  
User Community

0 25 50 100 150 200 250 Feet

Figure 3. Aerial Photograph of the  
Adelphian Way Project Site  
Alameda, California

Section: 25;T2S R3W  
37°44'9.13"N 122°15'9.48"W  
7.5-Minute Hunters Point quadrangle  
Aerial Photograph Source: ESRI  
Map Preparation Date: March 4, 2016



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May 6, 2016

Mr. Christopher Garwood  
Vice President of Community and Multi Family Development  
Pacific Union Land Company  
675 Hartz Avenue, Suite 300  
Danville, CA 94526

**Subject: Comparative Traffic and Parking Analysis for Esplanade Senior Living, Alameda**

Dear Mr. Garwood:

At your request, TJKM has conducted a traffic and parking generation study for the proposed Esplanade Senior Living development to be located on Adelphian Way in the City of Alameda. We have determined the trip generation for the proposed site and compared it with other uses that might be developed on the site and analyzed the parking needs.

**Traffic Generation**

Esplanade Senior Living consists of 87 Assisted Living Suites with 97 beds and a 30-bed Memory Care facility. A 67,000 square foot office complex was previously approved for the site and is compared with the current proposal. Using the Institute of Transportation Engineers (ITE) trip rates from *Trip Generation Manual, 9<sup>th</sup> Edition*, TJKM calculated the rates shown in the Table below.

**Comparative Trip Rates**

| Land Use & ITE Land Use Code<br>And Number of Units | Daily        |            | A.M. Peak Hour |            | P.M. Peak Hour |            |
|-----------------------------------------------------|--------------|------------|----------------|------------|----------------|------------|
|                                                     | Rates        | Trips      | Rates          | Trips      | Rates          | Trips      |
| Assisted Living (ITE 254) 97 beds                   | 2.66         | 258        | 0.12           | 12         | 0.22           | 22         |
| Memory Care (ITE 253) 30 beds                       | 2.02         | 60         | 0.06           | 2          | 0.17           | 5          |
| <b>Total Proposed Esplanade Senior Living</b>       |              | <b>318</b> |                | <b>14</b>  |                | <b>27</b>  |
|                                                     |              |            |                |            |                |            |
| <b>Offices (ITE 710) 67,000 square feet</b>         | <b>11.03</b> | <b>739</b> | <b>1.56</b>    | <b>105</b> | <b>1.49</b>    | <b>100</b> |
|                                                     |              |            |                |            |                |            |

It can be seen that the current Esplanade Senior Living proposal generates considerably fewer trips on a daily basis and especially during both of the a.m. and p.m. peak hours as compared with the previously approved 67,000 square foot office complex.

Based on experience at other locations most of the Esplanade trips, especially in the peak periods, will be for employee travel. Employee shift breaks are typically not conducted during

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DBE #40772 ♦ SBE #38780



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the peak hours, as is demonstrated by the fairly low peak hour trip rates for other sites around the country reported by ITE in the *Trip Generation Manual*.

### **Parking**

The facility proposes to supply 60 parking stalls for the site. An additional five stalls are provided for park uses. Section 30-7.6 of the City of Alameda Municipal Code requires one stall for every three beds. The site has a total of 127 beds; the resulting requirement is 43 parking stalls.

In addition, TJKM reviewed the document *Parking Generation, 4<sup>th</sup> Edition*, also published by ITE. That document shows that the average parking demand for assisted living facilities is 0.41 stalls per dwelling unit. If that ratio were applied to the 87 assisted living suites and 30 memory care beds, the parking demand would be  $117 \times 0.41 = 48$  stalls, somewhat similar to the City's requirement of 43 stalls but still fewer than the 60 stalls to be provided.

### **Conclusions**

It can be seen that traffic generated by the proposed site will be about one-half of the traffic generated by the previously approved office development on a daily basis, and will only produce a fraction of the peak hour traffic that would come from an office. The proposed parking fits within City requirements and also will satisfy the parking demand observed at similar facilities elsewhere in the nation.

Please advise if there are any questions on this matter.

Very truly yours,

Chris D. Kinzel, P.E.  
Vice President

10 May 2016

Christopher Garwood  
Pacific Union Homes  
675 Hartz Avenue, Suite 300  
Danville, CA 94526

Subject: Summary of Acoustical Criteria  
Project: Westmont of Harbor Bay  
RGDL #: 15-042

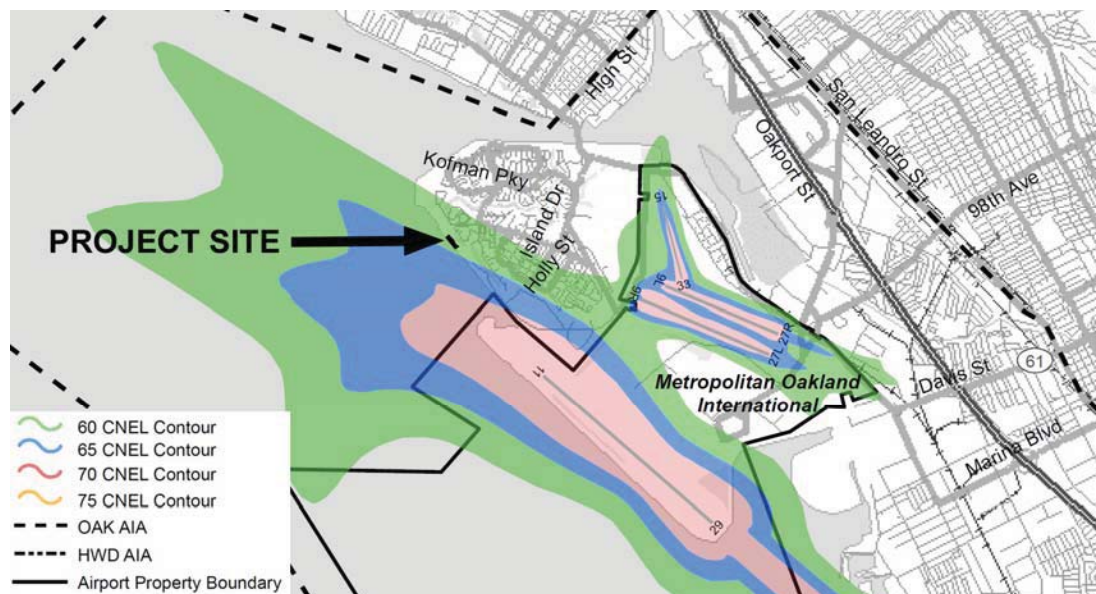
Dear Chris:

At your request we have reviewed the project in light of the noise standards promulgated by the City of Alameda, the Alameda County Airport Land Use Commission (ALUC) and State of California. This letter summarizes our findings.

#### City of Alameda - General Plan

Implementing policy 8.7.f requires new dwellings to limit intruding noise to 45 dB CNEL in habitable rooms. In new dwellings subject to a noise easement, noise is not to exceed 40 dB CNEL. If this requirement is met by closed window than mechanical ventilation must be provided.

Implementing Policy 8.7.g is to minimize impact of aircraft by requiring that noise levels caused by single events be controlled to 50 dBA in bedrooms and 55 dBA in living areas within the 60 dB contour. The project site is within the 60 dBA contour as shown in the following figure which is a reproduction of Figure 3-3 of the 2010 Oakland International Airport Land Use Compatibility Plan



Alameda County – Oakland International Airport Land Use Compatibility (ALUC) Plan

*Indoor Use:* Section 3.3.1.6 addresses interior noise levels. Compatibility Policy 3.3.1.5a states that the maximum CNEL considered acceptable for new residential uses in the vicinity of OAK is anything less than 65 CNEL contour as shown in Figure 3.3.

Compatibility Policy 3.3.1.6 states that the maximum aircraft related interior noise level which shall be considered acceptable for land uses within the AIA (airport influence area...and yes, this project is within the AIA), is 45 dB CNEL. This is the same as the least restrictive requirement of the City.

*Outdoor Use:* Table 3-1 of the Plan says a CNEL of 60-65 is “conditional” meaning outdoor use is acceptable though some noise interference may occur; caution should be exercised with regard to noise sensitive uses.

State of California - Building Code

According to Section 1207.4, interior noise levels attributable to exterior sources shall not exceed 45 dB in any habitable room. The noise metric shall be either the day-night average sound level ( $L_{dn}$ ) or the community noise equivalent level (CNEL), consistent with the noise element of the local general plan state.

Summary of Criteria

*Indoor noise*

- CNEL 45 dBA inside new dwelling units (City, County and State)
- CNEL 40 dBA inside new dwelling units if noise easement exists (City)
- $L_{max}$  55 dBA in living areas (City)
- $L_{max}$  50 dBA in bedrooms (City)

*Outdoor noise*

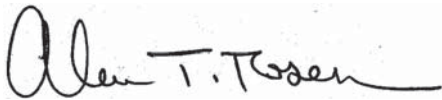
- CNEL of 60 – 65 dBA is conditional meaning outdoor use is acceptable though some interference may occur. (County)

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\*

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Sincerely,



Alan Rosen  
Principal  
RGD Acoustics, Inc.

May 16, 2016

Christopher Garwood  
Vice President of Community & Multi Family Development  
**Pacific Union Land Company Inc.**  
675 Hartz Avenue, Suite 300  
Danville, CA 94526

**SUBJ: Senior Care Facility, Harbor Bay Business Park, Alameda  
APN# 074-1362-049-03 (portion)**

Dear Mr. Garwood,

Thank you for the opportunity to review the materials you submitted regarding new construction of a 2-story Senior Care Facility. I have completed an Administrative Review of the materials provided and have the following comments for your consideration as this project moves through the approval process.

### **Airport Land Use Compatibility**

The Alameda County Airport Land Use Commission (ALUC) has adopted an updated Airport Land Use Compatibility Plan (ALUCP) for all three public use airports in Alameda County (the Oakland International Airport 2010, Hayward Executive Airport 2012, and Livermore Municipal Airport 2012). These documents and other reference material can be accessed online at this location:  
<http://www.acgov.org/cda/planning/generalplans/airportlandplans.htm>

The project site is located within the Airport Influence Area (AIA) for the Oakland International Airport, the nearest airport to the project location, and in other zones as noted below. This review consists of an evaluation of the Project with regard to the four Airport Compatibility Planning Factors: Noise, Safety, Airspace Protection, and Overflight.

### **Noise**

Noise compatibility policies are established in order to prevent the development of noise-sensitive land uses in portions of the airport environ that are exposed to significant levels of aircraft noise. The project site is located within the 60 dB CNEL noise contour. Please refer to Table 3-1 - *Noise Compatibility Criteria* in the Oakland Airport ALUCP, and Section 3.3.1.6 of the ALUCP which establishes Interior Noise Levels for various land uses. **Section 3.3.1.6 defines the maximum aircraft-related interior noise level considered acceptable for Senior Care Facilities projects to be 45 dB CNEL. Table 3-1 indicates this type of land use is "Conditional", upon meeting sound attenuation standards as described in Table 3-1.**

➔ It is the responsibility of the applicant to comply with this requirement, or notify ALUC staff as soon as possible if this will be an issue.

## Safety

Land use safety compatibility criteria are developed to minimize the risks to people and property on the ground, as well as those people in an aircraft in the event of an accident or emergency landing occurring outside the airport boundary.

This project is located wholly within Safety Zone 6 - the Traffic Pattern Zone. Table 2-3 – *Basic Compatibility Criteria and Supporting Information* defines in general terms allowable and non-allowable land uses within the Safety Zones. Most importantly, this table describes in general terms, the likelihood of accident occurrence within each Safety Zone. ***The Basic Compatibility guidance recommends 'Avoiding' "children's schools, large day care centers, hospitals, nursing homes" in Safety Zone 6.*** The reasoning for this is that although there is a "generally low likelihood of accident occurrence at most airports, the risk concern primarily is with uses for which potential consequences are severe." Section 3.3.2.8 - *Land Uses of Particular Concern* defines this further:

"Land uses which pose the greatest concern are those in which the occupants have reduced effective mobility or are unable to respond in emergency situations. Children's schools, day care centers, hospitals, nursing homes, and other uses in which the majority of occupants are children, the elderly, and/or handicapped..."

Table 3-2 – *Safety Compatibility Criteria* is a detailed table that represents specific land use types for all seven Safety Zones within the AIA for the Oakland Airport. This project falls under the category of Congregate Care Facilities, and is a compatible land use in this zone.

➔ However, because it is a land use of particular concern as described above, we strongly recommend consideration of building design features that could improve survivability of residents in the event of an aircraft accident, i.e., more emergency exits, fewer windows, single story, bunker-style cement building material (or other similar building design and material), more fire sprinklers, clustering of buildings, etc. These are only a representative sample of possible strategies that we offer for the City and Applicant to consider as this project moves forward.

## Airspace Protection

Similar to safety policies, airspace protection criteria is intended to reduce the risk of harm to people and property resulting from an aircraft accident. This is accomplished by the establishment of compatibility policies that seek to prevent the creation of land use features that can be hazards to the airspace used by aircraft in flight and have the potential to cause an aircraft accident to occur. Such hazards may be physical, visual, or electronic. Please refer to Section 3.3.3.7- *Other Flight*



**Hazards** for specific information on various types of potential hazards to determine if your project will penetrate the airspace.

The ALUC conforms to the guidance provided by FAA Part 77 – *Objects Affecting Navigable Airspace*, which is provided in Appendix C of the Oakland Airport ALUCP – Federal Aviation Regulations Part 77. Based on Figure 3-5 – *Oakland International Airport FAR Part 77 Surfaces*, the allowable height is approximately 150 feet AGL for Runway 11/29, and Runway 9R/27L. The proposed 2-story building height is listed at 35 feet, which is within Part 77 standards.

The project site is located approximately 6,726 feet from the nearest point of Runway 11/29, and approximately 8,117 feet from the nearest point of Runway. While the height of the proposed building does not exceed Part 77 surfaces, construction cranes *may* exceed Part 77 surfaces. If so, the applicant will be required to file Form 7460 – 2 *Notice of Actual Airport Construction* with the FAA.

➔ It is the responsibility of the applicant to determine the need for filing Form 7460-2 with the FAA.

Should they be required, the FAA forms can be accessed in the link to the ALUC webpage provided earlier in this letter. Please review Section 3.3.3 *Airspace Protection* and subsequent subsections in the ALUCP for more detailed descriptions of airspace requirements.

### Overflight

Overflight policies address noise from the overhead flight of aircraft, which can be annoying and intrusive in locations beyond the limits of the noise contours. Unlike other compatibility factors such as noise, safety, or airspace protection, overflight compatibility policies do not restrict how land can be developed or used. The basic intent of overflight policies is to warn people near an airport of the presence of aircraft so that they have the ability to make informed decisions regarding acquisition or lease of property within the influence area of an airport.

This project is located wholly within the Overflight Compatibility Zone for the Oakland Airport as shown in Figure 3-6. As such, the following is required for a finding of compatibility with the Oakland Airport ALUCP:

➔ ***The applicant agrees to provide evidence of an executed Avigation Easement for the Oakland International Airport, in a form approved by the Port Attorney, for this project.***

For your convenience, the Port's approved Avigation Easement form is included with this letter. An electronic copy will also be provided.

### Consistency Review Findings

In summary, this project as currently proposed is found to be Conditionally Compatible with noise, safety, airspace protection and overflight criteria. Once the conditions listed in this letter are fulfilled



and evidence provided to the ALUC, a letter will be issued indicating the conditions as listed have been met, and designate the project as compatible with the Oakland Airport ALUCP.

#### RECOMMENDATION

Please note: we recognize some of these conditions will take time to be met as required. Therefore for ALUC Review purposes, this project can proceed according to the City's review process as long as progress is being made on these conditions, and if City staff agrees with this recommendation to proceed pending conditions being met.

Again, thank you for the opportunity to review this project. Please do not hesitate to contact me at (510) 670-6511 if you have any questions about this determination or require additional information as this project moves forward.

Sincerely,



Cindy Horvath  
Senior Transportation Planner

c: Members, Alameda County Airport Land Use Commission  
Albert Lopez, Alameda County Planning Director, ALUC Administrative Officer

