

## LARA WEISIGER

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**From:** Curt Setzer <CSetzer@simprop.com>  
**Sent:** Tuesday, December 19, 2017 4:32 PM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Frank Matarrese; Jim Oddie  
**Cc:** City Clerk  
**Subject:** Encinal Terminals Master Plan Letter of Support  
**Attachments:** 20171219162702444.pdf

All,

Attached please find a letter of support for the Encinal Terminals Master Plan.

Thank You

Curt

Curt Setzer  
Principal  
SIMEON Commercial Properties  
655 Montgomery Street Suite 1190  
San Francisco CA 94111  
(415) 986-2002 x21 (O)  
(415) 845-7500 (C)

>



December 19, 2017

Mayor Spencer  
Vice Mayor Vella  
Councilmembers Ashcraft, Matarrese and Oddie  
2263 Santa Clara Avenue  
Alameda, CA 94501

**RE: Encinal Terminals Master Plan**

Dear Mayor Spencer, Vice Mayor Vella and Councilmembers Ashcraft, Matarrese and Oddie:

I am writing today to express the support of SIMEON Commercial Properties for the proposal to redevelop Encinal Terminals. SIMEON Commercial Properties recently acquired the Wind River campus just across Alaska Basin from the Encinal Terminals site. We have recently embarked on the revitalization of our property, as we ready two buildings for new occupants. In our view, the Wind River Campus and the Encinal Terminals project will complement one another and significantly enhance Alaska Basin.

We believe the proposed development will benefit both our property and Alameda as a whole. Not only will the proposed project revitalize what is currently a vacant and derelict property, but we are also excited by the prospect of 589 new units of housing within walking distance of the Wind River campus. The proposed new waterfront promenade and parks, as well new commercial uses, will provide a significant amenity for both the residents of Encinal Terminals and the daily visitors to our property.

We urge the City Council to take the next step in improving the Northern Waterfront neighborhood by approving the Encinal Terminals project and bringing an abandoned property back to life.

Sincerely,  
SIMEON Commercial Properties

Curt Setzer  
Principal



December 18, 2017

*Sent via email*

Mayor Herrera Spencer and Alameda City Council  
2263 Santa Clara Avenue  
Alameda, CA 94501

***RE: Endorsement for Encinal Terminals Project***

Dear Mayor Herrera Spencer and Alameda City Council members,

The Bay Area Council endorses the Encinal Terminals Project.

California is currently experiencing an unprecedented housing crisis that, without significant intervention, will only get worse. The California Department of Housing and Community Development estimates the state needs to build 180,000 new units of housing annually by 2025 to meet projected growth, over 100,000 more units than we are currently building annually. The Association of Bay Area Governments (ABAG) reports that between 2011 and 2015 the region added over 500,000 jobs, but only 65,000 housing units. That's 1 unit of housing for every 8 jobs created.

As production remains shockingly low, the Bay Area continues to grow. ABAG projects that the Bay Area will need 823,000 new units of housing to meet population and job growth by 2040. Without adequate housing supply at all income levels, we will continue to see our region's low and middle income residents displaced.

The most recent completed Regional Housing Need Allocation (RHNA) numbers, which are from 2007 to 2014, show that the city of Alameda met only 8% of its housing need. The Encinal Terminals Project would add 589 housing units, including 79 affordable units, to a site that is currently abandoned. These 589 additional units are more than three and a half times the amount of total units built from 2007 to 2014, and would meet 29% of the RHNA targets that were set for the same period.

With its Transportation Demand Management Plan (TDMP) underway to ensure the Encinal Terminals development becomes a hub for alternative transit options, the combination of transit foresight, density, aesthetics, and affordability aligns with the future of our cities and accommodates the continued growth of our region.

The Council applauds Tim Lewis Communities for developing this master plan. We encourage you to approve this plan and add much needed housing to our growing region.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Regan', enclosed in a thin black rectangular border.

Matt Regan  
Senior Vice President, Public Policy  
Bay Area Council

## LARA WEISIGER

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**From:** Linderman, Shawn-Dai <slinderman@buchalter.com>  
**Sent:** Tuesday, December 19, 2017 3:12 PM  
**To:** LARA WEISIGER  
**Cc:** Guerra, Alicia  
**Subject:** Encinal Terminals Project, Agenda Item 6.B  
**Attachments:** Mayor CC letter re Encinal Terminals Project.pdf

Alicia Guerra requests transmittal of the following:

Good afternoon:

Attached is copy of letter dated December 19, 2017 for distribution to the City Council before this evening's Council meeting.

Please confirm receipt and also distribution to the City Council of the attached letter.

Thank you.

Shawn-Dai Linderman

**Buchalter**

A Professional Corporation

55 Second Street, Suite 1700 | San Francisco, CA 94105-3493

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Email: [slinderman@buchalter.com](mailto:slinderman@buchalter.com) | [www.buchalter.com](http://www.buchalter.com)

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December 19, 2017

415.227.3508 Direct  
aguerra@buchalter.com

Mayor Spencer and Members of the City Council  
City Attorney  
City of Alameda  
2263 Santa Clara Avenue  
Alameda, CA 94501

Re: Encinal Terminals Project  
Agenda Item 6.B  
Public Hearing to Consider Four Ordinances and Resolutions to Govern the  
Future Development of the Encinal Terminals Property

Honorable Mayor Spencer and Members of the City Council,

Buchalter Nemer represents Northern Waterfront Cove, LLC regarding the entitlement process for the Encinal Terminals Project. The purpose of this letter is to respond to comments that the City of Alameda recently received that assert that the Encinal Terminals Project (“Encinal”) violates State Planning and Zoning Law, the City of Alameda Municipal Code, and the California Environmental Quality Act (“CEQA”).

**The Encinal Terminals Project complies with State Planning and Zoning Law and Density Bonus Laws.**

The Encinal Terminals Project (including the exhibits containing the findings and resolutions) summarizes the facts supporting the City’s review of the Project and determination that the Project complies with State Density Bonus Laws, the Alameda General Plan and the Alameda Zoning Ordinance. Additionally, Buchalter Nemer submitted a letter yesterday further explaining the basis for the finding that the Encinal Terminals Project complies with State Density Bonus Laws.

We understand that some residents prefer that the Project be approved at a lower density. The comments that have been submitted, however, do not demonstrate that the Project is inconsistent with the General Plan and zoning. By contrast, my client has submitted extensive

[buchalter.com](http://buchalter.com)

Los Angeles  
Napa Valley  
Orange County  
Sacramento  
San Francisco  
Scottsdale  
Seattle

information, technical analyses and surveys to provide supporting documentation to establish the Project's eligibility for the density bonus in accordance with Government Code section 65915. Moreover, the commenters have failed to identify any specific adverse impacts associated with the density bonus increase that warrant the reduction or denial of the requested density bonus. Accordingly, we believe that the City Council has the authority under State Law to approve the Encinal Terminals Project with 589 dwelling units as further discussed below.

**The Encinal Terminals Project fits within the development contemplated by the Northern Waterfront General Plan Amendment and is not growth inducing.**

Although the Encinal Terminals Property is adjacent to the estuary, the City's adopted Northern Waterfront General Plan contemplated mixed use development for the Property. Contrary to one commenter's remarks, the Encinal Terminals Project is not "growth inducing" because it fits within the land use designation for the Property and within the development potential allocated to the Waterfront contemplated in the City's planning documents. Moreover, the Encinal Terminals Supplemental Focused EIR and the Master Plan describe how the Project will meet the City's parking, transportation and circulation requirements (see e.g., the extensive discussion contained in the Northern Waterfront GPA EIR and the Encinal Terminals Supplemental Focused EIR Chapter 4.G).

**The City conducted extensive environmental review and prepared two EIRs for the Project and addressed all significant environmental impacts of the Project.**

Some commenters claim that the Encinal Project will have major effects on egress/ingress to Alameda during the anticipated construction and after completion and that the EIR did not adequately evaluate the project's significant environmental impacts in accordance with CEQA (Public Resources Code §§ 21000 *et seq.*) ("CEQA") and the CEQA Guidelines (Title 14, California Code of Regulations, §§15000 *et seq.* ("CEQA Guidelines"). These commenters further claim that the City did not conduct any specific review or prepare an EIR for the Project. They also claim that the City's findings are not supported by substantial evidence. One commenter even suggested that the City prepared an addendum, and not an EIR, and that the City impermissibly deferred required environmental review.

We request that the City Council consider thoroughly the **2 EIRs** that the Planning Department prepared, one of which the Council previously certified, and the Supplemental Focused EIR that is before you this evening. Additionally, Planning Department staff required that its EIR consultant first prepare a subsequent initial study to determine if the Project's impacts would be mitigated to a less-than-significant level, and then, after conducting that analysis, the City determined that a further EIR (the EIR before you this evening) should be prepared to thoroughly study and recommend mitigation measures to reduce identified significant impacts. All mitigation measures identified in *both* EIRs are fully enforceable and would mitigate the Project's impacts in accordance with CEQA as demonstrated by the EIR analyses which show how the mitigation would reduce the impacts. There has been no deferral of

the impact analysis and no deferral of the mitigation measures recommended for the entire Project. In fact, the Supplemental EIR incorporates prior mitigation measures identified in the Northern Waterfront GPA EIR and **adds more** mitigation and revises the measures to make them more effective in substantially reducing the Project's impacts.

Further, the EIR fully evaluates the cumulative impacts associated with the Project, plus all past, present and reasonably foreseeable future projects, and describes the methodology used for assessing such impacts. With respect to the traffic impacts from the Project, the fact that the City required that the EIR include both the traditional level of service (LOS) and the new vehicle miles traveled (VMT) methodologies underscores the City's commitment to full analysis of all traffic impacts from the proposed project.

On the issue of sea level rise, specifically that some commenters now raise, the Master Plan includes a plan for adaptive management of future sea level rise in accordance with the City's Municipal Code. The Supplemental EIR addressed the environmental impacts of the Master Plan and the Final EIR including the adaptive management measures incorporated into the Master Plan. For these reasons, the EIR thoroughly evaluated the Project's impacts.

**The comments on the Encinal Terminals Project EIR do not warrant recirculation of a revised EIR.**

Some commenters requested that the City recirculate the EIR claiming that the Project has been amended significantly warranting further review.

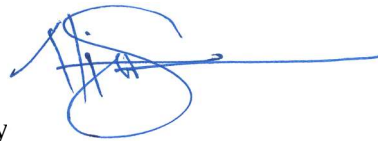
The Project has not been amended significantly in response to comments on the EIR. We understand that the commenters may disagree with the responses, but that does not make the EIR analysis inadequate and it does not deprive the public of a meaningful opportunity to review and comment on the EIR. Moreover, there are no significant changes to the Project or to the circumstances in which the Project is being implemented; it is the same project that was evaluated in the Draft EIR, and the same circumstances which were documented in the prior certified EIR as updated in the Initial Study and the Supplemental EIR. Recirculation of the EIR is not required because any mitigation measures or revisions reflected in the Exchange Agreement to address the City's request for further public benefits will further lessen impacts that the City previously found to be less than significant with mitigation. Further the changes incorporated into the Project as documented in the development agreement/exchange agreement would not involve a new significant environmental impact, a substantial increase in the severity of a prior environmental impact, or a feasible mitigation measure or alternative that NWC declined to adopt and that will clearly lessen any project impacts. No information provided in the latest round of comments indicates that the EIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the EIR. Consequently, the Project EIR complies with CEQA and the City is not required to recirculate the EIR because there are no new significant impacts nor is there a substantial increase in the severity of the impacts previously evaluated in the EIR.

Mayor and Members of the City Council  
December 19, 2017  
Page 4

We look forward to the City Council's consideration of the Encinal Terminals Project at its meeting this evening.

Sincerely,

BUCHALTER  
A Professional Corporation

A handwritten signature in blue ink, appearing to be 'Alicia Guerra', with a long horizontal stroke extending to the right.

By

Alicia Guerra

AG:sl

cc: Lara Weisiger, City Clerk  
Jill Keimach, City Manager  
Andrico Penick, Assistant City Attorney  
Andrew Thomas, Assistant Community Development Director  
James Meek  
Michael O'Hara  
Jessica Grossman



## LARA WEISIGER

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**From:** Danielle Thoe <dthoe@alamedahsg.org>  
**Sent:** Tuesday, December 19, 2017 2:38 PM  
**To:** City Clerk  
**Subject:** Encinal Terminals letter of support  
**Attachments:** AHA support letter Encinal Terminals - signed.pdf

Hello,

The Housing Authority respectfully submits the attached letter to the Mayor and Members of City Council regarding the Encinal Terminals project on the agenda for this evening, 12/19/17.

Best,  
Danielle

—  
Danielle M. Thoe  
Housing & Community Development Analyst  
Housing Authority of the City of Alameda  
[dthoe@alamedahsg.org](mailto:dthoe@alamedahsg.org) | (510) 747-4316

Please note: The housing authority office is closed to the public every other Friday. Please visit [www.alamedahsg.org](http://www.alamedahsg.org) for a complete calendar of closure dates.



# Housing Authority of the City of Alameda

701 Atlantic Avenue, Alameda, CA 94501 ~ Phone: (510) 747-4300 ~ Fax: (510) 522-7848 ~ TDD: (510) 522-8467 ~ Web: [www.alamedahsg.org](http://www.alamedahsg.org)

December 19, 2017

Mayor Trish Herrera Spencer  
Members of the City Council  
City of Alameda  
2263 Santa Clara Ave.  
Alameda, CA 94501

To Honorable Mayor and Council Members:

The Housing Authority is pleased to express support for the proposed Encinal Terminals project. The Housing Authority has worked with Tim Lewis Partners on the Del Monte project since 2015 and they have been a dependable, responsible and cooperative partner. We would be pleased to work with the firm on future projects including Encinal Terminals.

Sincerely,

Vanessa Cooper  
Executive Director

## LARA WEISIGER

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**From:** Kelsey Stockwell <KStockwell@timlewis.com>  
**Sent:** Tuesday, December 19, 2017 2:40 PM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Frank Matarrese; Jim Oddie  
**Cc:** ANDREW THOMAS; DEBBIE POTTER; LARA WEISIGER  
**Subject:** RE: Encinal Terminals Letter  
**Attachments:** NWC Encinal Terminals Letter to CC 121917.pdf  
  
**Importance:** High

Dear Mayor Spencer, Vice-Mayor Vella, and Councilmembers Ashcraft, Matarrese, and Oddie:

Attached please find a letter from North Waterfront Cove detailing relative benefits for the City and for NWC as a result of the Tidelands Exchange.

Thank you,

Kelsey Stockwell  
Tim Lewis Communities  
12667 Alcosta Blvd., Ste. 170  
San Ramon, CA 94583

## NORTH WATERFRONT COVE LLC

December 19, 2017

Mayor Spencer  
Vice-Mayor Vella  
Councilmembers Ashcraft, Mattarese and Oddie  
2263 Santa Clara Avenue  
Alameda, CA 94501

### **RE: Encinal Terminals**

Dear Mayor Spencer, Vice-Mayor Vela and Councilmembers Ashcraft, Mattarese and Oddie:

North Waterfront Cove LLC (NWC) was asked to respond to a question from staff that was generated from a City Council Member related to the relative value of the NWC-owned property at Encinal Terminals pre-and post-exchange. While this is a difficult question to answer, we will attempt to highlight several aspects of the exchange in order to shed light on the relative benefits for the City and for NWC as a result of the Tidelands Exchange.

First, it needs to be stated that a Tidelands Exchange is not required for development of the Encinal Terminals site. As a result, without the Tidelands Exchange, *there is no need for a Development Agreement, so the benefits derived from the Development Agreement would not accrue without the Tidelands Exchange.* In other words, because the Developer opted to proceed with the Tidelands Exchange as recommended (but not mandated) by the City's General Plan, the City will be able to generate a much better outcome for its approval of the Tidelands Exchange than it could get without the exchange.

Secondly, it is important, in answering City's valuation question, to look at how the proposed Master Plan might change if the Tidelands Exchange were not approved. As is stated in the Staff Report for the Encinal Terminals 12/19 City Council meeting agenda item:

"If four (4) of the five City Council members are not able to support the proposed exchange and development agreement, the applicant will need to revise and adjust their Master Plan and Density Bonus application to work around the existing 6.4-acre City Parcel in the center of the site."

A No Exchange plan would have a large, unusually shaped parcel in the middle of the site, which could only be used for maritime related commercial and open space uses, but because it is landlocked and has no access to water, it is far less useful than if it were adjacent to the water. Inefficiencies in the land plan would require the buildings to be irregular in shape and more inefficient in yield. It is our belief that the Master Plan, Development Agreement and Tidelands Exchange as proposed create more value than a plan without the exchange, as the exchange will relocate much of the public space to the waterfront, creating a valuable public asset, at no cost to

the City. The exchange also allows for a development plan that yields more open space, increasing the value of both the public spaces and the residential units. In addition, post-exchange, the site layout aligns the development parcels to allow buildings to be placed in a manner that preserves view corridors for many of the units in the development. By doing this, the development creates additional value, and the developer is able to create more in the way of public benefits, as outlined below.

There are a range of benefits that accrue to the City as a result of this development, however, in the discussion below we focus on those aspects of the plan that provide value *specifically as a result of the exchange and the Development Agreement* together with the additional value created by the proposed Master Plan.

### **EXCESS OPEN SPACE/PARKS**

The Master Plan and Development Agreement propose a total of approximately seven acres of open space and parks in the development. This is approximately TWICE the City's requisite amount of open space for a development with the population associated with 589 residential units. Based on the City's nexus study for the Park Development Impact Fees, the required open space in Alameda is 2.4 acres per 1,000 residents.

The EIR for the Encinal Terminals project estimates 1,449 residents at Encinal Terminals. As a result, applying the nexus study formula, 2.4 acres per 1000 residents x 1449 residents yields 3.48 acres of required parkland. In terms of the value of open space land, the nexus report applies an acquisition cost of \$1,437,000 per acre of open space/parkland. As the Encinal Terminals project creates twice the required amount of parks and open space, the value of just the excess 3.5 acres of open space land (7 minus 3.5), equals \$5,029,500 (3.5 x \$1,437,000).

All of the park/open space land also will be improved by the developer. The anticipated cost of surface improvements for the promenade, parks, landscape areas and other open space is estimated at approximately \$14 Million. Applying half of that amount to improve the excess 3.5 acres only, the value of those improvements is still \$7 Million.

### **ADDITIONAL CITY BENEFITS:**

The developer is obligated, via the Development Agreement, to pay:

- approximately \$1.5 Million for the Pennzoil extension of Clement Avenue.
- \$1 Million in down payment assistance funds

Lastly, by completing the Exchange, the City would be able to create a new lease for the submerged lands in Alaska Basin for the up to 160-slip marina, which would generate far more revenue than the \$11,000 annual lease payment the City currently receives for its 6.4 acres of tidelands. A marina operation in Alaska Basin has the potential to increase the annual revenue to at least



\$50,000 per year. Applying a conservative capitalization rate of 7% to the estimated \$39,000 increase in annual payments, yields a current value of \$500,000 for the City.

# **VALUATION OF THE EXCHANGE:**

A summary of the various figures used above is outlined below.

<b>OPEN SPACE</b>	PROVIDED OPEN SPACE ACRES	<b>7</b>	
	REQUIRED OPEN SPACE ACRES	<b>-3.5</b>	
	<b>SURPLUS OPEN SPACE ACRES</b>	<b>3.5</b>	
	X LAND VALUE PER ACRE	<b>\$ 1,437,000</b>	
	<b>VALUE OF SURPLUS OPEN SPACE ACRES LAND</b>	<b>\$ 5,029,500</b>	<b>\$ 5,029,500</b>
<b>OPEN SPACE IMPROVEMENTS</b>			
	PER ACRE SURFACE IMPROVEMENT COSTS	<b>\$ 2,000,000</b>	
	X SURPLUS OPEN SPACE ACRES	<b>3.5</b>	
		<b>\$ 7,000,000</b>	<b>\$ 7,000,000</b>
<b>PENNZOIL/TRANSPORTATION</b>			<b>\$ 1,500,000</b>
<b>DOWNPAYMENT ASSISTANCE</b>			<b>\$ 1,000,000</b>
<b>MARINA LEASE IMPROVEMENT</b>			<b>\$ 500,000</b>
	<b>TOTAL</b>	<b>\$ 15.029.500</b>	

So, what does the \$15 Million shown in the table represent? In short, it represents the additional value generated for the City by approving the Tidelands Exchange, Development Agreement and Master Plan as proposed, when compared to the value to the City of a project with no exchange of Tidelands and no Development Agreement benefits.

The staff report begins to describe a potential No Exchange plan:

The revised plan will likely still include 589 units and a waterfront promenade, but it should be anticipated that the waterfront promenade would be smaller and narrower than the proposed seven acres of public park and promenade currently being offered in exchange for the reconfigured public lands. The revised Master Plan would likely still include a marina, but the marina would be on submerged lands owned by the applicant, not the City. The existing City Parcel lease payments of approximately \$11,000 per year would remain in effect for the next 12 years until the term of the lease expires.”

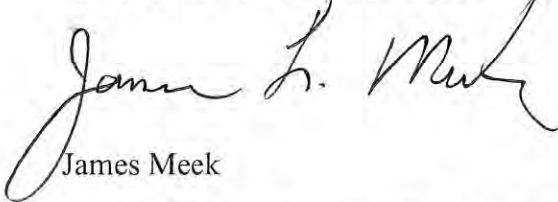
We recognize that a 589 unit No Exchange plan will still create valuable benefits to the City (millions in impact fee generation, annual general fund surpluses, 79 affordable housing units), but it will not create the value necessary to pay for *all of the benefits* of the Development Agreement/Tidelands Exchange plan. So, when comparing the No Exchange to the Exchange

Mayor Spencer  
Vice-Mayor Vella  
Councilmembers Ashcraft, Mattarese and Oddie  
December 19, 2017  
Page 4

proposal, the \$15 Million additional value generation of the Development Agreement is a powerful incentive for the City to approve the Tidelands Exchange, Development Agreement and Master Plan. We hope you will find this information helpful as you make your decision on how you will vote on the Encinal Terminals Master Plan

Sincerely,

NORTH WATERFRONT COVE LLC



James Meek

c: Andrew Thomas, City Planner

## LARA WEISIGER

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**From:** Robin Seeley <robinjseeley@gmail.com>  
**Sent:** Tuesday, December 19, 2017 1:44 PM  
**To:** Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; becca@voxpoplupr.net; Trish Spencer  
**Subject:** Vote NO on the proposal to redevelop Encinal Terminals!

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie and Matarrese:

I do NOT support the proposal to redevelop Encinal Terminals and encourage your NO vote at tonight's meeting. This is not the right plan for Alameda.

Considering we are a coastal community and all studies point to rising oceans, the North Waterfront Cove plan does not take advantage of an opportunity to create a marshland project that would protect Alameda from rising seas. We have not properly solved our growing traffic problems, particularly those that concern getting on and off the island. Adding 380 housing units at DelMonte, plus 589 units at Star Harbor plus more than 50,000 ft. of retail/commercial space with customers and employees, will dangerously add to the growing unsolved problem. Backups will extend not only down Webster St but also to the feeder streets. I can tell you

even now, during evening commute, everyday, there is a bumper to bumper backup on Buena Vista between Sherman and Grand.

Please don't be dazzled by glitzy presentations by fast talking PR people who are paid mighty salaries to convince you that you are making the right decision.

The Alameda coastline is both valuable and irreplaceable. I don't understand how anyone with Alameda's best interests in mind could vote for this proposal.

Tim Lewis is prepared to make a large investment but he expects a large return. To achieve this, Tim Lewis's plan overbuilds the island without realistic consideration of traffic, rising seas and coastline preservation (to say nothing of the inevitable additional burdens on schools, public transit, and other important island infrastructure). There are simpler ways than the Star Harbor project to



open the Bay Trail to the public. Please, vote NO on Encinal Terminals tonight!

Thank you!

Robin Seeley, 27-year Alameda resident

## LARA WEISIGER

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**From:** Patricia Lamborn <patricia.lamborn@aol.com>  
**Sent:** Tuesday, December 19, 2017 12:50 PM  
**To:** Trish Spencer; Malia Vella; Frank Matarrese; Jim Oddie; Marilyn Ezzy Ashcraft  
**Cc:** LARA WEISIGER  
**Subject:** Attaced:BCDC Engineering Criterew Report Encinal terminals  
**Attachments:** BCDC Oct. 18th 2017 Encinal Terminals Report to Engineering Criteria Review Board.pdf

Dear Mayor Spencer, Vice Mayor Vella and City COunci members,

Please find attached the Oct. 18, 2017 BCDC Engineering Criteria Review Board - Staff Report. Of special note, the questions listed at the end. To my knowledge they have not been answered by the developer.

Sincerely,

Patricia Lamborn  
patricia.lamborn@aol.com

# San Francisco Bay Conservation and Development Commission

455 Golden Gate Avenue, Suite 10600, San Francisco, California 94102 tel 415 352 3600 fax 415 352 3606

October 18, 2017

**TO:** Engineering Criteria Review Board (ECRB) Members

**FROM:** Lawrence J. Goldzband, Executive Director (415/352-3653; [larry.goldzband@bcdc.ca.gov](mailto:larry.goldzband@bcdc.ca.gov))  
Rafael Montes, Staff Engineer (415/352-3670; [Rafael.montes@bcdc.ca.gov](mailto:Rafael.montes@bcdc.ca.gov))  
Elena Perez, Coastal Program Analyst (415/352-3612; [elena.perez@bcdc.ca.gov](mailto:elena.perez@bcdc.ca.gov))

**SUBJECT: Encinal Terminals Project, City of Alameda, Alameda County (20% Design)**  
(For Board consideration on November 1, 2017)

## Project Summary

**Project Name.** Encinal Terminals Project, City of Alameda.

**Project Proponent.** North Waterfront Cove LLC c/o Tim Lewis Communities.

**Project Representatives.** Mike O'Hara (North Waterfront Cove, LLC).

**Project Geotechnical Engineer.** Uri Eliahu, Jeff Fippin and Pedro Espinosa, (ENGEO).

**Project Marine Structural and Coastal Engineer.** Sam Tooley, Marc Percher, Brad Porter and Dilip Trivedi (Moffatt & Nichol).

**Project Civil Engineer.** Angelo Obertello (Carlson, Barbee & Gibson).

**Project Description.** The Encinal Terminals Project ("Project") contemplates the redevelopment of the Encinal Terminals property in Alameda, California. The site is about 23 acres of mostly flat land, bordered to the north by the Oakland-Alameda Estuary, to the west by an inlet known as the Alaska Basin, to the east by the Fortman Marina, and to the south by a warehouse known as the Del Monte Building.

The project sponsor proposes to develop the site with a combination of townhouse and wood-podium multi-family residential structures with associated streets, underground utilities, and landscaping.

Further, the project sponsor proposes to repurpose two wharf structures to public access. Three wharves were previously constructed along the western and northern boundaries of the site through three generations in the 1920s and 1960s. One is a timber structure built in the 1920s in the northwest and two are concrete structures along the west constructed in 1924 and 1960. The timber structure is deemed unsalvageable and, therefore, will be removed as part of the Project. Therefore, only the two concrete wharves are subject to this review.

The 1924 concrete wharf (C1) is a 1,500-foot-long by 65-foot-wide, 8-inch concrete slab over 18-inch diameter timber piles with concrete pile jackets. The 1960 wharf (C2) is an 800-foot-long by 35-foot-wide, 24-inch concrete deck over 18-inch octagonal precast piles with cast-in-place pile caps.

**Geotechnical Design Criteria.** In reference to the Geotechnical Report prepared by ENGEO, the Project's geotechnical engineer, (see references to ENGEO's October 2, 2017 report enclosed with this Staff Report), based on the site geology and type of structure, the seismic performance of the shoreline and the effects on the existing wharf, and planned structures, due to slope movement, should be designed for the Design Earthquake (DE), defined as 2/3 of the Maximum Credible Earthquake (MCEr). To develop the site DE, a site-specific site ground response analysis was performed.

A Deep Soil Mix (DSM) buttress is recommended along two of the three waterfronts to mitigate slope movement and impacts on the wharf and landside improvements behind. The DSM would consist of below-ground shear walls with overlapping columns of in-situ soil mixed with water and cement and oriented perpendicular to the shoreline.

**Structural Design Criteria.** Moffatt & Nichol has evaluated two seismic design approaches for existing structures: Performance Based Design using a Rational Performance Objective and Code Based Design per the California Building Code.

1. Performance based design is typically based on displacement methods, which examine how far a structure can move for associated damage levels. For existing structures with no retrofit, it involves determining its displacement capacity versus the displacement demand at the specified earthquake event. If the displacement demand exceeds the capacity, then retrofit of the structure is necessary such that the capacity exceeds the demand.

To develop the performance based design, two parameters are to be determined: the Performance (damage) level and the Design event.

- a. The Performance level-Life Safety per American Society of Civil Engineers (ASCE) 61-14 must satisfy the following:
  - (1) The post-earthquake damage state is such that the structure continues to support gravity loads.
  - (2) Damage that occurs does not prevent egress.
  - (3) There is no loss of containment of materials in a manner that would pose a public hazard.
- b. The Design Event -Design event per ASCE 7-16
  - (1) Defined as ASCE 7, Design Earthquake
  - (2) Inertial Response: 475-year return event site specific spectra determined by geotechnical engineer.
  - (3) Kinematic Response: 475-year return event site specific analysis determined by the geotechnical engineer.

2. Code based design is performed per the 2016 CBC Code. The structure is considered to be in Risk Category II<sup>1</sup> before and after the planned work; therefore, the design is considered as a structural alteration. CBC references ASCE 7 for evaluation of seismic loads. In turn, ASCE 7 provides the guidance to refer to ASCE 61, which addresses the seismic design of piers and wharves, as the most appropriate design document per CBC.

**Sea Level Rise (SLR).** All elevations indicated in the structural design report are referenced to the North American Vertical Datum 1988 (NAVD88). The wharf deck is proposed as public access. The wharf deck varies from a minimum elevation of 13.0 feet up to 13.4 feet. Today's FEMA's 100-year return flood elevation or Base Flood Elevation is 10 feet, so the project contains SLR projection of 3 feet (36 inches).

According to the referenced Project's Master Plan (Page 29), no changes are required to the site to provide a flood protection system for the projected sea level rise. Public access may still be permitted after the 36 inches of SLR has occurred, with infrequent inundation preventing access to the structure during episodic extreme high tide events. The document on Page 30 refers to the development of an adaptive management design strategy of the site in the event that SLR exceeds the anticipated 36 inches. As described on Page 31, the strategy will involve the construction of seawalls along the edges of the public promenades.

**Law and Policy Considerations.** Section 66605 of the McAteer-Petris Act allows the Commission to approve fill<sup>2</sup> only when public benefits from fill clearly exceed public detriment from the loss of the water areas, and should be limited to water-oriented uses or minor fill for improving shoreline appearance or public access to the Bay. Authorized fill shall meet certain additional criteria, including among others, that the fill be constructed "in accordance with sound safety standards which will afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters."

**Bay Plan Policies.** The applicable BCDC Bay Plan policies in relation to the proposed project include policies on Safety of Fills, Shoreline Protection, Public Access and Climate Change.

#### **Policies on the Safety of Fills**

1. **Policy No. 1** states, in part, that the Commission has appointed and empowered the ECRB to "establish and revise safety criteria for Bay fills and structures thereon."
2. **Policy No. 2** states, in part, that "even if the Bay Plan indicates that a fill may be permissible, no fill or building should be constructed if hazards cannot be overcome adequately for the intended use in accordance with the criteria prescribed by the ECRB."

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<sup>1</sup> The basic underlying principle in assigning Risk Category is to recognize the impact of a structural failure. There are four Risk Categories (RC) under the building code, ranging from lowest hazard to human life (RC I) to highest hazard to human life (RC IV).

<sup>2</sup> Fill is defined in the McAteer-Petris Act as "earth or any other substance or material, including pilings or structures placed on pilings, and structures floating at some or all times and moored for extended periods, such as houseboats and floating docks" (Section 66632(a)) .

3. **Policy No. 3** states, “[t]o provide vitally needed information on the effects of earthquakes on all kinds of soils, installation of strong-motion seismographs should be required on all future major land fills. In addition, the Commission encourages installation of strong-motion seismographs in other developments on problem soils, and in other areas recommended by the U.S. Geological Survey, for purposes of data comparison and evaluation.”
4. **Policy No. 4** states, in part, that “[a]dequate measures should be provided to prevent damage from sea level rise and storm activity that may occur on fill or near the shoreline over the expected life of a project. The Commission may approve fill that is needed to provide flood protection for existing projects and uses. New projects on fill or near the shoreline should either be:
  - set back from the edge of the shore so that the project will not be subject to dynamic wave energy,
  - be built so the bottom floor level of structures will be above a 100-year flood elevation that takes future sea level rise into account for the expected life of the project,
  - be specifically designed to tolerate periodic flooding, or
  - employ other effective means of addressing the impacts of future SLR and storm activity.”

#### **Policies on Climate Change**

1. **Policy No. 2** states, in part, that “[w]hen planning shoreline areas or designing larger shoreline projects, a risk assessment should be prepared by a qualified engineer and should be based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise and current flood protection and planned flood protection that will be funded and constructed when needed to provide protection for the proposed project or shoreline area. A range of sea level rise projections for mid-century and end of century based on the best scientific data available should be used in the risk assessment. Inundation maps used for the risk assessment should be prepared under the direction of a qualified engineer. The risk assessment should identify all types of potential flooding, degrees of uncertainty, consequences of defense failure, and risks to existing habitat from proposed flood protection devices.”
2. **Policy No. 3** states, in part, that “to protect public safety and ecosystem services, within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects should be designed to be resilient to a mid-century sea level rise projection. If it is likely the project will remain in place longer than mid-century, an adaptive management plan should be developed to address the long-term impacts that will arise based on a risk assessment using the best available science-based projection for sea level rise at the end of the century.”
3. **Policy No. 5** states that, “[w]herever feasible and appropriate, effective, innovative sea level rise adaptation approaches should be encouraged.”

**Request for the ECRB's Technical Advice.** The project proposes to repurpose two historic structures from their original use as cargo receiving facilities to a public promenade and plaza. Prior to the development proposal, non-engineered fill has occupied most of the landside of the Project area. Therefore, the existing fill is subject to potential settlement from new fill and structures. The Project proposes to mitigate soil settlement through ground improvement methods and thus reduce liquefaction potential of isolated liquefiable soil in the fill. Per the Project's criteria, a deep soil mix or DSM buttress under the ground of the development areas would protect the wharves and improvements inland of the shoreline by reducing slope movement of the shoreline. Upon consideration of the possible risks to the projected public access over the wharves, the staff requests the Board's assessment of the viability of the Project's engineering criteria.

The following are questions and issues raised by the staff regarding the Project's safety:

1. **Seismic, Structural and Geotechnical Concerns.** Would the soil improvement methods and the physical conditions of the wharves be sufficient to protect people and property against physical hazards of earthquakes and flooding?
2. According to the structural assessment, the wharves would be considered Risk Category II, in that they do not present substantial hazard to human life in the event of failure and are not intended to achieve a more stringent performance beyond life-safety. Therefore, would the criteria envision safe egress from the public access on the wharves in the event of a major earthquake?
3. **Sea Level Rise and Flooding.** Has the Project identified potential sources of flooding, degrees of uncertainty and consequences of defense failure as required in Climate Change Policy No. 2?

**Material Enclosed with this Staff Report for November 1, 2017 ECRB Meeting**

1. Slope Stability Analysis with Ground Improvement, ENGEO, October 2, 2017
2. Updated Geotechnical Report/Encinal Terminals/Alameda, California, ENGEO, October 2, 2017.
3. Encinal Wharf Schematic Structural Design Engineering Criteria, Moffatt & Nichol, October 16, 2017
4. Encinal Terminals Master Plan, North Waterfront Cove LLC, July 7, 2017.
5. Encinal Terminals Project Description

## LARA WEISIGER

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**From:** Dorothy Freeman <dfreeman@pacbell.net>  
**Sent:** Tuesday, December 19, 2017 12:36 PM  
**To:** Trish Spencer; Frank Matarrese; Marilyn Ezzy Ashcraft; Jim Oddie; Malia Vella  
**Cc:** LARA WEISIGER

December 19, 2017

To:  
Mayor Trish Spencer  
Vice Mayor Malia Vella  
Councilmember Marilyn Ashcraft  
Councilmember Frank Matarrese  
Councilmember Jim Oddie

Dear Mayor Spencer and Council Members,

The 2012 Housing Element states that the City of Alameda was to provide 1723 units of housing by 2022. Of that number, 975 were to be extremely low, very low, and moderate, units badly needed for our own citizens. Only 745 units were to be market rate homes.

Today Alameda Community Development has planning for over 4000 market rate units and a minuscule number of low and moderate rate homes. Available land is being squandered with these market rate homes that will not benefit Alameda's present population. Maybe a few current residents can afford and will desire one of these new condos but the majority of middle Alameda will not be included. Many people, including staff members, declare that Alameda has an obligation, or even a moral obligation, to provide all these market rate units. Alameda has fulfilled its responsibility for market rate homes many times over. What Alameda has not done is fulfill the Housing Element mandated requirement for low and moderate homes to help our existing citizens who are in dire financial distress.

Medium income for Alameda County is \$81,717 per year with the median property value at \$656,700. An annual income of \$134,000 is needed to purchase a home at the median property value with a 20% down payment of \$139,800. How many of us have that sitting in our bank accounts? Folks who are renters in Alameda certainly do not. Then, of course, there is the \$12,000 per year property tax bill and another \$1200 for insurance. The Encinal Terminals project will provide a few badly needed additional low & moderate priced homes but not enough to help with Alameda's housing problem. The project claims to provide "affordable by design" units, but they still will not be affordable to the middle class Alameda citizen.

The sea locked land in Alameda is disappearing fast. Soon there will be no land left to build the low and moderate homes required in the 2012 housing element. There will be no land left to fulfill the needed homes to jobs ratio. Alameda's jobs to housing numbers are one of the worst in the Bay Area. We are rapidly moving toward a time when there will be no land available for business investment.

Encinal Terminals projects approximately 92% housing to 8% commercial ratio is a blatant disregard to the City's 60% residential to 40% commercial plan for MX zoned properties. The ratio was designed to protect land in Alameda for businesses that provide jobs that benefit the city tax base and for people who live here. As already stated, land is disappearing and none will be left for any future meaningful business enterprise that will



provide wages high enough for most who live here to afford a home in Alameda.

The other problem with the Encinal Terminals project is the desire for buildings taller than any other in Alameda. Allowing Tim Lewis Communities to build higher than our city plans allow, especially when it's not necessary to provide space for the number of units requested, will damage our ability to deny the same to future developer requests.

The job of the staff, Planning Board, and City Council is to take care of our city for the benefit of those who live here today. The people of Alameda have not been served by agreements to add more than 4000 market rate homes to Alameda. As proposed, Encinal Terminals will not help alleviate the present housing crisis in Alameda nor help with the increasing traffic problems on the North side of town. We do not have an obligation to build units for high tech workers moving into California or to provide a bedroom community for San Francisco workers. But we do have an obligation to take care of the people who live here today. Alameda does not need or desire high rise buildings. Alameda does not need a Trust Land swap that benefits the developer and not the our citizens. Any project approved for the Encinal Terminals site should be designed for the benefit of Alameda's people with more consideration to how it will affect the rest of the island now and into the future.

I urge you to return the Encinal Terminals project to the Planning Board for further refinement that will consider the many breaches of City ordinances that have been overlooked or completely ignored.

The following images are provided as supporting documentation for statements made above.

Respectfully yours,

Dorothy Freeman

cc: City Clerk

## 4. Housing Resources: Sites Inventory/Analysis

### A. Alameda's Housing Opportunities

The City's housing opportunities to meet the RHNA for the 2014–2022 period are located within the City's two PDAs (the NAS Alameda PDA and Northern Waterfront PDA) included in Plan Bay Area, which is the region's Sustainable Communities Strategy.

In July 2013, ABAG issued the RHNA for the 2014–2022 period. The City of Alameda was assigned a RHNA of 1,723 units, as shown in Table A-19. To address state, regional, and local need for affordable housing, 222 of the units are to be affordable to extremely low-income households, 222 of the units are to be affordable to very low-income households, 248 of the units are for low-income households, 283 are for moderate-income households, and 748 are for above moderate-income households.

Table A-19: Regional Housing Need, 2014–2022

Income Group	2014–2022 RHNA
Extremely Low	222
Very Low	222
Low	248
Moderate	283
Above Moderate	748
Total	1,723

Source: ABAG 2013

The City has sufficient land to accommodate its 2014–2022 regional housing need. Table A-20 compares the City of Alameda's RHNA to its land inventory capacity. The City has a surplus of 494 units available to lower-income households (including extremely low-, very low-, and low-income households), and 28 units available to moderate- and above moderate-income households, a total surplus of 522 units.

Table A-20: Comparison of Regional Housing Need and Residential Sites

Income Group	2014–2022 RHNA	Site Inventory Capacity	Surplus of Potential Units
Extremely Low	222	1,186	494
Very Low	222		
Low	248		
Moderate	283	1,059	28
Above Moderate	748		
Total	1,723	2,245	522

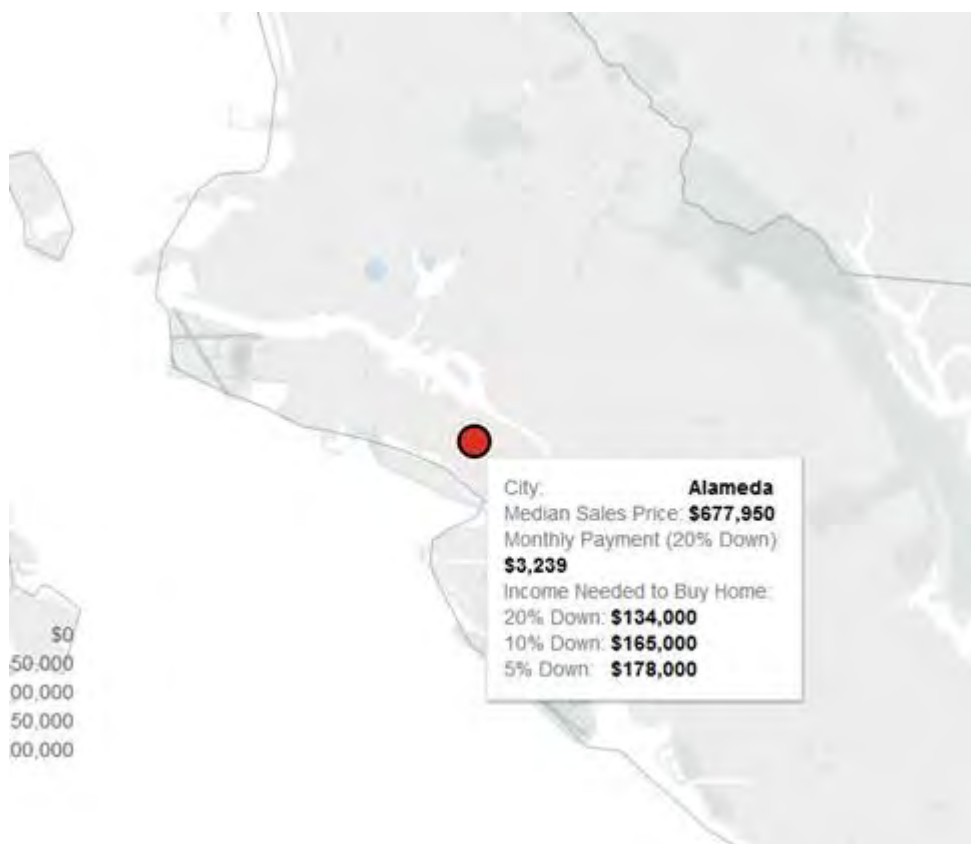
Source: ABAG 2013; City of Alameda 2013



The following example is a home that is for sale in Alameda today.



Financial info for this property follows.



## LARA WEISIGER

---

**From:** Patricia Lamborn <patricia.lamborn@aol.com>  
**Sent:** Tuesday, December 19, 2017 11:53 AM  
**To:** LARA WEISIGER  
**Subject:** Fwd: Opposition to the Encinal Terminals Land Swap

|  
Dear Ms. Weisiger,

Please include my statement below in the correspondence regarding the Encinal Terminals Agenda Item for tonite, Dec. 19th 2017, City COuncil meeting. Thank you,

Pat Lamborn

-----Original Message-----

From: Patricia Lamborn <patricia.lamborn@aol.com>  
To: tspencer <tspencer@alamedaca.gov>; mvella <mvella@alamedaca.gov>; fmatarrese <fmatarrese@alamedaca.gov>; joddie <joddie@alamedaca.gov>; mezzzyashcraft <mezzzyashcraft@alamedaca.gov>  
Sent: Tue, Dec 19, 2017 10:58 am  
Subject: Opposition to the Encinal Terminals Land Swap

Dear Mayor Spencer, Vice Mayor Vella and City Council Members Oddie, Matarrese and Ashcraft,

I am writing to opose the Encinal Terminals Development Agreement as it is currently proposed for these reasons:

### 1. Tideland Swap

From the Encinal Terminals Development Agreement

**" Public Trust Exchange: Grant to the City, as trustee for the California State Lands Commission ("SLC"), approximately 8.5 acres of submerged lands and approximately 9 .5 acres of adjacent waterfront uplands within the Encinal Terminals Parcel ("Transferred Property") in exchange for approximately five (5) acres of the City Parcel as depicted in Exhibit C (Public Trust Exchange Diagram) (the "Public Trust Exchange"). "**

The swap transfers legal and financial liability to the City of Alameda around the perimeter of the development- an area where public access is already legally guaranteed **at the developers expense**. The actual financial and legal liabilities of this swap to the City, are not identified. The Encinal Terminals Project Master Plan infrastructure proposals are simplistic and don't include the kind of design and engineering requirements to deal with greater sea level rise, storm surge predicted in the future.

**From the BCDC (San Francisco Bay Conservation and Development Commisison ) Report dated Oct. 18th, 2017 to the BCDC Engineering Criteria Review Board:**

**"Sea Level Rise (SLR)** According to the referenced (Encinal Terminals) Projects Master Plan (page 29) no changes are required to the site to provide a flood protection system for the projected sea level rise. Public access may still be permitted after the 36 inches of SLR has occurred, with infrequent inundation preventing access to the structure during episodic extreme high tide

events. The document on page 30 refers to the development of an adaptive management design strategy of the site in the event that SLR exceeds the anticipated 36 inches. As described on Page 31, the strategy will involve the construction of seawalls along the edges of the public promenades. "

The BCDC Engineering Criteria Review Board recommended that Tim Lewis do more engineering research before that Board would approve their plan. Tim Lewis subsequently withdrew their presentation before the Dec. 11th, 2017 Meeting of the BCDC Design Review Board.

**What do YOU, our City Council members NOT know as you consider a vote for this exchange? How much does the construction of sea walls cost? Who will pay for that?**

Tim Lewis has not even begun the approved Del Monte Development. Tim Lewis has also stated in public that he doesn't need the land swap to build the 589 units. We have yet to see an alternative proposal that reflects those pronouncements. If they were truly operating in good faith, this developer should have brought those alternatives forward by now. **Please vote NO on the proposed land swap.**

## **2. Other Housing Opportunities on the Northern Waterfront- less risk**

There are other proposed housing developments on the waterfront that do not require the imposition of risk and liability to the City through a land swap. Along with those already identified ( Shipways, Marina, North Housing ) the property on the other side of the Alaska Basin was purchased by a major development company, Simeon Properties in June of 2017. This encompasses the 4 Wind River buildings ( 2 occupied, 2 unoccupied) and the vast empty asphalt parking lot. What is this developers plan ?

I believe there are more responsible developers the city can partner with to provide housing and jobs in the future with safer results.

Sincerely,  
Patricia Lamborn  
[patricia.lamborn@aol.com](mailto:patricia.lamborn@aol.com)

## LARA WEISIGER

---

**From:** Marie Kane <mariekane94502@gmail.com>  
**Sent:** Tuesday, December 19, 2017 11:41 AM  
**To:** Trish Spencer; Marilyn Ezzy Ashcraft; Frank Matarrese; Malia Vella; Jim Oddie; LARA WEISIGER; Janet Kern  
**Subject:** Encinal Terminal Project

Dear Mayor and Council Members,

Writing to let you know of my hearty opposition to the Encinal Terminal Project as being presented this evening.

The increase in the number of planned units is **outrageous** to most Alamedans. We are getting quite angry about your lack of concern for the future of the City and about the future increase of traffic. I suggest you get out and talk to the people before acting on this. There may be an uprising you had not counted on.

Alameda is not a city that can expend outwardly. You seem to be packing us in like cattle to enhance your own political agendas.

The consequences of your failure to provide more access roads for evacuation in the event of a disaster will be on your heads.

Many of us have Christmas activities with family and can not attend, but ask that our letters be read aloud at the meeting.

Marie Kane



## LARA WEISIGER

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**From:** Patricia Gannon <pg3187@gmail.com>  
**Sent:** Tuesday, December 19, 2017 11:31 AM  
**To:** Jim Oddie; Marilyn Ezzy Ashcraft; Trish Spencer; Malia Vella; fmatarrese@alameda.gov  
**Subject:** Encinal Terminal Project

December 19, 2017

Dear Mayor Spencer and City Council Members:

I am strongly opposed to this project as proposed by the developer for the following reasons.

The housing density of 589 units far exceeds the density provisions of the City and State law and results in mid and high rise buildings.

Project residents are not required to pay an annual parcel tax to cover excess police and fire costs.

92% of the project is residential and only 7% is commercial. This only exacerbates our poor jobs-housing ratio when we should be doing everything possible to promote more jobs in Alameda so that current residents do not have to work or move out of the city.

The failure to provide multiple access roads for evacuation in the event of a disaster.

The absence of a funding mechanism that will require the residents to pay for perpetual maintenance of the shoreline.

A tidelands swap that does not fairly compensate the City for its relinquishment of tidal lands.

An inadequate EIR.

I strongly urge your Council to do the right thing and reject this ill-conceived project.

Thank you.

Patricia M. Gannon  
1019 Tobago Lane 94502  
pg3187@gmail.com



## LARA WEISIGER

---

**From:** Zach Kaplan <zakaplan@sonic.net>  
**Sent:** Tuesday, December 19, 2017 10:18 AM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; becca@voxpulpr.net  
**Subject:** Please vote NO on Encinal Terminals

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie and Matarrese:

I do not support the proposal to redevelop Encinal Terminals and encourage your NO vote on December 19th.

This is not the right plan for Alameda. Considering we are a coastal community and all studies point to rising oceans, the North Waterfront Cove plan does not take advantage of an opportunity to create a marshland project that would protect Alameda from rising seas.

We have not properly solved our growing traffic problems, particularly those that concern getting on and off the island. Adding 380 housing units at DelMonte, plus 589 units at Star Harbor plus more than 50,000 ft. of retail/commercial space with customers and employees, will dangerously add to the growing unsolved problem. Backups will extend not only down Webster St but also to the feeder streets. I can tell you even now, during evening commute, everyday, there is a bumper to bumper backup on Buena Vista between Sherman and Grand.

Please don't be dazzled by glitzy presentations by fast talking PR people who are paid mighty salaries to convince you that you are making the right decision. The Alameda coastline is both valuable and irreplaceable. The City needs to hold out for a better deal, one that properly develops the shoreline without negative impact to the entire island. Tim Lewis is prepared to make a large investment but he expects a large return. To achieve this Tim Lewis's plan overbuilds the island without realistic consideration of traffic, rising seas and coastline preservation. There are simpler ways than the Star Harbor project to open the Bay Trail to the public.

Vote NO on Encinal Terminals on December 19th.

Thank you,  
Zach Kaplan

# Encinal Terminals Project

Linderman, Shawn-Dai <slinderman@buchalter.com>

Tue 12/19/2017 9:24 AM

To: Janet Kern <JKern@alamedacityattorney.org>;

Cc: Guerra, Alicia <aguerra@buchalter.com>; LARA WEISIGER <LWEISIGER@alamedaca.gov>; Jill Keimach <JKeimach@alamedaca.gov>; Andrico Penick <apenick@alamedacityattorney.org>; ANDREW THOMAS <ATHOMAS@alamedaca.gov>; jmeek@timlewis.com <jmeek@timlewis.com>; mohara@timlewis.com <mohara@timlewis.com>;

1 attachment

J Kern letter Dec 18 2017.pdf;

Good afternoon, Ms. Kern:

I am resending the attached letter dated December 18, 2017 from Alicia Guerra and advising you that it is not a confidential letter.

I apologize for my error in emailing that same letter to you earlier today and noting it as a confidential letter.

Thank you.

Shawn-Dai Linderman

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December 18, 2017

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aguerra@buchalter.com

**CONFIDENTIAL**  
**VIA E-MAIL (JKERN@ALAMEDACITYATTORNEY.ORG)**

Janet C. Kern, Esq.  
City Attorney  
City of Alameda  
2263 Santa Clara Avenue  
Alameda, CA 94501

Re: Encinal Terminals Project  
Agenda Item 6.B  
Public Hearing to Consider the Following Ordinances and Resolutions to Govern  
the Future Development of the Encinal Terminals Property

Dear Janet:

As you are aware, some members of the public have suggested that the Encinal Terminals Project density exceeds the density limits imposed by State and City of Alameda density bonus laws. Some of these individuals also raised questions about how the density bonus was calculated for the Encinal Terminals Project under State Density Bonus Law (Gov't Code §§ 65915-65918). Several individuals questioning the density bonus suggested that the density bonus calculation should be based on the project ultimately approved by the Alameda City Council, and not on the project as proposed by the applicant for the property that is under the applicant's control and/or ownership when the application is submitted. That interpretation turns State Density Bonus Law on its head.

**State Density Bonus Law requires that a project's density bonus be calculated at the time of the application, and not at the time of project approval.**

Government Code Section 65915(f) states that for the purposes of this chapter,

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Janet C. Kern  
December 18, 2017  
Page 2

“Density bonus” means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county...” The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).”

Further, a city may not apply a development standard that will have the effect of “physically precluding” the construction of the affordable units included in the Project. Moreover, the “maximum allowable residential density” as defined by State Law means:

“The density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project.”

On February 29, 2016, North Waterfront Cove, LLC submitted an application to the City of Alameda requesting review and approval of a draft Master Plan, density bonus and tidelands exchange for the Encinal Terminals site. The draft Master Plan includes 589 housing units, 7 acres of public waterfront open space with a public kayak dock and water shuttle landing, 50,000 square feet of commercial space, and 160 marina slips.

The Alameda General Plan designated the Property (*all of the Property*) *MX Mixed Use*, when the application was submitted, and that is still the designation. Similarly, the Alameda Zoning Ordinance zoned (and still zones) 15.48 acres of the Encinal Terminals site *Multi-Family (MF) Overlay*, and this zoning district allows the maximum density of 30 dwelling units per acre. Another 1.25 acres of the site is within the MX Mixed Use Zoning District which permits 21.78 dwelling units per acre. An additional 6.4 acres of the submerged portion of the property is owned by the City of Alameda and is subject to the Tidelands Trust which does not permit residential development. CBG conducted a survey in October 2017 to further validate the acreages reflected in the application. The proposed Master Plan is based on the General Plan and zoning designations which allowed a total of 491 dwelling units on the Encinal Terminals site.

The density bonus calculation does not stop there. With the additional 5% very low income units included in the Project, the 20% density bonus would result in a total of 589 dwelling units on the Property based on the existing General Plan and zoning designations in effect on the Property (allowing a base density of 491 dwelling units) at the time the Project applications were submitted. The density bonus calculation was applied to the North Waterfront Cove, LLC, property and not the City-owned property contrary to the assertions of some of the members of the public. Thus, the density bonus calculation for a total of 589 dwelling units complies with State Density Bonus Law.

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Janet C. Kern  
December 18, 2017  
Page 3

**The Alameda General Plan recommended that a future master plan for the Encinal Terminals site consider relocating the tidelands trust to the perimeter of the site to allow residential mixed use development on the core of the site.**

To maintain consistency with the Alameda General Plan, North Waterfront Cove, LLC included in its Master Plan a proposal to swap a portion of the land it currently owns for a portion of the City-owned Tidelands Trust parcel. Contrary to the suggestions of certain members of the public, however, the density bonus is not contingent upon the Tidelands exchange in terms of the density; rather the Tidelands exchange facilitates the proposed residential development that is designed in a manner in accordance with the existing General Plan policies to allow the maximum density under the existing General Plan in accordance with the State Density Bonus Law.

This is no different from the City's requirement that the Project dedicate a portion of the property for parks and open space as a condition of project development. Because the City requires that the applicant dedicate park space a condition of Project approval, does not mean that the Project loses any increased density based on State Density Bonus Law that could have been developed on the property that is now required to be dedicated as open space. The Density Bonus Law continues to apply to the entire Property. If the commenters' approach to calculating density were applied, then municipalities could avoid the need to provide increased density under State Density Bonus Law by simply conditioning the developer to dedicate a portion of its Property for any purpose (e.g., parks and open space) other than residential use. The State Density Bonus Law states that the provisions should be "interpreted liberally in favor of producing the maximum number of total housing units" (Gov't Code 65915(r)). The idea behind these laws is to encourage the provision of affordable housing; *not* to discourage housing.

For these reasons, the City Council's approval of the density bonus request is consistent with the State Density Bonus Law with or without the Tidelands Exchange. If, however, the City were to reject the Tidelands Exchange, then the City's actions would be inconsistent with the Northern Waterfront General Plan policies which provided for the exchange as a means of providing additional housing opportunities along the Alameda Waterfront. And if that were to occur, the City is still required under State Density Bonus Law to provide for the increased density included in the Encinal Terminals Project.

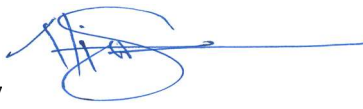
CONFIDENTIAL

Janet C. Kern  
December 18, 2017  
Page 4

We look forward to the City Council's consideration of the Encinal Terminals Project on Tuesday evening.

Sincerely,

BUCHALTER  
A Professional Corporation

By 

Alicia Guerra

AG:sl

cc: Lara Weisiger, City Clerk  
Jill Keimach, City Manager  
Andrico Pennick, Assistant City Attorney  
Andrew Thomas, Assistant Community Development Director  
James Meek  
Michael O'Hara  
Jessica Grossman

# Encinal Terminals Master Plan - -Retain existing 60' height limit

Christopher Buckley <cbuckleyaicp@att.net>

Mon 12/18/2017 11:34 PM

To: Trish Spencer <TSpencer@alamedaca.gov>; Frank Matarrese <FMatarrese@alamedaca.gov>; Marilyn Ezzy Ashcraft <MEzzyAshcraft@alamedaca.gov>; Malia Vella <MVella@alamedaca.gov>; Jim Oddie <JOddie@alamedaca.gov>;

Cc: DEBBIE POTTER <DPOTTER@alamedaca.gov>; ANDREW THOMAS <ATHOMAS@alamedaca.gov>; LARA WEISIGER <LWEISIGER@alamedaca.gov>; Jill Keimach <JKeimach@alamedaca.gov>;

1 attachment

2017-12-18EncinalTerminalsCityCouncil.pdf;

Dear [Mayor Spencer and City Councilmembers](#):

I urge that the City Council retain the project site's existing 60' height limit. See attached letter.

Sincerely,

Christopher Buckley

December 18, 2017

(By electronic transmission)  
Mayor and City Council  
City of Alameda  
2263 Santa Clara Avenue  
Alameda, CA 94501

**Subject: Encinal Terminals Master Plan (Item 6-B on City Council's 12-19-17 agenda)**

Dear Mayor Spencer and Councilmembers:

The Encinal Terminals Master Plan is proposing to increase the plan area's existing 60 foot height limit set forth in the General Plan to 90' on portions of the site. The Master Plan also proposes to allow additional height to an unspecified maximum with design review in Subareas F, G, H or I based on a Planning Board finding that the architectural design is exceptional and that the additional height allows for an increase in the amount of commercial space. The apparent intent as set forth in the Planning Board's version of the Master Plan is to allow a building that is of "landmark" quality, or that is "iconic" and will "punctuate and improve the Alameda skyline". Note: The Planning Board version of the Master Plan set a maximum height for this building at 160'. There now appears to be no maximum height.

**I urge that the City Council retain the General Plan's existing 60 foot height limit.** The proposed height limit increases up to 90' are inconsistent with Alameda's small-town character and set an undesirable precedent for future projects. A potentially taller building exceeding 90', especially with a height of 160' as proposed in the Planning Board version of the Master Plan, will set a bad precedent, be overwhelming in scale relative to Alameda's existing neighborhoods, even from a distance, and be an overly dominant visual element. The apparent provision for no maximum height for the potential high-rise building in Subareas F, G, H or I is especially troubling.

The suggestion that taller buildings will be more attractive and improve the overall architectural and urban design of the project area is not convincing. Some of the world's most memorable cityscapes are low rise (less than 90'), such as many of those in Europe and portions of Washington DC. Low scale architectural elements such as spires, domes and turrets are often used to create "iconic" or "landmark quality" buildings. As noted in the staff report, it appears that the proposed 589 units can still be accommodated within the existing 60 foot height limit.

The bottom of Table 3.2 states "Notwithstanding the contents of Table 3.2, the Planning Board may approve a Design Review application whose building design substantially conforms to the intent of Table 3.2". **This is a giant loophole that sets the stage for an end run around Table 3.2's provisions and should be deleted.** This provision was not in the Planning Board version of the Master Plan.

Sincerely,

Christopher Buckley

cc: Allen, Tai, Andrew Thomas and Debbie Potter (by electronic transmission)



# Support of the Rncinal Terminals Project

Pamela Thompson <PamelaT@bayeast.org>

Mon 12/18/2017 9:31 AM

To: Trish Spencer <TSpencer@alamedaca.gov>; Malia Vella <MVella@alamedaca.gov>; Frank Matarrese <FMatarrese@alamedaca.gov>; Marilyn Ezzy Ashcraft <MEzzyAshcraft@alamedaca.gov>; Jim Oddie <JOddie@alamedaca.gov>;

Cc: City Clerk <CLERK@alamedaca.gov>;

1 attachment

re Encinal Terminals.pdf;

Good Morning,

Please find the attached letter of support from the Alameda Chapter of the Bay East Association of REALTORS®.

Regards, Pamela

**Pamela Thompson, Public Affairs Coordinator**

**Member Care & Relations Specialist**

**Bay East Association of REALTORS®**

Now offering services at 2 locations for your convenience:

2490 Mariner Square Loop, Suite 200      7021 Koll Center Parkway

Alameda, CA 94501

Pleasanton, CA 94566

Office: (510) 523-7229

Office: (925) 730-4060

Direct: (510) 871-4201

[www.bayeast.org](http://www.bayeast.org)

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2490 Mariner Square Loop, Suite 200  
Alameda, CA 94501  
510.523.7229  
[www.bayeast.org](http://www.bayeast.org)



December 15, 2017

Mayor Spencer and Members of the City Council  
City of Alameda,  
2263 Santa Clara Avenue  
Alameda, California 94501

Re: Encinal Terminals Project

Dear Mayor Spencer and Members of the City Council:

The Alameda Chapter of the Bay East Association of REALTORS® is committed to supporting and finding ways to promote housing for all levels of the community.

Our association's Local Government Relations Committee has reviewed and fully supports the proposed Encinal Terminals project. It will be a benefit to our community and we encourage the City Council to approve this project.

Sincerely,

A handwritten signature in black ink, which appears to read "Michael Baldasarra". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael Baldasarra  
2017 Chair, Alameda Chapter

# Opposition to Encinal Terminals Project-Dec. 19 2017 City Council Agenda Item #6-B

Barbara Thomas <barbarathomasesq@comcast.net>

Mon 12/18/2017 9:01 AM

To: Trish Spencer <TSpencer@alamedaca.gov>; Frank Matarrese <FMatarrese@alamedaca.gov>; Jim Oddie <JOddie@alamedaca.gov>; Marilyn Ezzy Ashcraft <MEzzyAshcraft@alamedaca.gov>; Malia Vella <MVella@alamedaca.gov>; City Manager <MANAGER@alamedaca.gov>;

Cc: LARA WEISIGER <LWEISIGER@alamedaca.gov>;

Madame Mayor and Members of the City Council:

Approval of the Encinal Terminals Project (hereinafter "ET") by the CITY will violate the California Environmental Quality Act, Public Resources Code, Planning and Zoning law, Alameda's General Plan, Charter and Municipal Code. Alameda's Municipal Code § 30-94 adopts and incorporates the law and intent of State Planning and Zoning laws by setting forth the standard for Council actions on applications:

§ 30-94.1 - Decision by City Council.

- a. The City Council shall hold a public hearing, after which it may accept, modify or disapprove the recommendation of the Planning Board.
- b. The City Council may not approve the development agreement unless it finds that the provisions of the agreement are consistent with the General Plan and other regulations prescribed for the use of land."

Alameda is comprised of three adjacent islands in the San Francisco Bay in the State of California. It has no direct freeway access. Its only transit link is by bus or shuttle. All vehicular egress/ingress to City island is through its neighboring cities, Oakland and San Leandro. Elected state legislators have responded to the "housing crisis" by passing many statutes designed to alleviate this shortage. Those same legislators have ignored Alameda's unique constraints: It is an island with a very poor jobs/ housing ratio (one of the worst if not the worst in the county), and faces extreme unfunded costs to preserve its continued existence in the future due to sea level rise. Other cities in our County have direct access to interstate highways that are real freeways: 13, 80, 123, 185, 580, 680, 980. (Alameda's Route 61 is essentially a 2 lane road with a 25 mph speed limit and a dedicated bicycle lane.) Marin County's state elected officials were able to obtain exemptions from solving the "housing crisis" by passing an exemption due to "its rural and agricultural nature" cf San Rafael. When cities such as Berkeley, face Levels of Service on their residential streets that don't approach those on Alameda's residential streets, they pass laws and build barriers effectively stopping others from destroying the quality of life on their residential streets. Alamedans pay the price for saving their quality of life. Our General Plan begins by setting forth what the voters have long enforced for long term land use decisions in Alameda:

Small town feeling: Alameda has always been a quiet, predominantly residential community, an ideal urban/suburban community created in an era when commutes were by rail or ferry. The City does not have or want tall buildings, freeways, highway commercial strips, or vast tracts of look-alike housing. Measure A, the 1973 initiative that was passed to prevent Alameda from becoming predominantly a city of apartment buildings, stands as a clear rejection of the change that seemed at the time to be engulfing the City.

Respect for history: The City's rich and diverse residential, commercial, industrial, and institutional architecture is continually gaining recognition as an irreplaceable asset. The Bay Area has no similar communities and none will be built. The General Plan emphasizes restoration and preservation as essential to Alameda's economic and cultural environment.

De-emphasis of the automobile: In a city where almost every street is a residential street, it is not surprising that increased traffic is seen as a major threat to the quality of life.

The ET Program site is on the estuary. Its current configuration of 92% residential and 8% commercial is "growth inducing" which is not addressed in the EIR. Its failure to provide adequate parking for the 589 units will cause its inhabitants to compete for parking with the new Del Monte development, for the already limited parking in the existing residential neighborhoods.

ET was originally wetlands. In the late 1800s and early 1900's, fill was added to produce solid ground. (cf. When construction of Bay Farm Island School began in the 1990's, the builder "struck oil" when it dropped beams into the fill for support of a one story building. It turned out to be oil in 55 gallon drums on a battleship that had been sunk as fill for Bay Farm Island. No records were kept of the fill content or quality at ET. As landfill, ET will always be highly susceptible to liquefaction. It is adjacent to two major earthquake faults. The 1989 Loma Prieta 6.9 quake caused significant liquefaction in Alameda's fill areas, damaging the ability to provide basic services to those areas.

Due to current extreme traffic congestion on the nearest Interstate Highway I80, the Alameda County Transportation Authority and CALTRANS have been planning improvements for decades. These entities are currently conducting the environmental impact analysis required under the National Environmental Protection Act (hereinafter "NEPA"). This project will have major effects on egress/ingress to Alameda during the anticipated construction and after completion. The ET EIR has not taken note of this project or its impacts.

ET is challenged because (among other things) it is a project that results in significant impacts on the environment that have not been adequately assessed or mitigated in accordance with CEQA. Code §§ 21000 et. seq. ("CEQA"), the CEQA Guidelines Title 14, California Code of Regulations, §§15000 et. seq. ("CEQA Guidelines"). The CITY is failing to proceed as required by law by not conducting any specific review or preparing an adequate environmental impact report ("EIR") for the Project, and by approving the Project on the basis of findings that are not supported by substantial evidence. The Government Code requires, inter alia, that every city in California adopt a comprehensive, long-term general plan for the physical development of that city (Gov. Code §65350 et. seq.) Any amendments to that Plan must be consistent with the general plan (Gov. Code § 65359.) The General Plan Amendment (hereinafter "GPA") proposed fails to satisfy the State and Zoning law requirements because, among other things, (i) the elements in the General Plan are internally inconsistent, (ii) the GPA is inconsistent with the Alameda General Plan, and (iii) inconsistent with Alameda's Charter. The CITY fails to make adequate findings as required by the Government Code for adoption of the GPA. While the Council can adopt amendments to its General Plan, Housing Element, and Municipal Code for conformity, changes to the Charter require a vote of the City's electors; changes to state law are out of Alamedans control.

The CITY relies upon preparation of an addendum to previously adopted environmental documents in order to comply with requirements of CEQA, and yet ET claims to be another "Program EIR". By doing this, it impermissibly defers required environmental review. This is illegal. Public Resources Code §§ 21168, 21168.5, and Code of Civil Procedures §§ 1085, 1087, and 1094.5 and Code of Civil Procedure § 393(b) authorize review by the Alameda County Superior Court of these actions.

In failing and refusing to prepare and certify an adequate EIR that fairly, fully and honestly discloses and analyzes the potential impacts that will result from the Project, refusing to consider and adopt entirely feasible and environmentally superior alternatives to the Program, and failing to make all mitigation measures fully enforceable, the City is disregarding or treating as a mere formality, the specific and substantive requirements of CEQA and the Guidelines.

CEQA applies to all "governmental agencies at all levels" and requires public agencies to prepare an EIR whenever the approval of a project may cause a significant adverse effect or impact on the environment before formal decisions are made. (Public Resources Code §§ 21000, 21001.). The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. What might not be significant in areas with multiple access ways to multiple interstate highways might be significant to a water locked island with no freeway access, facing sea level rise due to global warming. (CEQA Guidelines, § 15064, subd. (b).)

Under CEQA, the term "project" means the "whole of an action, which has potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (14 Cal. Code Regs. §15378(a).) CEQA mandates environmental review as early as feasible in the planning process, and agencies are forbidden from taking action which gives impetus to a foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review. (14 Cal. Code Regs. §15004 (b)(2)(B).)

CEQA and the CEQA Guideline require that an EIR include a description of the Project and a discussion of alternatives to the Project, including (but not limited to) the "No Project" alternative and alternative methods of accomplishing some, but perhaps not all of the proposed Project's objectives. The City failed: (1) to provide an EIR that adequately discussed a reasonable range of alternatives to the proposed Project, thereby eliminating a meaningful basis for comparing adverse environmental impacts of the proposed Projects to environmentally superior alternatives; (2) to prepare an adequate EIR by not committing to an accurate, stable and finite project description throughout the CEQA process; (3) to examine potentially significant impacts that may result from the Project on resources, including (among other things) aesthetic impacts, air quality and noise impacts on sensitive receptors, and groundwater pollution; (4) to adequately examine the cumulative effects of the Project in light of other ongoing and proposed actions and projects that have or may have similar effects; (5) to prepare an adequate EIR by not adequately analyzing the extent to which the Project's effects will commit non-renewable natural resources to a use that future generations will not be likely be able to reverse; (6) to prepare an adequate EIR by not carefully evaluating and effectively mitigating the Project's significant adverse effects on the residents of the adjacent multi-family and other housing; (7) to address significant new information raised only in its Response to Comments and thereafter re-circulate at least portions of the EIR. The Developer has changed the "project" significantly at nearly every stage of the CEQA process.

CEQA and the CEQA Guidelines require the City to address comments and suggestions raised during the EIR review process and prepare a good faith, reasoned analysis in response to all significant issues raise. The City must adequately and accurately provide good faith reasoned responses to comments made during the CEQA review process, including (but not limited to ) inadequate responses to comments raised concerning the Project's environmental impacts and feasible mitigation measures and alternatives. The City must make certain written findings and those findings must be supported by substantial evidence in the record. Here any findings are not supported by substantial evidence.

The CITY failed to examine and discuss potential mitigation measures that would substantially lessen the Project's potentially significant adverse impacts on Alameda's shoreline. The CITY did not have an accurate description of the aesthetic and physical environment immediately surrounding the Project; consequently, the EIR is unable to accurately determine whether or not any environmental impacts are significant and /or adverse to the surrounding environment, or whether re-circulation is required. The City did not analyze a reasonable range of alternatives to the Project, including feasible alternatives that are environmentally superior.

The CITY produced an EIR that is biased in favor of the proposed Project's approval and, therefore fails to constitute a full disclosure document intended to objectively inform decision makers and the public of the Project's true impacts, mitigation measures, and alternatives. The version of the Project which is threatened if the Tidelands Swap fails, with 5, 6, 9 and 14 story buildings, was not one of the alternatives considered in the EIR.

The CITY failed to analyze the Project's potentially significant environmental impacts on land use by not honestly analyzing the Project's potential to cause aesthetic impacts and urban decay. Many of the mitigation measures are so undefined that it is impossible to evaluate their potential effectiveness. Not only are these mitigations undefined, perhaps more importantly, they are unfunded and some are on land that the City does not own. Rather than undertaking the analysis necessary to formulate feasible traffic, aesthetic and safety mitigation measures, the EIR vaguely states that the Developer will "facilitate" improvements. This is an illusory promise, not a valid CEQA mitigation measure. Such promises provide no performance standards or other acceptable criteria for determining whether, when or how impacts will be mitigated. They also violate CEQA's mandate that mitigation measures be fully enforceable through permit conditions, agreements, or other legally binding instruments. CEQA does not allow a lead agency to abdicate its mitigations' responsibility in this manner. The EIR should address the possibility of Clement Avenue not connecting through to Grand Street without the Pennzoil property. Although the EIR has been amended significantly to meet CEQA requirements, this triggers a need for re-circulation of the draft EIR. In an attempt to avoid this CEQA

failing, the Final EIR has included two identified mitigations with a partial contribution by the developer, that were not included earlier.

CEQA and the CEQA Guidelines require a lead agency to recirculate an EIR when significant new information is added to the EIR after the close of the public comment period but before certification. The description of ET is so fundamentally and basically inadequate that meaningful public review and comment has been precluded. Significant new information, as defined in CEQA and the CEQA Guidelines, was presented to the City during the public comment period and was incorporated into the EIR. The CITY made numerous changes in the Project in response to comments. Failing and refusing to recirculate the EIR prior to certification is an abuse of discretion.

The EIR fails to adequately evaluate the cumulative impacts associated with the Project. Deficiencies in the cumulative impacts analysis include, but are not limited to failure to analyze the combined impacts of the Project, plus all past, present and reasonably foreseeable future projects, as well as the methodology used for assessing such impacts. The Nelson Nygaard report uses the new CEQA traffic impact metric but is only for Encinal Terminal project opening day (year 2020). It does not include the cumulative impacts for all projects. The Abrams traffic volume numbers for the cumulative condition are less than historical counts and 30 percent below the city's cumulative traffic model data. The Metropolitan Transportation Commission (hereinafter "MTC") traffic model volume forecasts and VMT results are the same that Nelson Nygaard used. These figures indicate a VMT increase of more than 20 per cent on Alameda streets for the cumulative year 2040. MTC forecasts total traffic for all the estuary crossings going up more than 30% for the cumulative impact analysis above existing during the AM peak period. The ET EIR adds a statement that the "constrained" counts were used for the existing impact levels of service and delay calculations and that is why their results do not reflect the actual delays. And since the cumulative traffic volume data is the same as their existing, the delays for the cumulative conditions are underestimated and are less than today's.

If this Project is approved, the CITY will be prejudicially abusing their discretion because the findings (including the statement of overriding considerations) (i) fail to satisfy the requirements of CEQA (including without limitation, Public Resources Code §§ 21081 and 21081.5, and the CEQA Guidelines §§ 15091 through 15093 and other legal requirements; or (ii) are not supported by substantial evidence.

CITY's findings are inadequate for the following reasons, among others: (i) CITY fails to make adequate findings with respect to each significant environmental effect and mitigation measure identified in the EIR; (ii) the findings are conclusory and fail to disclose the analytic route between the evidence supporting the findings, and the conclusions contained in those findings; (iii) many of the findings including, among others, those contained in the statement of overriding considerations, are not based on substantial evidence. The CITY will abuse its discretion by failing to adopt, as required by CEQA and the CEQA Guidelines §15093, an adequate statement of overriding considerations which sets forth specific reasons, supported by substantial evidence, that justify approval of the Project despite its significant environmental effects.

The CITY will abuse its discretion by failing to adopt a legally adequate mitigation monitoring and reporting program, as required by CEQA (Public Resources Code Sec. 21081.6) and the CEQA Guidelines (14 Cal. Code Regs. §15097) for changes to the Project that it is adopting. CEQA Guidelines § 15097 specifies that such a program shall be adopted to ensure that the mitigation measures and project revision identified in the EIR are implemented. Even if adopted the program does not fulfill these purposes, and is not supported by substantial evidence.

The ET EIR fails to comply with CEQA's other requirements for preparation of an EIR including without limitation it (i) fails to analyze adequately the consistency of the GPA amendment with the plans and policies, established and contemplated by other public agencies within the areas; (ii) fails to analyze the inconsistencies within the GPA, within the Alameda General Plan itself and between the GPA and the Alameda General Plan; (iii) the discussion of environmental setting and baseline is inadequate; (iv) it does not meet the requirements of CEQA for additional reasons set forth in comment letters, testimony and other evidence in the record, (v) the City Council's certification of the EIR, adoption of the findings, mitigation monitoring and reporting program, GPA and related actions will constitute a prejudicial abuse of discretion in that the City Council failed to proceed in the manner required by law or act on the basis of substantial evidence.

ET has attempted to circumvent the voters' mandate of Measure A, using various techniques including the claim of the legal doctrine of State Pre-emption by newer housing laws. The CITY has passed Housing Density Bonus laws, and enacted Multiple Dwelling overlays in response to these needs. All were passed without amending the General Plan, Charter, or Municipal Code. These documents are now internally inconsistent as well as inconsistent with each other. ET claims a Density Bonus above and beyond Measure A, due to California Government Code § 65915. The CITY's Housing Element was certified by the State which constitutes a finding that it identified a sufficient number of vacant parcels to meet the 2023 housing availability requirement under Measure A. The CITY has overwhelmingly surpassed the ABAG Housing Goals in market rate, falling short in the low and affordable income housing goals. Vocal supporters of more housing, are being used by the developer to promote building 510 market rate units while a mere 15% is going to the unfilled requirements. These supporters are not taking into the consideration the "opportunity cost." ET will mean that 300 - 510 units will be lost to low and affordable income households - forever.

The CITY has responsibility under the California Public Trust Doctrine over both granted and ungranted Tidelands Trust Land. This is land held in public trust for all of the people of California. Even if approved, the monetary value of the lands or interests in lands received by the trust in exchange must be equal to or greater than that of the lands or interests in lands given by the trust in exchange. If the CITY approves this land swap it is doing so for purposes which are primarily municipal in nature, new housing and completion of a city street, neither of these benefits are public trust allowable uses. The tidelands exchange gives up most of the existing tidelands in exchange for land and water around the perimeter of the site that is already protected by the San Francisco Bay Plan. It also creates a narrow strip of tidelands trust land through the center of the project that serves only to benefit the new ET residential neighborhood. Neither of these benefits are public trust allowable uses.

Not only does this Tidelands Swap undermine climate action potential, the EIR misstates the current anticipated sea rise. The EIR uses a sea level rise that is outdated by the State of California which uses the current figure 8.5 feet (102 inches). The Master Plan seeks the right to build sea walls on part of the new proposed tidelands as a future sea level rise mitigation measure needed to protect this new residential development. This constitutes a breach of the fiduciary duty of the CITY to the citizens of the State of California as well.

In its opposition to this Project, the Sierra Club wrote, after the adoption by the Planning Board of the EIR, but before Council's consideration:

"Converting state tidelands into a housing and commercial development fails to appreciate the value of living shorelines to mitigate extreme climate events and offset the loss of marshland habitat as sea level rises. For example, projected sea level rise will eventually inundate and degrade the marshland on Alameda's south shore at the Elsie Roemer Bird Sanctuary. Retaining the tidelands at the Encinal Terminals site in the state's inventory of tidelands will preserve the opportunity to re-think shoreline land use policy in Alameda in light of climate change impacts."

While the City's 1991 General Plan originally contemplated a possible Tidelands Swap, that was before the latest 2017 State figures on the speed of Global Warming and resultant Sea Level Rise.

ET violates the Alameda Municipal Code §30.94.1, which states "b. The City Council may not approve the development agreement unless it finds that the provisions of the agreement are consistent with the General Plan and other regulations prescribed for the use of land."

For the foregoing reasons, it is respectfully requested that all approvals, ordinances and certifications for the Encinal Terminals Project be denied.  
Dated: 12-18-19

Respectfully submitted,

Barbara Thomas

Attachments:

City of Alameda General Plan - 1991- Excerpts

Northern Waterfront Draft Environmental Impact/General Plan Amendment Report -2006 - Excerpts

Northern Waterfront General Plan Amendment -2006 - Excerpts

Northern Waterfront EIR - Adopted February 17, 2007 - Excerpts

Encinal Terminals Master Plan Draft Supplemental Focused EIR Draft Focused Supplemental Environmental Impact Report State Clearinghouse Number:

2016042076 Prepared for City of Alameda February 2017 - Excerpts

City of Alameda Municipal Code - Excerpts

City of Alameda Charter - Excerpts

California Public Resources Code Governing Tidelands Exchange

(boldface and underlining added in all Attachments)

ATTACHMENT - City of Alameda General Plan -1991- Excerpts

1. SETTING AND ORGANIZATION OF THE GENERAL PLAN

The General Plan's policies reinforce five broad themes:

An island: Arriving in Alameda is an event – a journey across or through the water that clearly establishes the City's boundaries and identity. General Plan policies strengthen awareness of the City's island setting by making the shoreline more visible and accessible.

Small town feeling: Alameda has always been a quiet, predominantly residential community, an ideal urban/suburban community created in an era when commutes were by rail or ferry.

The City does not have or want tall buildings, freeways, highway commercial strips, or vast tracts of look-alike housing. Measure A, the 1973 initiative that was passed to prevent Alameda from becoming predominantly a city of apartment buildings, stands as a clear rejection of the change that seemed at the time to be engulfing the City.

Respect for history: The City's rich and diverse residential, commercial, industrial, and institutional architecture is continually gaining recognition as an irreplaceable asset. The Bay Area has no similar communities and none will be built. The General Plan emphasizes restoration and preservation as essential to Alameda's economic and cultural environment.

De-emphasis of the automobile: In a city where almost every street is a residential street, it is not surprising that increased traffic is seen as a major threat to the quality of life. The General Plan commits Alameda to vigorous support of transit improvements, ferry service, reduction of peak-hour use of single-occupant vehicles, and an enjoyable pedestrian environment.

Multi-use development on the Northern Waterfront: Retention of seaports and related industries, priority space for boating-related activities, and extension of an existing residential neighborhood to a new 10-acre park along the Estuary are the Plan's boldest policies for both preservation and change.

USING THE GENERAL PLAN

The Plan text distinguishes adopted policies from information describing the reasons for a policy. Guiding Policies are the City's statements of its goals and philosophy. Implementing Policies represent commitment to consistent actions. Implementing Policies are as specific as is appropriate given the City's current level of knowledge and consensus on each issue. Adopted

policy statements are printed in roman type; explanatory material appears in italics and is not adopted. The General Plan Diagram in the pocket at the rear of this volume depicts the

desired ultimate land use and street network. The Diagram must be used in conjunction with the Plan text. The Land Use Classifications (See Section 2.2) explain the legend on the Diagram and specify density and intensity ranges for each category. A glossary defines technical terms. To make the General Plan diagram readable, it is necessary to omit isolated use designations smaller than an acre. Places of religious assembly are not shown.

## LAND USE ELEMENT CHAPTER 2

Medium-Density Residential: Two family or one family units. Medium density residential development will provide at least 2,000 square feet of site area per unit. Existing densities range up to 70 units per net acre on blocks with mixed single- and units. Density range for additional units: 8.8 to 21.8 units per net acre. Projects of five or more units with 20 percent of the units affordable to lower-income households earn a state-mandated density bonus permitting up to 26.1 units per net acre. Congregate housing and single room occupancy facilities would be permitted and their density would be regulated by the bulk standards (setbacks, height, lot coverage) in each zoning classification.

Measure A Exception: The City Council agreed in the Settlement Agreement on the Guyton vs. City of Alameda case that Section 26-2 of the City Charter allows the Alameda Housing Authority to replace, with multi family housing, 325 low cost housing units. Three hundred and twenty five represents the number of low cost units lost when the former Buena Vista Apartments were converted to Bridgeport Apartments. The City agreed that the 325 units of multi family housing can be built at densities allowed as of January 1, 1990, even if Zoning and General Plan changes are subsequently adopted which reduce allowable densities.

For most uses, a maximum permitted rate of gross floor area to site area is specified. The floor area ratio (FAR) is a broad control of building bulk that limits both visual prominence and traffic generated.

There are no FARs for MUs.

## SPECIFIED MIXED USE

Nine areas designated on the General Plan Diagram are to have combinations of uses specified to implement General Plan policies. Development programs that include limitations on development intensity are described in Sections 2.6. (See Table 2-1.)

The Specified Mixed Use Areas labeled on the General Plan Diagram are:

MU1 Island Auto Movie

MU2 Mariner Square

MU3 Ballena Isle

MU4 Northern Waterfront (Grand Street to Willow Street)

MU5 Northern Waterfront (Willow Street to Oak Street)

MU6 Northern Waterfront (Sherman to Grand)

MU7 Catellus Mixed Use Commercial

AP1 Alameda Point Civic Core

AP2 Alameda Point Inner Harbor

AP3 Alameda Point Marina

## Guiding Policies: Residential Areas

2.4.a Maintain and enhance the residential environment of Alameda's neighborhoods.

2.4.d Limit residential development to one family detached and two family dwellings, in accord with the provisions of Measure A. Up to 325 low cost units may be built in Alameda as multifamily housing as replacement housing for the low cost units lost when Buena Vista

Apartments were converted market-rate housing in 1988. Some or all of these replacement units may be located at one or more of the mixed-use sites, or in any area of the City where residential units are permitted.

## Implementing Policies: Residential Areas

2.4.j Schedule hearings to consider amendments to the Zoning Map that would reclassify predominantly residential areas zoned for nonresidential use to bring the Zoning Map into consistency with the General Plan Diagram.

2.4.p Amend the Zoning Ordinance and zoning map to be consistent with Measure A, as necessary.

Chapter 2 - 14 - Land Use Element

2.4.q Require that all new development pay appropriate development impact fees.

## Guiding Policies: Specified Mixed Use Areas

2.6.d Grand to Willow Street (Northern Waterfront): Continue efforts to minimize industrial -residential conflicts on the south side of Clement Avenue where current zoning matches current use at most locations. Live-work space for artists and artisans would be an appropriate use in many cases. To ensure maintenance of a working waterfront and to avoid employment densities that would create heavy traffic, office and retail space is to be limited to approximately its current share of total floor area. The intent is to maintain an environment suited to the types of businesses now located in the area—both those that are related to the waterfront and those that are not.

## Chapter 2 - 24 - Land Use Element

The proposed Business and Waterfront Improvement Project would provide public actions to stimulate development of this site.

2.6.e Willow Street to Oak Street (Northern Waterfront): Provide for redevelopment of existing industrial sites for up to 300 residential units, treating the area north of Clement Avenue as an extension of the residential neighborhood to the south. The proposed Business and Waterfront Improvement project would

provide public actions to stimulate development of the site.

2.6.f (Northern Waterfront): Create a continuous shoreline access along the Estuary from the Miller Sweeney Bridge to the western tip of Alameda Point. See Policy 3.2.i in the City Design Element and Policy 6.1.e in the Parks and Recreation Element.

#### Implementing Policies: Specified Mixed Use Areas

2.6.g Mariner Square: Elder assisted living facilities may be permitted, provided they are compatible with the marine uses in the vicinity.

2.6.h Grand to Willow Street (Northern Waterfront): Limit office/industrial/retail development to .5 FAR, excluding area serving open uses, providing shoreline access, or used for vehicular access to other facilities within the Specified Mixed Use area. The intent of this provision is to support waterfront related and nonwaterfront related uses of the types now existing. The policy would prevent overbuilding that would occupy open area needed to support viable marine-related activities. The industrial character is not to be replaced by typical business park landscaping or building intensity.

2.6.i Willow Street to Oak Street (Northern Waterfront): Rezone existing nonresidential parcels to a residential-industrial mixed use district that would allow industrial use not more intense and not occupying more floor area than the 1990 use or residential development consistent with Measure A. Existing industry would not become nonconforming under zoning regulations, but could not expand in this area. Residential development would occur where a developer has a site large enough to create a residential environment. Uses would change only in accord with the plans and schedules of landowners.

2.8.d Continue working to eliminate residential-industrial conflicts. Where there is agreement that a boundary is firm, it is reasonable to expect development approvals to require developers to pay for improvements that mitigate conflicts.

2.8.e Maintain maritime character where the Northern Waterfront is to remain in industrial use.

Specified Mixed Use Area development programs in Policies 2.6.b,

2.6.d and 2.6.i provide safeguards against displacement of water related industries by offices or other commercial development.

2.8.f Encourage major employers to contribute towards child care facilities and/or programs to help attract and maintain a productive work force.

#### Implementing Policies: Business Parks and Industrial Areas

2.8.g Revise zoning regulations to remove cumulative provisions that permit all uses except housing in industrial areas. This policy may be critical to preservation of the sea-rail link and the existing industries that use it. If zoning regulations in force in 1990 are not revised, a strong demand for office space or waterfront hotels could suddenly displace industry. If future economic conditions warrant a major change from the designated industrial use, the City of Alameda should initiate revision of the General Plan.

2.8.h Review zoning regulation performance standards and revise if necessary to improve equity and enforceability. Current (1990) regulations permit uses from which "noise, smoke, dust, noxious fumes and gases, glare, heat and vibration are confined to the premises or held to volumes, intensities and levels at the perimeters of individual properties which are no greater than those in the general area. This does not meet regional standards and cannot be effectively enforced.

2.8.i Require that all new development pay appropriate development impact fees.

#### Guiding Policies: City-owned Land

2.10.a Establish long-range management policies for City-owned real property based on comparative evaluation of potential for public use and enjoyment, public- or joint-venture enterprise development, or lease for development. A Port Authority Task Force appointed by the City Council in 1989 has discussed steps that could lead to more profitable asset management by

the City as part of the Task Force's investigation of ways to ensure preservation and development of marine/harbor facilities in the public interest.

2.10.b Investigate and pursue potential opportunities to acquire underused State or Federal property in Alameda.

2.10.c Stop the trend toward private use of public property.

### 3. CITY DESIGN ELEMENT

#### Implementing Policies: Edges, Vistas, Focal Points

3.2.d Maintain views and access to the water along streets and other public rights-of-way that extend to the bulkhead line. Construct benches, ramps, rails, and seating appropriate for viewing and access, and provide walls or other screening where needed to protect adjoining property.

Westline Drive, Grand Street, Park Street, Central Avenue and Encinal Avenue are candidates for architectural or landscape features that would enhance the meeting of land and water.

3.2.e Encourage landmark structures at prominent locations. The Housing Authority site at the southwest corner of Webster and Lincoln is an example of such a location.

3.2.f Work to establish continuous greenways adjoining Main Street and Atlantic Avenue extending east through the railroad yard to Sherman Street, provided that the greenway design on each parcel allows for connection throughout the length of the greenway. (GPA 96-4)

In addition to providing bike and pedestrian ways, a 100-foot-wide greenway could have landmark trees in the sector of the City that is most in need of a greater presence of nature.

3.2.g Work with BCDC staff to prepare a schematic plan for development of the 100-foot-wide strip above mean high tide on properties likely to require BCDC development approval.

The schematic plan should provide for public access and provide shoreline streets wherever possible. Specific opportunities for shoreline streets should be identified. The plan should include design standards and guidelines for buildings, streets, pedestrian and bicycle routes, signage and landscaping.

3.2.i Ensure that sections of the Estuary waterfront remain visually unobstructed.

Most of the Estuary waterfront not devoted to industrial use is developed as marinas which block vistas. The proposed Estuary Park will be on the most prominent viewpoint.



3.3.e Develop detailed design guidelines to ensure protection of Alameda's historic, neighborhood, and small-town character. Encourage preservation of all buildings, structures, areas and other physical environment elements having architectural, historic or aesthetic merit, including restoration of such elements where they have been insensitively altered. Include special guidelines for older buildings of existing or potential architectural, historical or aesthetic merit which encourage retention of original architectural elements and restoration of any missing elements. The design guidelines include detailed design standards for commercial districts.

3.3.f Regulate development in neighborhood business districts to maintain a street-wall, with most structures built to the property lines, entrances directly facing the sidewalk, and parking at the rear.

#### 4. TRANSPORTATION ELEMENT

Virtually every street in Alameda is a residential street. Therefore, transportation decisions need to balance the goals of moving traffic smoothly and quickly with Alamedans much loved quality of life. As they have in previous Transportation Workshops, including the 1990 General Plan update meetings, Alamedans have made is clear that they are willing to forgo high speed streets in order to accommodate the community aspects that are fostered by slower speeds.

Objective 4.1.2: Protect and enhance the service level of the transportation system.

##### Policies

4.1.2.a Develop multimodal level of service (LOS) standards that development will be required to maintain by encouraging the use of non-automotive modes.

4.1.2.b Monitor the multimodal level of service at major intersections to identify priorities for improvement.

4.1.2.c Promote methods to increase vehicle occupancy levels.

4.1.2.d Support and monitor the City's Traffic Capacity Management Procedure (TCMP), which was developed to meet the City's development and transportation goals west of Grand Street.

4.1.2.e Work with regional, state, and federal agencies to develop plans for design, phasing, funding, and construction of facilities to enhance multimodal cross-estuary travel, such as increased access to Interstate 880 (bridge, tunnel or other vehicle connection) bike/pedestrian shuttles or high occupancy vehicle-only crossing (e.g. transit or carpool lane) to Oakland.

##### Policies

4.1.3.a Consider emergency response goals in long-range transportation planning and while designing current projects.

4.1.3.b Work with public safety agencies to adequately consider emergency response needs.

##### Chapter 4 - 4 - Transportation Element

4.1.3.c Develop a network of emergency response routes, balancing emergency service needs with vehicular, pedestrian and bicycle safety consistent with the adopted street classification system.

Objective 4.2.2: Plan, develop and implement a transportation system that enhances the livability of our residential neighborhoods.

##### Policies

4.2.2.a Protect residential neighborhood integrity by minimizing the impacts of through traffic on low-volume residential streets.

4.2.2.b Maintain a Traffic Calming Toolbox, as described on the CityWebsite, and implementation program.

1. Integrate traffic calming elements into new facility design and as appropriate, modify existing facilities to enhance traffic systems management.

4.2.2.c Support programs that increase the number of people transported without increasing the number of vehicles.

4.2.2.d Develop a program that monitors and reacts to traffic volumes on selected city streets to ensure an appropriate distribution of traffic.

4.2.2.e Maintain a speed limit of 25 MPH on all streets in Alameda in order to avoid creating barriers between neighborhoods. Exempt current roadways with speed limits above 25 MPH: Ralph Appezato Memorial Parkway, Main Street, Constitution Way, Tilden Way, Doolittle Drive, Island Drive, North Loop Road, South Loop Road, and Harbor Bay Parkway.

#### 4.4 IMPLEMENTATION GOAL

Implement and maintain the planned transportation system in a coordinated and cost-effective manner.

Objective 4.4.1: Require developers to reserve and construct (if nexus exists) rights of way, transportation corridors and dedicated transportation facilities through the development process and other means.

##### Chapter 4 - 13 -

1. Develop design guidelines for pedestrian access in new development and redevelopment areas, including shopping centers, residential developments, and business parks.

2. In any new development or re-development, safe and convenient pedestrian connections between major origins and destinations, including connections within the development and between the development and adjacent areas, should be a high priority in evaluating the site plan.

3. Develop shoreline access design guidelines.

Objective 4.4.2: Ensure that new development implement approved transportation plans, including the goals, objectives, and policies of the Transportation Element of the General Plan and provides the transportation improvements needed to accommodate that development and cumulative development.

##### Policies

4.4.2.a Roadways will not be widened to create additional automobile travel lanes to accommodate additional automobile traffic volume with the exception of increasing transit exclusive lanes or non-motorized vehicle lanes.

4.4.2.b Intersections will not be widened beyond the width of the approaching roadway with the exception of a single exclusive left turn lane when necessary with the exception of increasing transit exclusive lanes or non-motorized vehicle lanes.

4.4.2.c Speed limits on Alameda's new roads should be consistent with existing roadways and be designed and implemented as 25mph roadways.

4.4.2.d All EIRs must include analysis of the effects of the project on the city's transit, pedestrian and bicycling environment, including adjacent

neighborhoods and the overall City network.

4.4.2.e EIRs will not propose mitigations that significantly degrade the bicycle and pedestrian environment which are bellwethers for quality of life issues and staff should identify "Levels of Service" or other such measurements to ensure that the pedestrian and bicycling environment will not be significantly degraded as development takes place.

4.4.2.f Transportation related mitigations for future development should first implement TDM measures with appropriate regular monitoring; transit, bicycle and pedestrian capital projects; and more efficient use of existing infrastructure such as traffic signal re-timing in order to reduce the negative environmental effects of development, rather than attempting to accommodate them. Should appropriate regular monitoring indicate that these mitigations are unable to provide the predicted peak-hour vehicle trip reductions, additional TDM measures, development specific traffic caps, or mitigations through physical improvements of streets and intersections, consistent with policy 4.4.2.a and policy 4.4.2.b, may be implemented.

4.4.2.g After the implementation of quantifiable/verifiable TDM measures (verified through appropriate regular monitoring), and mitigation measures consistent with 4.4.2.f and identification of how multimodal infrastructure relates to congestion concerns, some congestion may be identified in an EIR process as not possible to mitigate. This unmitigated congestion should be evaluated and disclosed (including intersection delay length of time) during the EIR process, and acknowledged as a by-product of the development and accepted with the on-going funding of TDM measures.

Objective 4.4.5: Develop service level standards for the operation and maintenance of public works infrastructure, including streets, bridges, pedestrian ways, bicycle facilities and intersections.

Objective 4.4.6: Work with area employers and other stakeholders to develop one or more TMAs to implement TDM programs

#### Policies

4.4.6.1 For new development projects, require residential, business associations, property owners, and lessees to be dues-paying members in the TMAs, as allowed by law.

4.4.6.2 Encourage existing and previously approved developments to join a TMAS, through which they would contribute toward, and benefit from, TDM programs.

Objective 4.4.7: Require developers to contribute toward the implementation of appropriate TSM/TDM measures to mitigate the impacts of their projects on the bridges, tubes, specific intersections, and corridors.

4.4.7.a Develop standardized method for calculating the appropriate financial contribution for TSM/TDM fees.

4.4.7.b Develop TSM/TDM fee collection mechanism.

### 5. OPEN SPACE AND CONSERVATION ELEMENT

Implementing Policies: Open Space for the Preservation of Natural Resources

5.1.n Inventory existing wetlands and water-related and other habitats to create a comprehensive map of sensitive biological and botanical resources, to better protect these resources.

5.1.p Require that proposed projects adjacent to, surrounding, or containing wetlands be subject to a site-specific analysis which will determine the appropriate size and configuration of the buffer zone. The size and configuration of the buffer zone should be based on the characteristics and importance of the wetlands and the proposed project. . . The citywide total of 3,124 berths in 11 marinas, designated as commercial recreation to ensure the long-term viability of the wetlands area, which may include provisions for off-site needs such as upland nesting habitat.

Implementing Policies: Climate and Air Quality

5.5.c Encourage use of public transit for all types of trips. See policies in Section 4.3 in the Transportation Element.

5.5.d Encourage development and implementation of Transportation System Management (TSM) programs.

See Transportation Element policies (4.2.a and 4.2.b).

5.5.e Minimize commuting by balancing jobs and nearby housing opportunities. Buildout of Alameda will create four jobs for every three employed residents, minimizing out-commuting. A surplus of jobs in Alameda is likely to result in less travel than if these office/business park jobs were at alternative outlying locations.

### 6. PARKS AND RECREATION, SHORELINE ACCESS, SCHOOLS AND CULTURAL FACILITIES ELEMENT

Small boats have replaced large ships along most of the Northern Waterfront, as former shipyards and docks have become sites for marina on the General Plan Diagram, is the largest concentration in Northern California. With completion of Grand Marina in 1988 (362 berths), little space remains within the U.S. Pierhead Line for additional berths.

#### Chapter 6 6-8

Scores of marina-related businesses—from small shipyards and wood workers to yacht brokers and manufacturers of navigational instruments—constitute a thriving sector of the City's economy that has attained a critical mass and can expect continuing growth.

6.2.a Maximize visual and physical access to the shoreline and to open water. Despite recent progress in securing public access, opportunities are still very limited on the north and east shorelines of the Main Island. At marinas where access to the shoreline is available, long floating piers and a forest of masts still may block visual access to open water. Along much of the Northern Waterfront where there are no marinas, the bulkhead and pierhead lines are close together, so access to open water is assured.

#### Chapter 6 6-9

6.2.b Regulate development on City-owned shoreline property to maximize public use opportunities. Although the City's shoreline properties are under long-term lease, existing terms are sufficiently favorable to the leaseholders to enable development to include substantial public amenities and still be profitable. Unless the City regains full control of its shoreline holdings, this policy appears to be the best available response to the CLUP policy calling for stopping the trend toward private use of publicly owned shoreline.

6.2.c Ensure marina operating standards that prevent degradation of water quality. See also policies within Section 5.1 of the Open Space and Conservation Element.

6.2.d Through design review of shoreline property, give consideration to views from the water.  
Implementing Policies: Shoreline Access and Development

6.2.e Remove impediments to enjoyment of shoreline access where legal access exists.  
Access points that are intentionally blocked or merely allowed to become overgrown prevent public use of public property.

6.2.f Cooperate with property owners adjoining shoreline access points to ensure that public use does not cause unnecessary loss of privacy or unwarranted nuisance.

6.2.g Prepare a Shoreline Access Plan in consultation with BCDC for areas where development proposals are expected to provide opportunities to improve or extend access.

6.2.h Require shoreline access where appropriate as a condition of development approval regardless of whether development occurs within the area of BCDC regulation. Access should be provided even if there is no development within 100 feet of the water's edge.

6.2.i Require off-site access as a mitigation when public access on-site is infeasible.

SN-6. Amend and update the Alameda local California Building Code, as necessary, to incorporate new standards for construction pertaining to development on areas of fill or underlain by Bay Mud or Merritt Sand and the design of new buildings to resist the lateral effects and other potential forces of a large earthquake on any of the nearby faults.

SN-7. Work with Caltrans, the Metropolitan Transportation Commission, the Alameda County Transportation Commission and other regional, state and federal partners to fund earthquake strengthening protection for critical public regional transportation facilities, such as the Posey and Webster Tubes, the Miller Sweeney Bridge and the High Street Bridge.

Printed Map Shows High Liquefaction Risk for ET

## 8. SAFETY AND NOISE ELEMENT

### 8.3 FLOODING AND SEA LEVEL RISE

Due to its relatively flat topography and proximity to the San Francisco Bay, Alameda is uniquely sensitive to flooding caused by high tides, storm events, and climate change induced sea level rise. The City of Alameda normally experiences tides that range from -0.2' Mean Lower Low Water (MLLW) to +6.4' Mean Higher High Water (MHHW), based on the NAVD88 datum. (The NAVD88 datum or zero elevation is approximately the same as the elevations used in local tide tables.) The highest tide of the year, or "king tide," normally occurs during the winter months of November thru February, and is usually about 7.4'. Every year, there is a 1 percent chance the king tide will exceed 9.4'. The ten highest king tides recorded by NOAA in Alameda for the last 75 years measured 8.6' to 9.5' elevation.

Global warming and sea level rise will have severe long-term effects on Alameda. The Bay Conservation and Development Commission (BCDC) and Alameda County Flood Control Water

Conservation District predict a likely 12-inch increase in sea level on the Alameda County coastline by 2050, and a likely 24-inch increase in sea level in the same area by 2100 (Adapting to Rising Tides: Alameda County Shoreline Vulnerability Assessment, May, 2015). The study identified a 66-inch inundation level when combining the 24-inch sea level rise with a 100-year storm event (see Figure 8-3). In addition to residential and commercial properties, the Webster and Posey Tubes, Ron Cowan Parkway and the Alameda Gateway Terminal Ferry and other major public improvements are vulnerable to inundation.

SN-15. Develop sea level rise adaptive strategies for different areas of the City for public discussion and evaluation, including but not limited to:

avoidance/planned retreat, enhanced levees, setback levees to accommodate habitat transition zones, buffer zones, beaches, expanded tidal prisms for enhanced natural scouring of channel sediments, raising and floodproofing structures, and/or provisions for additional floodwater pumping stations, and inland detention basins to reduce peak discharges.

a. Develop for public discussion and evaluation potential financing strategies and partnership opportunities with regional and state agencies such as the

Oakland International Airport, and other agencies to fund and build selected adaptive strategies.

SN-16. Protect and upgrade public infrastructure, including but not limited to streets, wastewater systems and pump stations, stormwater systems and pump stations, and electric systems and facilities, to ensure capacity and resilience during storm events, high tides, and sea level rise, and to decrease the chance of flooding of nearby streets, utilities, and private property.

SN-17. Reduce the risk of tsunami inundation through public tsunami education, with special emphasis in low-lying shoreline properties, including the maritime communities and marinas.

SN-18. Design street rights-of-way, parks, other public spaces, street trees and landscaping to be resilient to temporary flooding.

SN-19. Require new development adjacent to the shoreline, lagoons and low elevations to plan for 50 years of sea level rise. Ensure that the design of future developments incorporate

flood protection measures to protect improvements from a 100-year storm event and anticipated sea level rise.

a. Require new development to provide adequate setbacks along waterfront areas for the future expansion of seawalls and levees to adapt to sea level rise.

SN-20. Require the creation and maintenance of easements along drainage ways necessary for adequate drainage of normal or increased surface runoff due to storms.

SN-21. Require and enforce stringent groundwater management programs to prevent subsidence.

SN-22. Require the use of "Green Infrastructure", landscaping, pervious surfaces, green roofs, and on-site stormwater retention facilities to reduce surface runoff and storm drain flooding during storm events.

#### 8.4 FIRE HAZARDS AND EMERGENCY RESPONSE

SN-27. Require new development to minimize the risks of fire and include adequate provisions for vegetation management, emergency access and appropriate firefighting equipment.

SN-32. Work with county, regional, state, and federal agencies and private property owners to ensure that the necessary steps are taken to clean up residual hazardous waste on any contaminated sites.

a. Require that all new construction, including construction on former industrial sites, has been cleared for residential, commercial or industrial uses from the appropriate federal, state and local agencies and acts, including the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Program, the Resource Conservation and Recovery Act (RCRA), the California Department of Toxic Substances Control (DTSC), the Regional Water Quality Control Board (RWQCB) and the Alameda County Department of Environmental Health (ACDEH), which is the Certified Unified Program Agency (CUPA) responsible for implementing state environmental regulations related to hazardous waste and hazardous materials.

### 10. NORTHERN WATERFRONT GENERAL PLAN AMENDMENT

#### 10.1 Challenges and Issues

Financially Sound Development The General Plan policies and land use designations are designed to ensure that new development will fund the public facilities and services that are needed to serve the new development and that redevelopment of the area does not result in a negative financial impact on the City's ability to provide services to the rest of the City.

Facilitating a Jobs/Housing Balance. With an emphasis on mixed use development, the General Plan policies for the area are intended to facilitate a jobs housing balance in the area and in the City for the purpose of reducing citywide traffic and the associated environmental, economic and social impacts of long commute trips.

#### 10.3. Guiding and Implementing Policies

The guiding and implementing policies provide a regulatory framework and guidance for the successful redevelopment of the area.

Guiding Policies: Land Use

10.3.a. Require that development in the Northern Waterfront is sensitive to the character of Alameda and the unique waterfront setting.

10.3.b. Require a mix of uses and open space near the Estuary and shoreline that provides for a lively waterfront and a pedestrian friendly environment.

Implementing Policies: Land Use

10.3.c. Allow the development and reuse of existing sites consistent with the land use designations shown on the Land Use Plan, site specific development policies, and the land

use goals for each of the following sites described below:

Del Monte Site. Replace the warehousing uses on the Del Monte site with commercial, residential, and/or work/live uses.

Encinal Terminal Site. Replace the container care uses at Encinal Terminal with a mix of new uses including residential, commercial, senior housing, and public open space.

10.4.e. Rezone the Encinal Terminals, Grand Marina, and Pennzoil sites for mixed-use residential development.

10.4.f. Encourage the development of residential units on the upper floors of small commercial buildings in the Mixed-Use designated areas, in compliance with the City Charter.

10.4.g. Consider opportunities for a houseboat community in the Northern Waterfront area.

#### Implementing Policies: Circulation and Infrastructure

10.6.e. Extend Clement Avenue through the Northern Waterfront from Grand Street to Sherman to facilitate the movement of trucks, transit and/or rail, bicycles, and pedestrians.

10.6.f. Non-residential uses should be located adjacent to the Clement Truck Route to minimize disturbances to residents from truck traffic on Clement Street; however, if residential uses are proposed adjacent to the Clement Truck Route, residential structures shall be adequately set back and/or provide design features to minimize disturbances to future residents. In accordance with policy 10.8.f, sound walls shall not be used to buffer residential uses from the truck route.

10.6.g. Designate the extension of Clement Avenue through the Northern Waterfront as a Truck Route; remove the Truck Route designation on Buena Vista from Sherman to Grand Street. Do not extend the truck route through the Beltline property.

10.6.h. Implement traffic calming measures to slow and control traffic flow in and around the Plan area and protect adjacent neighborhoods.

10.6.i. Prohibit any northerly extensions of the existing dead end streets at Eighth Street, Mason Street, Ninth Street, Wood Street, Chapin Street, St. Charles Street and Bay Street.

10.6.j. Establish connections to the Bay Trail and other regional circulation systems.

10.6.k. Ensure that the public access path along the waterfront includes a separated path for bicyclists or is wide enough to minimize conflicts between pedestrians and bicyclists.

10.6.o. Require new development to provide facilities for pedestrians, bicyclists, and transit riders.

10.6.p. Ensure that all streets and pedestrian pathways include tree plantings.

#### Transit and other Alternatives to the Automobile

Northern Waterfront General Plan Amendment – Adopted March 17, 2007

10.6.q. Develop shuttle services to minimize parking demand and traffic in the area.

10.6.r. Establish a Transit District, amend the Citywide Development Fee Ordinance, or establish a comparable mechanism to fund expanded Northern Waterfront transit services in corridors through and between the Northern Waterfront and the high ridership generators inside and outside the City such as Oakland BART stations, airport, and transit hubs.

10.6.s. Maintain a public right of way for a future rail/transit corridor along Clement Avenue from Grand Street to Sherman Street as part of a citywide transit corridor.

10.6.z. Ensure that police, fire, educational, parks, opens space, and other public services are adequately funded to serve new development.

10.6.aa. Consider creation of a Northern Waterfront Assessment District to fund public improvements and or municipal services required to support new development in the area.

#### 10.8 Urban Design

Guiding Policies: Urban Design

10.8.a. Improve the visibility and public access to the Northern Waterfront Plan area and Oakland/Alameda Estuary.

10.8.b. Require that buildings at waterfront locations be designed with attractive and varied architecture style.

10.8.c. To ensure design compatibility with adjacent developments and neighborhoods; limit new building heights to 60 feet.

#### Implementing Policies: Urban Design and Aesthetics

10.8.b. On large sites with multiple buildings and with individual tall buildings adjacent to the water, require building heights to “step down” as they approach the water.

10.8.c. Require that new development provide a pedestrian-friendly scale with building sizes consistent with adjacent and historic land uses in the area.

10.8.d. Require new buildings to “face” the street.

#### Encinal Terminal Site

General Plan Designation: Specified Mixed Use

Site Specific Development Policies: The intent of the site specific development policies for the Encinal Terminal Site is to facilitate redevelopment of the site with new land uses that will take advantage of the unique site configuration and waterfront location, increase opportunities for public access and enjoyment of the waterfront and eliminate the existing uses which contribute a large volume of truck traffic in the vicinity. The Mixed Use designation will allow for the development of a wide range of land uses to capitalize on the site's unique location adjacent to the Alaska Basin, Oakland/Alameda Estuary, Fortman Marina, and Del Monte Warehouse site. Anticipated land uses in this district include a range of housing types, including senior housing, commercial, office, and public parks and open space. Public waterfront access around the perimeter of the site is envisioned, as well as a new marina on the Alaska Basin.

Figure 1: Encinal Terminals and the Fortman Marina

Pursuant to the areawide policies, any plan to redevelop this site should be consistent with the following Site Specific Policies:

#### Site Development

- E-T 1. Require that the master plan for the development of the Encinal Terminals site illustrate how the various parcels can be developed as a unified development. The master plan must address all phases of the development of the site.
- E-T 2. Require that the master plan include adequate open space and a clear public access around the perimeter of the site.
- E-T 3. The Master Plan should consider relocating the tidelands trust lands to the perimeter of the site to allow residential mixed-use development in the core of the site with publicly accessible open space around the perimeter of the site.
- E-T 4. Cluster development to maximize open space and view corridors to the estuary.
- E-T 5. Given that Encinal Terminals is surrounded by water on three sites, taller buildings should be located at the southern end of the site.
- E-T 6. If a parking structure is proposed, require ground floor uses and/or a pedestrian friendly facade.
- E-T 7. If a parking structure is proposed, locate the structure to serve public access to the waterfront and future development at the Del Monte site.

#### Land Use Program

- E-T 8. The Master Plan for the Encinal Terminal site shall replace the existing container storage and cleaning operation with a mix of uses to create a lively waterfront development. The plan should include at least the following four land uses: residential, retail, commercial, and public open space.
- E-T 10. Commercial uses may include restaurants, marine related uses, office uses, and/or additional berths in the Alaska Basin. Additional berths should not be allowed on the northern edge of the site facing the Estuary and Coast Guard Island to preserve views of the water and Oakland.

#### On-Site Parking and Landscaping

- E-T 11. Require that the master plan include inviting, well-designed public entrances from Clement Street. Primary vehicular access into the site should occur at a four-way intersection at Clement/Entrance, if feasible.
- E-T 14. The Encinal Terminal development should fund a fair share of the costs of the Clement Street extension from Sherman to Grand.
- E-T 15. The Encinal Terminal development should fund a fair share of the costs to upgrade storm sewer and wastewater facilities necessary to serve all future development within the Northern Waterfront area.
- E-T 16. The site plan should allow for a shoreline public promenade around the perimeter of the site and adjacent to the Alaska Basin and Fortman Marinas.

#### 11. City of Alameda General Plan HOUSING ELEMENT 2015–2023

##### Regional Housing Needs Allocation

In July 2013, the Association of Bay Area Governments (ABAG) issued the Regional Housing Needs Allocation (RHNA). The City of Alameda was assigned a RHNA of 1,723 units. To address state, regional, and local need for affordable housing, 444 of the units are to be affordable to very low-income households, 248 of the units are to be affordable for low-income households, and 283 of the units are to be affordable for moderate-income households. The balance of the units (748) may be market rate. The City of Alameda Land Inventory, located in the Housing Resources section of the Housing Element Background Report on page 35, identifies adequate sites for over 2,000 units that are appropriately zoned to address the affordable housing demand. These identified sites provide support for state mandated requirements, but do not represent the full extent of Alameda's available housing sites. In 2010, the City of Alameda, the Alameda Housing Authority, and their non-profit partner Resources for Community Development completed work on Shensi Gardens, a 39-unit multifamily housing project for very-low and low-income Alameda families. The award winning project exemplifies Alameda's successful and ongoing efforts to transform the former Naval Air Station at Alameda into a mixed use, mixed income district.

State law requires that "the general plan and elements and parts thereof comprise an integrated, internally consistent, and compatible statement of policies." Internal consistency avoids policy conflicts and provides clear policy direction for the future improvement and development of housing within the City. The City is evaluating the consistency of this element with other chapters of the general plan as part of the update process. It will continue to maintain General Plan consistency through ongoing review and revision conducted annually thereafter.

ATTACHMENT - NORTHERN WATERFRONT DRAFT General Plan Amendment - Excerpts

ATTACHMENT - NORTHERN WATERFRONT GENERAL PLAN  
AMENDMENT EIR SCH #: 2002102118- EXCERPTS

Prepared by: City of Alameda  
Planning and Building Department  
February 2007

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## CITY OF ALAMEDA RESPONSE TO CALTRANS

### CITY OF ALAMEDA NORTHERN WATERFRONT GENERAL PLAN AMENDMENT

#### FEBRUARY 2007 RESPONSE TO COMMENTS AND REVISIONS TO TEXT

#### III. COMMENTS AND RESPONSES

#### A2 California Department of Transportation

##### Comment #1 Response:

Broadway/Jackson: As described in the setting section of the EIR, the City of Oakland, Caltrans, and the City of Alameda have been studying a range of potential improvements in the Broadway/ Jackson/6th Street Area for over ten years. These studies have included the 1997 SR 260 Deficiency Plan, the Broadway Jackson Phase I plan and the recently completed Broadway Jackson Phase II plan. Throughout all of these studies, the safety and convenience of pedestrians, bicyclists, and transit riders has been considered. Unfortunately, these many studies have not resulted in a feasible solution, as of this date, that is acceptable to Caltrans and the City of Oakland. For this reason, the EIR determined that the impact of additional traffic on these already congested intersections could not be mitigated to a level of less than significant. However, payment of the Citywide Development Fee does provide partial funding should the ongoing efforts to find a mutually acceptable solution result in an approved improvement plan for the area.

#### IV. TEXT REVISIONS

Chapter IV contains changes to the text of the Draft EIR that are being made in response to comments raised during the public review process to clarify and/or correct any errors, omissions, or misinterpretation of materials in the Draft EIR. In each case, the revised page and location of the page is set forth, followed by the textual, tabular or graphical revision. Revised text is indicated with double underline text. Text deleted from the Draft EIR is shown with strikeout. Page numbers correspond to the page numbers of the Draft EIR.

The following pages have been extracted from the Draft EIR and revised in response to comments raised during the public review. Only pages that have been modified in response to comments are reprinted in this section. Page numbers correspond to the page numbers of the Draft EIR. Where additional pages resulted from modifications, new page numbers are designated by the original page number followed by a, b, c, etc. These revised pages, in addition to the public comments and responses to comments, make up the Final EIR, which must be read with the Draft EIR to provide context. This RTC Addendum in conjunction with the Draft EIR constitutes the complete FEIR document.

The following are the only Text Revisions from the DEIR Impacts and Mitigations to the Final EIR

## 2. IMPACTS AND MITIGATION MEASURES

### a. Significance Criteria

The potential impacts of the proposed project were evaluated using criteria based on the CEQA Guidelines and City of Alameda thresholds of significance. The Northern Waterfront GPA would result in a significant impact if it would:

- Disrupt or interfere with existing or planned transit services and facilities or conflict with policies, plans or programs of the City of Alameda General Plan that support alternative transportation.

- Result in inadequate emergency access due to limited or circuitous access routes to the project site or lack of sufficient clear width (20 feet) on roadways to provide emergency vehicle access.
- Create or contribute to known safety hazards for pedestrians, bicycles, or automobiles as a result of traffic using the on-site circulation system.

ATTACHMENT NORTHERN WATERFRONT EIR - EXCERPTS - Adopted Feb. 17, 2007

## II. EXECUTIVE SUMMARY

### A. NORTHERN WATERFRONT GENERAL PLAN AMENDMENT

The proposed Northern Waterfront GPA would amend the City of Alameda General Plan, the principal policy document for guiding future development of the City, to better guide future development in the area consistent with the recommendations of the Northern Waterfront Advisory Committee and to bring land use policies for this area into conformity with other elements of the City's General Plan. The Northern Waterfront Advisory Committee's proposed vision for the planning area is to promote and facilitate redevelopment of the area with a mix of uses that would include residential, commercial, office, marina, and open space. Redevelopment of sites within the proposed Northern Waterfront GPA would reduce or eliminate blight, incompatible land uses, obsolete development or underutilized parcels, and would increase public open space, landscaped areas, and public waterfront access and views in the Project area. In addition, existing non-conforming land uses and the inherent land use incompatibilities between industrial and residential uses, would gradually be replaced with a more cohesive land use pattern in conformance with the proposed Northern Waterfront GPA. The redevelopment process would occur over an extended period of time (approximately 10 years) depending on market forces, property owner and business participation, and the availability of capital.

Table II.1

#### Potential Impacts and Mitigation Measures Northern Waterfront GPA

##### Utilities

Impact UTIL-1: Use of existing substandard storm sewer or sanitary sewer on-site transport facilities could contribute to peak wastewater or storm water flows that could exceed capacity of the existing sewage transport facilities. Potentially Significant Impact

Mitigation UTIL-1: Project sponsors shall remove or reconstruct all existing sewer and storm drain laterals that serve the site of the proposed development project to comply with City, EBMUD, and Regional Water Quality Control Board standards. This measure would reduce the level of impact to less than significant. Less than Significant

##### Transportation and Circulation

Impact TRN-1: During construction, lane closures within the Northern Waterfront GPA area may result in rerouting of autos, buses, bicycle and/or emergency vehicles. Potentially Significant Impact

Mitigation Measure TRN-1: Proponents for each project in the Northern Waterfront GPA area shall prepare a Traffic Control Plan (TCP) to address the impacts of construction vehicles on regional and local roadways and restrict truck traffic to designated truck routes within the City. The TCP should address construction truck routes and access, as well as needed local lane closures. Where bus routes or emergency routes are affected, appropriate signage to indicate detour routes should be provided. Bus stops that must be temporarily relocated should also be identified and presented in the TCP. The TCP may recommend installation of directional signs for trucks and designate time periods when construction truck traffic would be allowed. The TCP must be reviewed and approved by the City's Public Works Department prior to issuance of any building or grading permits. Less than Significant

Impact TRN-2: Full buildout and extension of Clement Street through the Northern Waterfront GPA area would result in a significant increase in traffic volumes on Clement Street through Alameda. Potentially Significant Impact

Mitigation Measure TRN-2: Amend the Northern Waterfront GPA to include the following new policy: To ensure effective and safe traffic flow through the area on the new Clement Street extension, the Clement extension should be signalized as follows:

- o Install a traffic signal at the new intersection of Atlantic/Sherman/Clement and a new signal at the intersection of Buena Vista and Entrance when Clement Street is extended from Sherman to Entrance Drive.
- o Install a traffic signal at the intersection of Grand and Clement when Clement Street is extended through the Pennzoil site.
- o Install a traffic signal at the intersections of Entrance and Clement when the Encinal Terminal Site is redeveloped

Impact TRN-3a: Full implementation of the Northern Waterfront GPA and extension of Clement Avenue through the Northern Waterfront GPA area would result in a significant impact to the level of service at the intersection of Park and Clement in 2010. Potentially Significant Impact

Mitigation Measure TRN-3a: Modify the signal timing at Park and Clement to provide full actuation and enhance signal phase sequence to allow for the Clement Avenue East-West split phase. Less than Significant

Impact TRN-3b: Full implementation of the Northern Waterfront GPA and extension of Clement Avenue through the Northern Waterfront GPA area would result in a significant impact to the level of service at the intersection of Park and Clement in 2025. Potentially Significant Impact

Mitigation Measure TRN-3b. Amend General Plan Table 4-3: Projects Required to Achieve Buildout Service Levels to include the following text: Restripe the Park Street and Clement Avenue Intersection to provide a left turn pocket on eastbound Clement Avenue. Restrict truck-turning movements at this intersection. Extend Clement Avenue from Broadway to Tilden to allow efficient truck access from Clement to Tilden and the Fruitvale Bridge. Consider removing the truck route designation from the Park Street bridge. Significance after Mitigation: Implementation of this improvement would require subsequent discretionary actions, property acquisition, and financial commitments by the City. It is not possible at this time to determine whether this improvement is financially feasible and will be implemented. Therefore, the impact of the Clement extension on the intersection of Park and Clement is determined to be significant and unavoidable. Significant and Unavoidable

Impact TRN-4: New project related traffic would contribute to unacceptable Levels of Service at the intersection of Broadway and 5th Street and the intersection of Jackson and 6th Street. Potentially Significant Impact

Mitigation Measure TRN-4a: All new projects in the Northern Waterfront GPA area shall pay a fair share contribution to improvements at Broadway and 5th Street and Jackson and 6th Street intersections through payment of the City's Citywide Development Impact Fee. Significant and Unavoidable



Mitigation Measure TRN-4b: All new projects in the Northern Waterfront area that generate traffic equivalent to 1% of the annually estimated reserve capacity shall include Transportation Demand Management measures designed to reduce automobile trips in the Tubes and in Oakland. All projects in the Northern Waterfront Area shall be subject to the City's existing Traffic Capacity Management Procedure (TCMP). The TCMP requires any development west of Grand Street (all projects within the Northern Waterfront GPA area) that is projected to generate peak hour trips through the Tubes in excess of 1% of the current estimated reserve capacity to determine the number of project generated peak hour trips projected to pass through the tubes in each direction during the AM and PM peak hours and identify how the project will reduce the number of peak hour trips generated by at least 10% for residential development and 30% for non-residential development. The City has also developed a Transportation Systems Management/Transportation Demand Management (TSM/TDM) plan for the entire west end of the City. The TSM/TDM plan includes a menu of primary and supporting strategies to be utilized in order to reduce the number of peak hour trips through the Tubes. All new projects in the Northern Waterfront GPA area shall pay a fair share contribution to improvements at Broadway and 5th Street and Jackson and 6th Street intersections through payment of the City's Citywide Development Impact Fee.

Significance after Mitigation: This cumulative impact would be significant and unavoidable, because any improvements to the intersections in Oakland or the access to I-880 could not be approved without the approval of the City of Oakland and in some cases Caltrans as lead agency. The City of Alameda has worked closely with Oakland and Caltrans through the Broadway Jackson Improvement Study to identify feasible improvements, but no specific improvements have been approved by the City of Oakland or Caltrans at this time. The City of Alameda will continue to work with the other agencies to identify potentially feasible improvements, but because these improvements are outside the control of the City of Alameda, the impact is considered significant and unavoidable. Significance after Mitigation: This cumulative impact would be significant and unavoidable, because any improvements to the intersections in Oakland or the access to I-880 could not be approved without the approval of the City of Oakland and in some cases Caltrans as lead agency. The City of Alameda has worked closely with Oakland and Caltrans through the Broadway Jackson Improvement Study to identify feasible improvements, but no specific improvements have been approved by the City of Oakland or Caltrans at this time. The City of Alameda will continue to work with the other agencies to identify potentially feasible improvements, but because these improvements are outside the control of the City of Alameda, the impact is considered significant and unavoidable.

Noise Impact NOISE-1: Build out of the Northern Waterfront GPA could result in demolition, construction, and remodeling activities which could generate excessive noise or ground borne vibrations at neighboring land uses. Potentially Significant Impact

Mitigation Measure NOISE-1a: Developers and/or contractors shall create and implement development-specific noise reduction plans, which shall be enforced via contract specifications. Each developer and/or contractor shall be contractually required to demonstrate knowledge of the Alameda Noise Ordinance. Contractors may elect any combination of legal, non-polluting methods to maintain or reduce noise to thresholds levels or lower, as long as those methods do not result in other significant environmental impacts or create a substantial public nuisance. The plan for attenuating construction-related noises shall be implemented prior to the initiation of any work that triggers the need for such a plan.

Mitigation Measure NOISE-1b: To reduce pile driving noise, "vibratory" pile driving should be used wherever feasible. The vibratory pile driving technique, despite its name, does not generate vibration levels higher than the standard pile driving technique. It does, however, generate lower, less-intrusive noise levels.

JOSH ROPER: "In our opinion, it is not feasible to meet this criteria"

Impact NOISE-3: Implementation of the Northern Waterfront GPA would significantly increase noise levels along Clement Avenue and Grand Street. Potentially Significant Impact

Mitigation Measure NOISE-3: New projects in the Northern Waterfront GPA should require acoustical studies, describing how the exterior and interior noise level standards will be met for the Project as well as any impacts on adjacent projects. Studies shall also satisfy the acoustical requirements of Title 24, of the Uniform Building Code. Less than Significant

#### Geology, Soils & Seismicity

Impact GEO-1: Occupants of future development within the Northern Waterfront GPA area would be subject to seismic-induced ground shaking. Potentially Significant Impact

Mitigation Measure GEO-1: While the potential impacts of strong seismic ground shaking cannot be eliminated in the Northern Waterfront GPA area, the following steps shall be implemented to reduce the impacts related to expected strong ground shaking:

- Grading, foundation, and structural design should be based on the anticipated strong seismic shaking associated with a future major earthquake on the Hayward fault. The Hayward fault is considered to be a Type A seismic source (with active slip and capable of a magnitude 7.0 or greater earthquake) under the 1997 Uniform Building Code (UBC) near-source factors. All structures shall be designed in accordance with the most recent edition of the UBC and California Building Code for soft soil in Seismic Zone 4. The applicant shall prepare an earthquake preparedness and emergency response plan for all public use facilities. The plan should be submitted for review and approval by the Planning and Building and/or Public Works Department, prior to occupancy of the structures. Prior to marketing residential or commercial units for sale, the developer shall prepare an earthquake hazards information document. This document should be made available to any potential occupant prior to purchase or rental of the housing units or commercial spaces. The document should describe the potential for strong ground shaking at the site, potential effects of such shaking, and earthquake preparedness procedures.

Liquefaction, Lurch-Cracking and Lateral Spreading may occur in the Northern Waterfront GPA. Potentially Significant Impact

Mitigation Measure GEO-2: The following mitigation measures shall be implemented to reduce the potential impact of seismic-induced ground failure.

- Earthworks and foundation design shall be conducted in accordance with all recommendations contained in the Weyerhaeuser/Chipman Parcels geotechnical report by Lowney Associates (December 1998) for that parcel. Additional liquefaction potential analyses shall be conducted and a liquefaction mitigation program developed for each development within the Northern Waterfront GPA area. All structures proposed for the project area shall be

designed and constructed in accordance with the most recently adopted version of the City of Alameda Building Code, and the seismic design considerations of the Uniform Building Code (1997) and the most recent California Building Code (currently 2001) as published by the ICBO. Prior to the issuance of any grading or building permits, geotechnical investigations shall be conducted for the Del Monte Warehouse (URS Corporation report, 2002), Encinal Terminal, or Fortmann Marina sub-areas of the Northern Waterfront GPA area. Reports for these studies shall evaluate the liquefaction potential for each site in accordance with the Standard of Practice for Geotechnical Engineering and shall provide recommendations for stabilization or resistance of structures from the potential affect of liquefaction of sediments. The potential for lurch cracking and lateral spreading shall also be evaluated. Stability of the bulkhead for projects adjacent to bulkheads shall also be evaluated. Reports shall be submitted to the City of Alameda.

Impact GEO-3: Expected continuing consolidation and land subsidence in the Northern Waterfront GPA area could result in damage to structures, utilities and pavements. Potentially Significant Impact

Mitigation Measure GEO-3: Proponents for all projects within the Northern Waterfront GPA area shall be required to prepare a geotechnical report for review and approval by the City of Alameda that specifies all measures necessary to limit consolidation including minimization of structural fills and use (when necessary) of lightweight and low plasticity fill materials to reduce the potential for excessive loading caused by fill placement. The placement of artificial fill should be limited to reduce the potential for increased loading and associated settlement in areas underlain by thick younger Bay Mud. Increased area settlement could have implications for flooding potential as well as foundation design. Reconditioning (compaction) of existing subgrade materials would be preferable to placement of fill. The report shall present recommendations for specific foundation designs, which minimize the potential for damage related to settlement. The design of utilities shall consider differential settlements along utility alignments constructed in filled areas of the Northern Waterfront GPA area.

Impact GEO-4: Damage to structures or property related to shrink swell potential of Northern Waterfront GPA area soils could occur. Potentially Significant Impact

Mitigation Measure GEO-4: The required geotechnical report shall require that subgrade soils for pavements consist of moisture conditioned, lime-treated, or non-expansive soil, and that surface (including roof drainage) and subsurface water be directed away from foundation elements and into storm drains to minimize variations in soil moisture.

Impact HYD-2: Dredging that may be undertaken to develop a marina in Alaska Basin or be associated with maintenance of existing marinas, or reconstruction of bulkheads and infrastructure in the Northern Waterfront GPA area may cause impacts to water quality at the dredging and disposal sites. Potentially Significant Impact

Mitigation Measure HYD-2: All dredging and in-water construction activities shall be consistent with the standards and procedures set forth in the Long-Term Management Strategy, a program developed by the Bay Conservation and Development Commission (BCDC), the Regional Water Quality Control Board (RWQCB), the U.S. Environmental Protection Agency (EPA), and other agencies, to guide dredging and the disposal of dredge materials in an environmentally sound manner. Less than Significant

#### Air Quality

Impact AIR-1: Construction period activities such as demolition, excavation and grading operations, use of diesel powered equipment, construction vehicle traffic, utility extensions and improvements, and roadway reconstruction would generate diesel and gasoline exhaust emissions and fugitive particulate matter emissions that would affect local air quality.

Potentially Significant Impact

Mitigation Measure AIR-1a) Implementation of Dust Abatement Programs. Proponents of development projects within

### 3. GENERAL PLAN AMENDMENT DEVELOPMENT PROGRAM

- Encinal Site. The site is currently occupied by a storage and cleaning facility for freight containers used by shipping companies that are active at the Port of Oakland and other Bay Area port facilities. The current use, Container Care and Storage, has a Use Permit for the purpose until 2009. Container Care and Storage generates approximately 200 to 250 semitruck trips per day. The proposed Northern Waterfront GPA would designate the site Mixed-Use. The Northern Waterfront GPA would require a mix of land uses on the site, including residential development, commercial, (retail, restaurant and/or office), and parks and open space. Since the optimum combination of future uses has not been determined at this time, the Northern Waterfront GPA proposes flexibility, within limits, for future development of this site.

#### e. Existing General Plan.

The City of Alameda General Plan currently includes policies that guide the development of the Northern Waterfront GPA area:

##### Land Use Element

Policy 2.4c Where a suitable residential environment can be created, give priority to housing on land to be developed or redeveloped in order to meet the quantified objectives of the Housing Element.

Policy 2.4e Expand housing opportunities for households in all income groups.

##### Housing Element

Policy 2.a.v Maintain the integrity of existing residential neighborhoods by protecting and enhancing the historic architecture and ensuring that new development respects the density and physical character of the neighborhood.

Policy 2.a.vii Encourage work/live opportunities as a way to reduce the traffic impacts of housing, to provide affordable housing opportunities, and to stimulate business incubators.

Policy 2.a.viii Encourage mixed-use residential development in existing commercial areas.

## City Design Element

Policy 3.2a Maximize views of water and access to shorelines.

## Open Space and Conservation Element

Policy 5.5e Minimize commuting by balancing jobs and nearby housing opportunities.

## Parks and Recreation Element

Policy 6.2a Maximize visual and physical access to the shoreline and to open water.

Policy 6.2d Through design review of shoreline property, give consideration to views from the water.

## f. San Francisco Bay Plan

The Bay Conservation and Development Commission (BCDC) protects and guides the use of land within 100 feet of the mean high tide line of the Bay, including the Oakland Estuary. BCDC's Bay Plan contains policies protecting the Bay's economic and natural resources, and establishes land use priorities for the shoreline zone. The policies that advance these priorities serve as the region-wide land use designations for the San Francisco Bay shoreline and guide permit decisions by BCDC.

San Francisco Bay Plan policies that may apply to the bayfront property of the Northern Waterfront

GPA area and helped guide the development of the Northern Waterfront GPA include:

- New shoreline parks, beaches, marinas, fishing piers, scenic drives, and hiking or bicycling pathways should be provided in many areas. Highest priority should be given to recreation development in these areas.
- Shoreline projects should be designed and constructed in a manner that reduces soil erosion and protects the Bay from increased sedimentation through the use of appropriate erosion control practices.

## IV.A-

- To prevent damage from flooding, structures on fill or near shorelines should have adequate flood protection including consideration of future relative sea level rise as determined by competent engineers.
- Water-oriented facilities such as marinas, launch ramps, beaches, and fishing piers should be provided. For parks, it is assumed that the largest possible portion of the total regional requirement should be provided adjacent to the Bay.
- The commission should allow additional marinas, boat-launching lanes, and fishing piers elsewhere on the Bay, provided that they would not preempt land or water areas needed for other priority uses and provided they would be feasible from an engineering viewpoint, would not have significant adverse effects on water quality and circulation, would not result in inadequate flushing, would not destroy valuable marshes or mudflats, and would not harm identified valuable fish and wildlife resources.
- All bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay.

## PUBLIC TRUST LANDS

–Public Trust lands may not be used for general purpose industrial, warehousing and commercial, or for housing. Public Trust law allows property subject to the Public Trust to be leased. The ports of San Diego, Los Angeles, and Oakland are located on Public Trust lands and have been developed with marinas, hotels, maritime-related industry, and many visitor-serving amenities. The City of Alameda was granted ownership and management of Public Trust lands by acts of the State legislature in 1913 and

1917. The acts granting tidal and submerged lands to the City of Alameda allow for leasing the lands for up to 25 years (and with the possibility of lease extension for an additional 25 years), but do not allow the City to convey ownership of the land to private owners or other agencies.

The State Lands Commission is the State agency charged with assuring that jurisdictions, such as Alameda, meet the terms of their legislative grants and of Public Trust law generally. Case law and California statutes permit the Public Trust to be terminated on land where finite requirements are met, most importantly that the land must be filled, must be removed from today's waters, and must no longer be useful for Public Trust purposes. In such cases, the Trust may be terminated if land of equal value and usefulness for the defined purposes is brought into the Public Trust. These lands onto which the Trust is transferred are called exchange lands. Land exchanges are accomplished through written agreements, in this case, between the City of Alameda and the State of California. In order to terminate the Public Trust in specified lands, the City of Alameda and the State of California would need to find that those lands are not necessary for Public Trust purposes.

## b. Proposed Northern Waterfront GPA.

Improved Public Access. The Northern Waterfront GPA would place an emphasis on new public shoreline access, replacing existing waterfront industrial and warehouse uses with residential, commercial, retail, and open space, and an extension of the existing street grid to the waterfront. It would facilitate the extension of the grid system into and through the area to allow for the Clement Avenue extension which would improve access to the waterfront. It would also promote the use of alternative modes of transportation such as light rail, shuttles, water taxis and bicycles that could reduce present and future traffic congestion.

The Northern Waterfront GPA would establish the following Guiding Policies for land use in the area:

- Encourage development in the Northern Waterfront that is sensitive to the character of the City of Alameda.
- Encourage a mix of uses and open space near the Estuary and shoreline that will provide for a lively waterfront.

The key to successful transformation of sites from one use to another is to respect the quality of the environment by taking into careful consideration the architectural and historical context. This involves undertaking projects that rehabilitate and adapt existing buildings to new uses, or construct new buildings that are compatible with buildings in historic areas. Also, new buildings can and should involve high quality design and materials that would provide lasting benefits to the general public.

#### c.(4) Compatibility with State Lands

The Northern Waterfront GPA would have no adverse impacts on Tidelands Trust lands. The Northern Waterfront GPA does not necessitate relocation of any existing Tidelands Trust lands, nor does it propose any specific uses on Tidelands Trust encumbered properties that are not in compliance with Tidelands restrictions. The Northern Waterfront GPA does not propose any specific uses on specific properties that are encumbered by the Trust that would be inconsistent with the Tidelands Trust limitations. Future development of the Encinal Terminal Site may occur with the mix of uses envisioned in the Northern Waterfront GPA; however, if a relocation of the tidelands is necessary to accommodate a particular site plan and specific non-tidelands compliant uses, such as residential uses, then a tideland swap would need to be accomplished through enactment of State legislation.

#### (3) Jobs/Housing Balance

Jobs/housing balance is defined as the ratio of the number of jobs to the number of housing units in a given area. Although the term "jobs/housing balance" is still often used, the more precise relationship is between jobs and the number of employed residents (because some households have no workers, while others have multiple workers). Jobs and housing are said to be balanced when there are an equal number of employed residents and jobs within a given area, generating a ratio of approximately 1.0. An area that has too many jobs relative to its housing supply is likely to experience rising housing costs and declining affordability. If an area has too few jobs relative to its housing supply, this may be an indication that residents are commuting elsewhere to work. Environmental effects of this imbalance may include traffic congestion and adverse impacts on air quality. However, a balance between jobs and housing in a given place may still not be an accurate indicator of commuting rates. For instance, an area with a jobs/housing ratio of 1.0, but with little affordable housing may host a large day population of workers commuting from areas with more affordable housing. Thus jobs/housing evaluations are more useful in examining the potential for "selfcontainment": the ability of an area's population to live and work in the same place. Because of the tendency of people to commute, potential for self-containment is best understood at the subregional level.

The City of Alameda currently has more employed residents than jobs. This condition indicates that many of Alameda's employed residents commute to work outside of the City. The ratio of jobs to employed residents within the City of Alameda was about 0.87 in 1990.<sup>10</sup> The jobs/employed residents ratio increased in 1995 to 0.93 and is projected to decrease by the year 2005 to about 0.87, based on the projected 30,360 jobs and 34,800 employed residents. Beyond 2000, ABAG projects that the jobs/employed residents ratio will increase until, by 2025, Alameda will have a jobs/employed residents ratio of 1.19, based on a projected 51,350 jobs and a projected 43,300 employed residents. The County of Alameda also has more employed residents than jobs; however, the ratio is very near the point of a 1:1 balance. Strong growth in jobs and employed residents is projected by ABAG, resulting in a relatively stable jobs/housing balance countywide. In 2000, the ratio of jobs to employed residents in the County was about 1.08. ABAG projects that the jobs/housing ratio will be at approximately 1.07 in 2025.

## 2. IMPACTS AND MITIGATION MEASURES

The following section provides a discussion of both less-than-significant and potentially significant impacts related to population and housing that could result from implementation of the Northern Waterfront GPA.

### a. Significance Criteria

The proposed Northern Waterfront GPA would have a significant impact on population and housing if it would:

- Result in substantial population or housing growth or concentration of population, either directly (by proposing new homes or businesses) or indirectly (through extension of roads or other infrastructure);
- Create a substantial imbalance between jobs and housing through direct physical impacts to housing.

### b. Less-than-Significant Impacts

#### (1) Induce Substantial Unanticipated Population or Housing Growth

Implementation of the Northern Waterfront GPA over its planning horizon would result in the addition of approximately 389 households, including 60 work/live studios. Based on an average projected household size in 2025 of 2.40 persons per single-family household, the additional households would increase the City's population by approximately 933 persons.

In addition, the Northern Waterfront GPA would result in employment related population growth.

The potential office and commercial development that could be approved under the proposed Northern Waterfront GPA would increase the City's population by approximately 320 persons based upon the assumption that 20% of the employees will live in Alameda.

This population growth is well within the growth rate established by ABAG for the City over the next 20 years. Therefore, the Northern Waterfront GPA would not result in substantial direct population or housing growth. In addition, the General Plan constitutes infill development, since the Northern Waterfront GPA area is located entirely within a developed urban area. Implementation of the Northern Waterfront GPA would not result in the extension of new roads and infrastructure into an undeveloped area; therefore, the Northern Waterfront GPA would not result in indirect population growth. In addition, infill development in existing urban areas has been demonstrated by regional planning and transportation professionals to be an environmentally sound means of accommodating regional economic development. Infill development allows for efficient utilization of land and infrastructure, as opposed to the development of open space and agricultural land at the periphery of existing urban areas.

#### (2) Displace Population or Housing

Implementation of the proposed Northern Waterfront GPA would not displace persons or displace or destroy housing located within the Northern Waterfront GPA area. Implementation of the Northern Waterfront GPA would result in the construction of approximately 389 residential units (not including the proposed 60 work/live units), of which 25 percent would be priced at affordable levels.

#### (3) Jobs/Housing Balance

As discussed previously, the jobs/housing balance in the City is trending towards a ratio that is weighted towards jobs. By 2015, ABAG projects that there will be more jobs than housing in Alameda. Because the General Plan would result in greater housing-related population growth than job-related population growth, the General Plan would not contribute to the future projected jobs/housing imbalance. The General Plan would result in the construction of housing in a region that continues to experience a substantial housing shortage, and would not adversely impact the future projected jobs/housing imbalance.

#### (4) Potential Effect on the Affordability of Housing

The number and type of housing units proposed as part of the Northern Waterfront GPA is well within ABAG's 1999 to 2006 RHND for the City, which calls for the construction of 843 residential units priced at "above moderate" levels (this would include market-rate housing), and 511 residential units priced at "moderate" affordability levels. In a tight local housing market, the General Plan would provide needed residential development in an infill setting. Approximately 25 percent of proposed residential units would be affordable, resulting in a substantial increase in the City's total affordable housing stock.

#### c. Significant Impacts

Implementation of the Northern Waterfront GPA would result in no significant adverse population and housing related impacts.

#### b. Fire and Emergency Services

The City of Alameda is located in an area facing a relatively high risk of disaster due to proximity of local earthquake faults, major civilian flight paths, and land uses that involve the use or storage of hazardous materials.

#### b. Fire and Emergency Services

##### (1) Significance Criteria

The Northern Waterfront GPA would significantly impact Fire and Emergency Services if it would:

- Result in substantial adverse physical impacts associated with the provision of fire services due to a demand beyond established levels, which would require the construction of new or physically altered facilities resulting in environmental impacts.

It should be noted that all future development in Alameda, triggered by the Northern Waterfront GPA area would be subject to the Citywide Development Impact Fee (CDF), which would be the source of funding for improvements needed by the Fire Department. The CDF funds the following specific improvements: replacement of Fire Station #3, Public Safety Radio System improvements, new Fire Station Drill Tower and Training Center and new traffic control signals and upgrades.

### E. TRANSPORTATION AND CIRCULATION

#### (2) Roadway Operations

The Alameda County Congestion Management Agency (CMA) requires PM peak-hour analyses of roadway segments under their Congestion Management Plan (CMP) system. The CMP system includes the Webster and Posey Tubes, and the four bridges (Park, Fruitvale, High, and Bay Farm Island) crossing the estuary. The directional capacity of roadways is based on several factors, including parking, lane widths, speeds, grade, signal spacing, sidewalks, and driveways. Roadway Level of Service (LOS) can be determined by either of two methods: the ratio of traffic volumes to the roadway capacity (which is the method applied in this analysis to determine roadway LOS); or average speed on the roadway segments (which is the method used by CMA in their LOS monitoring study). To determine future conditions, volumes are used to calculate LOS on CMP roadway segments. LOS designations range from A, indicating free flow, to F, indicating forced flow or over-saturated. Table IV.E-1 shows the LOS definitions for arterial roadway segments.

Table IV.E-1: Level of Service Definitions for Arterial Roadway Segments a

Level of Service Roadway Operations Volume-to-Capacity Ratio (V/C)

A Free flow conditions < 0.60

B Reasonable free flow, slight restriction to maneuverability > 0.61 and < 0.70

- C Stable operations, restricted maneuverability > 0.71 and < 0.80
- D Unstable operations, severely limited maneuverability > 0.81 and < 0.90
- E Extremely unstable, approaching or at capacity > 0.91 and < 1.00
- F Breakdown conditions, projected demand exceeds capacity > 1.00

Through detailed operational studies undertaken for the Traffic Capacity Management Procedure (TCMP), a revised assumption of Webster and Posey Tubes capacity was determined. These studies determined that the vehicle capacities of the Webster and Posey Tubes are 3,976 vehicles per hour (vph), and 4,007 vph, respectively. These capacities were computed based on the Highway Capacity Manual (HCM) operational method that accounts for actual roadway conditions (Transportation Research Board 1994). The TCMP adopted on June 19, 2001 (City of Alameda Resolution No. 13345) is based on supporting technical studies that define the unique capacity of the Webster and Posey Tubes. These facilities are designed as higher-speed, limited-access facilities with merge lanes at either end. Generally, each tube segment was found to operate at near-freeway lane conditions. The capacity constraints of these facilities are driven by the design of intersections at either end of the facility.

Existing traffic volumes were analyzed using volumes obtained for Alameda from a comprehensive count program conducted during the years 2001 through 2004. Routine counts in this vicinity suggest that overall traffic volumes have been relatively stable since 2001.

Mitigation Measure TRN-2 is designed to ensure that the necessary signalization is phased in with the completion of the roadway improvements to maintain an acceptable level of service and reduce the impact to less than significant.

Mitigation Measure TRN-2: Amend the Northern Waterfront GPA to include the following new policy:

To ensure effective and safe traffic flow through the area on the new Clement Street extension, the Clement extension should be signalized as follows:

- o Install a traffic signal at the new intersection of Atlantic/Sherman/Clement and a new signal at the intersection of Buena Vista and Entrance when Clement Avenue is extended from Sherman to Entrance Drive.
- o Install a traffic signal at the intersection of Grand and Clement when Clement Street is extended through the Pennzoil site.
- o Install a traffic signal at the intersections of Entrance and Clement when the Encinal Terminal Site is redeveloped.

#### ATTACHMENT - Encinal Terminals Master Plan Draft Supplemental Focused EIR

Draft Focused Supplemental Environmental Impact Report State Clearinghouse Number: 2016042076 Prepared for City of Alameda February 2017 - EXCERPTS

#### A. Project Overview

The project sponsor, North Waterfront Cove LLC, is proposing a Master Plan and Density Bonus Application for Encinal Terminals, a new residential mixed use waterfront community on both land and water. Overall, the proposed project would demolish existing warehouse and industrial structures on the project site and allow for development of up to 589 new housing units, a marina with up to 160 boat slips and a harbor master's office, between 30,000 and 50,000 square feet of commercial/office and restaurant uses, and over three acres of waterfront-related public open space and parks.

#### TABLE 1-1 SUBSTANTIAL CHANGES TO PROJECT OR ENVIRONMENT CEQA

##### Guidelines Proposed Project Compared to the GPA EIR

Substantial Changes to the Project (Sec.15162(a)(1)) Residential Use: Modify GPA EIR assumption of 165 residential units to up to 589 residential units.

Commercial Use: Modify GPA EIR assumption of 200,000 sq. ft. of commercial use to between 30,000 and 50,000 sq. ft. of commercial use.

Development Program and Site Area: Modify GPA EIR assumption to include the development of a marina with up to 160 berths.

Substantial Changes to Circumstances (Sec.15162(a)(2)) and/or

New Information of Substantial Importance (Sec.15162(a)(3))a – Since the GPA EIR

Transportation and Circulation: Updates to environmental setting, traffic model, and thresholds of significance since the GPA EIR.

Land Use: With the adoption of the City's recent Housing Element, the City zoned the property to Mixed Use (M-X) with a Multi-Family Overlay (MF), which allows for a wide variety of residential, retail, marine and commercial uses.

Biological Resources: The Townsend's big-eared bat was identified in June 2013 by the California Fish and Wildlife Commission as a candidate for protection as an endangered species under the state's

Endangered Species Act.

Air quality and global climate change are not considered "changed circumstances" or "new information" since information regarding these topics was known, or could have been known, in 2007.

State of California updated sea level rise as of April 2017. Not included in DEIR

## Executive Summary

## A. Project Under Review

The project sponsor, North Waterfront Cove LLC, is proposing a Master Plan and Density Bonus Application for Encinal Terminals, a new residential mixed use waterfront community on both land and water. Overall, the proposed project would demolish existing structures on the project site and construct up to 589 new housing units, a marina with up to 160 boat slips and a harbor master's office, between 30,000 and 50,000 square feet of commercial/office and restaurant uses, and over three acres of waterfront-related public open space and parks. Three existing wooden wharves and two concrete wharves on the site would be improved as part of development of the proposed waterfront open space uses, through a combination of demolition, rehabilitation, modification, and/or retrofit activities. The residential unit types proposed include condominiums, townhomes, lofts, stacked flats, live-work units, and high-rise view residences. Other proposed improvements include establishing locations for launching kayaks and other small watercraft launches, provisions for future public water taxi/water shuttle or ferry terminal facilities, a new internal roadway system and utility infrastructure, and parking throughout the site. Characteristics of the proposed project are detailed further in this section.

The project could include construction of the following components:

- Approximately three acres of waterfront-related public open space and parks, including public access around the entire perimeter of the property.
- A new marina with up to 160 private berths and a harbor master's office with facilities for boat sales and rentals including small crafts such as kayaks, row boats and board sailing equipment.
- A mixed-density residential neighborhood, with up to 589 residential dwelling units in a variety of configurations, including townhomes, stacked flats, live/work, lofts, and highrise view residences.
- Between 30,000 and 50,000 square feet of retail, restaurant, and office uses along Clement Avenue and along the waterfront.
- A new internal grid of public streets and public infrastructure.
- Accessible public waterfront parking strategically located at various points to allow access to the waterfront perimeter.
- Locations for direct public access to the water, including kayak/small craft launches, waterfront steps and ramps.

## 2. Executive Summary

- Provisions for future public water shuttle, water taxi or ferry terminal facilities.
- Development of a segment of Clement Avenue fronting the property.
- Rehabilitation of wharf surfaces or supporting pilings.

## E. Issues of Concern

Pursuant to Section 15123(b)(2) of the CEQA Guidelines, a Draft EIR shall identify points of controversy known to the lead agency or issues of concern raised by local agencies or the public. Public comment during the NOP period included community concerns related to the project's potential to increase citywide vehicle miles traveled (VMT), effects of construction in the Bay tidal zone, the visual effects of the project on nearby Bay Trail facilities, effects of future sea level rise on the project, soil or groundwater contamination near offsite utility improvement areas, the capacity of East Bay Municipal Utility District's (EBMUD) wastewater conveyance and treatment facilities, and water conservation.

Impact 4.A-1: The proposed project would not result in localized construction dust-related air quality impacts; generate construction emissions that would result in a substantial increase of criteria pollutants and precursors for which the air basin is in nonattainment under an applicable federal or state ambient air quality standard; or expose sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM<sub>2.5</sub>). (Less than Significant with Mitigation)

Comparison to NWEIR "No new or more severe impact"

Impact 4.B-1: The proposed project would not have a substantial adverse effect, either directly or through habitat modifications, on species identified as candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the United States Fish and Wildlife Service. (Less than Significant with Mitigation)

Comparison to NWEIR "No new or more severe impact"

Impact 4.C-2: The proposed project would not conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the

General Plan and zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. (Less than Significant) Comparison to NWEIR "No new or more severe impact"

Impact 4.C-4: The proposed project, combined with cumulative development in the defined geographic area, including past, present, reasonably foreseeable future development, would not have significant adverse cumulative land use impacts. (Less than Significant)

Impact 4.E-1: The proposed project would not induce substantial population or housing growth directly or indirectly. (Less than Significant)

Impact 4.E-3: Development facilitated by the proposed project, in conjunction with potential past, present, and future development in the surrounding region, would not result in unanticipated population, housing, or employment growth, or the displacement of existing residents or housing units on a regional level. (Less than Significant)

Impact 4.F-1: The proposed project would result in an increase in calls for fire protection and emergency medical response services, but would not require new or physically altered fire protection facilities in order to maintain acceptable performance objectives. (Less than Significant)

Impact 4.G-1: The proposed project would not increase average citywide household or employee per capita VMT. (Significant and Unavoidable) Significant and unavoidable. New Impact not Previously Analyzed. (Believe the "not" is either a typo or not supported by substantial evidence)

Impact 4.G-2: The proposed project would increase traffic volumes at study intersections. (Significant and Unavoidable)

NEW Mitigation Measure 4.G-2: To minimize automobile level of service impacts in the vicinity of the project require that the project signalize the intersections at Entrance and Clement and at Entrance and Buena Vista. If the project or other parties construct the final extension of Clement Avenue through the Shell Oil facility, the signalization of Entrance and Buena Vista may not be necessary. The completion of the extension will reduce automobile and truck trips on Buena Vista and eliminate the need for southbound vehicles from the project to use the Buena Vista.

NEW Mitigation Measure 4.G-3: To minimize automobile level of service impacts in the vicinity of the project require the Encinal Terminals project to pay for a fair share of the Clement Extension project including fair share contribution to the completion of the Clement Avenue Extension (pedestrian, bicycle, transit, and significance after any recommended mitigation measures.

NEW Mitigation Measure 4.G-4: To minimize automobile level of service impacts at the Webster Street and Park Street gateways to the City, require the Encinal Terminals project to pay a fair share contribution to citywide transportation improvements identified in the Citywide

Development Impact Fee Ordinance.

NEW Mitigation Measure 4.G-3a: Prior to project occupancy, the project applicant shall fund the signal optimization at the Buena Vista Avenue and Sherman Street intersection during the p.m. peak hour to reduce pedestrian delays.

NEW Mitigation Measure 4.G-3b: Prior to project occupancy, the project applicant shall fund the signal optimization at the Challenger Drive and Marina Village Drive intersection during the p.m. peak hour to reduce pedestrian delays

Impact 4.G-5: Implementation of the proposed project could not cause travel speeds to decrease by 10 percent or more along a street segment that currently serves as a transit route or is planned to serve as a transit route. (Less than Significant)

Impact 4.G-8: The proposed project would result in inadequate emergency access. (Less than Significant.) Mitigations required? None Required. Less than Significant impact. No new or more severe impact.

Impact 4.G-9: Development facilitated by the proposed project could potentially be inconsistent with adopted policies, plans, and programs supporting alternative transportation. (Less than Significant) None Required Less than Significant No new or more severe impact.

Impact 4.G-11: The proposed project would result in cumulative transportation impact to intersection levels of service. (Significant and Unavoidable) Implement Transportation and Circulation mitigation measures listed above. Significant and Unavoidable No new or more severe impact.

#### Priority Development Area

In July 2013, the Association of Bay Area Governments (ABAG) and the Metropolitan

Transportation Commission (MTC) adopted Plan Bay Area. Plan Bay Area is an integrated long range transportation and land-use/housing plan to reduce transportation-related pollution in the

San Francisco Bay Area, as required by the California Sustainable Communities and Climate

Protection Act of 2008 (California Senate Bill 375, Steinberg) to reduce greenhouse gas emissions from cars and light trucks. The Northern Waterfront area, which includes the project site, is a Priority Development Area (PDA) in Plan Bay Area. PDAs are intended to provide lands for regional employment and housing growth in proximity to regional transportation systems to reduce greenhouse gas emission and combat climate change.

Northern Waterfront General Plan Amendment. This EIR has been prepared to evaluate the proposed changes to the Encinal Terminals project originally presented in the Northern Waterfront General Plan Amendment (GPA) EIR. The Alameda City Council adopted the Northern Waterfront GPA and certified the Final EIR in July 2007. The City adopted the Northern Waterfront GPA to provide a planning framework for future growth and redevelopment of a collection of primarily industrial parcels located along the City's northcentral shoreline. The purpose of the Northern Waterfront GPA was to establish General Plan and



Zoning Ordinance policies, design standards, and requirements for future development while encouraging economically viable redevelopment of the area with a mix of uses that would be sensitive to existing residential neighborhoods and the historic character of the area.

#### Flood and Sea Level Rise Protection

The existing topography of the project site is generally flat with elevations ranging from 4 to 8 feet above the mean high tide level (six to eight feet above mean sea level). The project site is not located in a 100-year floodplain as defined by the Federal Emergency Management Agency (FEMA) and the majority of the site sits above the 100-year tidal elevation for this area of the City, which is estimated at 3.9 feet. To address anticipated sea level rise of two feet (24 inches) by 2050 the project would be required to provide protection from flooding to a level two feet above the 100-year tidal elevation, or 5.9 feet. As described in the Master Plan, the project would establish a minimum first habitable floor elevation of 6.5 feet within the project site, which would exceed the flood protection requirements for 2050 by over half-a-foot.

By 2100 the project would be required to provide protection from the 100-year tidal elevation, plus up to 4.5 feet of sea level rise for a combined elevation of 8.4 feet. As such, the Master Plan proposes that the perimeter of the site be reserved for the construction of future flood control measures, such as a sea wall or levee, that would provide protection against an additional 2.4 feet of sea level rise (1.9 feet beyond the first habitable floor level) that could occur by the end of the century. The Master Plan further proposed that all future flood control measures be constructed in a manner that would avoid introducing additional fill materials into the estuary.

#### Environmental Baseline

Overall, pursuant to CEQA Guidelines §15125(a), this EIR measures the physical impacts of the proposed project (i.e., the development and operations at Encinal Terminals) against a "baseline" of physical environmental conditions at and in the vicinity of the project site. The environmental "baseline" is the combined circumstances existing around the time the Notice of Preparation of the EIR was published, which was April 27, 2016.

All development identified in the General Plan and Housing Element and reasonably foreseeable projects were considered in the cumulative analysis, especially as related to the development of the cumulative land uses in the traffic model. Cumulative development was analyzed by adding the project and foreseeable projects to assess cumulative traffic impacts, as well as air quality and noise. Cumulative analysis for population, employment, housing, water demand, wastewater generation, and solid waste generation were based on evaluating the project and the identified reasonably foreseeable projects in the context of the Alameda General Plan and master plans prepared by service providers.

#### Local

The City of Alameda General Plan (City of Alameda, 1991) is the principal policy document for guiding future conservation and development within the City. It represents the framework on which the City must base decisions regarding growth, public services and facilities, and protection and enhancement of the community).

The BAAQMD has established a screening methodology that provides a conservative indication of whether the implementation of a proposed project would result in significant CO emissions. According to the BAAQMD's CEQA Guidelines, a proposed project would result in a less-than significant impact due to localized CO concentrations if the following screening criteria are met:

- The project is consistent with an applicable congestion management program established by the county congestion management agency for designated roads or highways, and the regional transportation plan and local congestion management agency plans.
- Project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour.
- The project would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, or below-grade roadway). The proposed project would not conflict with the Alameda County Transportation Commission's (ACTC) program for designated roads or highways, a regional transportation plan, or other agency plans, as the proposed project would not cause the level of service to significantly deteriorate on any regional roadway. In addition, traffic volumes on roadways in the vicinity of the project site are less than 44,000 vehicles per hour. The proposed project would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour and would not result in localized CO concentrations that exceed State or federal standards.

#### Methodology

The methodology and/or qualitative description of the sources of GHG emissions related to transportation, electricity, water use, and solid waste disposal are described below. Transportation. Transportation associated with the project would result in GHG emissions from the combustion of fossil fuels in daily automobile and truck trips. Transportation is the largest source of GHG emissions in California and represents approximately 38 percent of annual CO2 emissions generated in the State. For land use development projects, vehicle miles traveled (VMT) and vehicle trips are the most direct indicators of GHG emissions associated with the project. The proposed project is forecast to generate 4,854 trips per day.

#### Special Status Fish Species

Green sturgeon (*Accipenser medirostris*). The southern Distinct Population Segment (DPS) of green sturgeon is a federal threatened species and a California Species of Special Concern. This anadromous fish is the most widely distributed member of the sturgeon family and the most marine oriented of the sturgeon species. Green sturgeons range in the near shore waters from Mexico to

the Bering Sea and are common occupants of bays and estuaries along the western coast of the United States (Moyle et al., 1995). The upper Sacramento River has been identified as the only known spawning habitat for green sturgeon in the southern DPS. However, the entire San Francisco Bay has been designated as critical habitat for the species and there is some potential for green sturgeon to occur in project area waters Central Valley and Central California coastal steelhead (*Oncorhynchus mykiss*).

Critical habitat for Central California coastal steelhead includes all river reaches and estuarine areas accessible to steelhead in coastal river basins, from the Russian River to Aptos Creek (inclusive), and the drainages of San Francisco and San Pablo Bays. Also included are adjacent riparian zones, all waters of San Pablo Bay west of the Carquinez Bridge, and all waters of San Francisco Bay to the Golden Gate. Therefore, critical habitat for this DPS includes the waters adjacent to the project area.

Pacific herring (*Clupea pallasii*) is neither a protected species under the FESA or CESA nor a managed fish species under the Magnuson-Stevens Act. Pacific herring does, however, represent a species of special concern for San Francisco Bay since it is an important member of the San Francisco Bay marine ecosystem; provides an important food source for marine mammals, sea birds, and fish; and constitutes a state fishery that is entirely conducted within an urban estuary, making it particularly susceptible to anthropogenic impacts. As a state fishery it is regulated under Sections 8550-8559 of the California Fish and Game Code. The species is both a popular sport fish and a commercially important species. The Pacific herring is a small schooling marine fish that enters estuaries and bays to spawn. This species is known to spawn along the Oakland and San Francisco waterfronts and attach its egg masses to eelgrass, seaweed, and hard substrates such as pilings, breakwater rubble, and other "hard surfaces". An individual can spawn only once during the season, and the spent female returns to the ocean immediately after spawning. Spawning usually takes place between October and March with a peak between December and February. After hatching, juvenile herring typically congregate in San Francisco Bay during the summer and move into deeper waters in the fall. Pacific herring may be present in project area waters and may spawn there in some years.

#### Special Status Bird Species

California least tern (*Sternula antillarum browni*). California least tern is federally and State-listed as endangered and is also a state Fully Protected species. The California least tern is the smallest tern in North America and it forages over open water or protected bays, skimming low over the water or diving for small fish. The California least tern breeds on sandy beaches along the coast of California south to Mexico, and winters in Mexico, Central America, and south to South America. The majority of current nesting colonies and the population are found in southern California, with smaller populations in the San Francisco Bay Area and in Baja California (DVA, 2013). The California least tern was first documented nesting at the former Naval Air Station (NAS) Alameda in 1976, while the air station and its runways were still active. Since that time and the closure of NAS Alameda, the colony has grown to be the largest in the San Francisco Bay Area (DVA, 2013), with the second largest occurring at Hayward Regional Shoreline, about 14 miles southeast of the project area (Reinsche et al., 2012). The majority of least terns typically arrive at Alameda by late April. Least terns nest almost entirely within the fenced tern colony on the Federal Property with the exception of occasional instances of terns attempting to nest outside of the fenced area. Terns also fledge to and roost outside of the fenced colony. Least terns use the adjacent open waters of San Francisco Bay, nearby Seaplane Lagoon, and the Oakland-Alameda Estuary for foraging. Tern foraging primarily occurs in the waters south and west of the colony (DVA, 2013). Peregrine falcon (*Falco peregrinus*). Listed as Fully Protected<sup>5</sup> under the California Fish and Game Code, the peregrine falcon was removed from the federal list of threatened and endangered species in 1999 and the State list of threatened and endangered species in 2008 due to recovery. Peregrines are known throughout California and is a year-around resident along the Pacific coast. The peregrine is a specialist, preying primarily on mid-sized birds, such as pigeons and doves, in flight. Occasionally these birds will take insects and bats. Although typical nesting sites for the species are tall cliffs, preferably over or near water, peregrines are also known to use urban sites, including the Bay Bridge and tall buildings in San Francisco and San Jose, and throughout the 5 A California fully protected species cannot be taken at any time, except, under certain circumstances, in association with a species recovery plan.

Peregrine falcons nest annually on the Fruitvale Bridge between Oakland and Alameda and in other urban sites throughout the Bay Area. Peregrines are also known to use structures at the Port of Oakland for roosting (but are not known to nest there) and are observed regularly within the project area. In recent years, peregrines have been one of the top predators at the California least tern colony during the breeding season (DVA, 2013).

#### Special Status Mammal Species

Townsend's big-eared bat (*Corynorhinus townsendii*). Townsend's big-eared bat is distributed along the Pacific coast from British Columbia south to central Mexico and east into the Great Plains, with isolated populations occurring in the central and eastern United States. It has been reported in a wide variety of habitat types ranging from sea level to over 7,000 feet elevation. Habitat associations include coniferous forests, mixed mesophytic forests, deserts, native prairies, riparian communities, active agricultural areas, and coastal habitat types. While its distribution is strongly correlated with the availability of caves and cave-like roosting habitat, including abandoned mines, the species has also been reported to utilize buildings, bridges, rock crevices and hollow trees as roost sites. Over 90 percent of the species' diet consists of moths. The species has been reported along the northern Alameda Island shoreline roosting in buildings (City of Alameda 2010) and may occur in the project area, most likely only on a transient basis.

#### City of Alameda General Plan

The City of Alameda General Plan identifies several Guiding Policies, as well as several implementing policies, that pertain to Open Space for the preservation of natural resources. In relation to the proposed project, it is important to consider the following policies:

Policy 5.1.a Preserve and enhance all wetlands and water-related habitat.

Policy 5.1.e Continue to preserve and maintain all lagoons as habitat as well as visual and compatible -use recreational resources.

Policy 5.2.a Protect and preserve Bay waters and vegetation as nurseries and spawning grounds for fish and other aquatic species, both as part of habitat preservation and to encourage continued use of the Bay for commercial fishing production.

Mitigation Measure 4.B-3: The City shall require that the project applicant retain a qualified biologist experienced with bird strike issues to review and approve the design of the building to ensure that it sufficiently minimizes the potential for bird strikes. The City may also consult with resource agencies such as the California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, or others, as it determines to be appropriate during this review. The project applicant shall provide to the City a written description of the measures and features of the building design that are intended to address potential impacts on birds. The design shall include some of the following measures or measures that are equivalent to, but not necessarily identical to, those listed below, as new, more effective technology for addressing bird strikes may become available in the future:

- Employ design techniques that create “visual noise” via cladding or other design features that make it easy for birds to identify buildings as such and not mistake buildings for open sky or trees;
- Decrease continuity of reflective surfaces using “visual marker” design techniques, which techniques may include:
  - Patterned or fritted glass, with patterns at most 28 centimeters apart,
  - One-way films installed on glass, with any picture or pattern or arrangement that can be seen from the outside by birds but appear transparent from the inside,
  - Geometric fenestration patterns that effectively divide a window into smaller panes of at most 28 centimeters, and/or
  - Decals with patterned or abstract designs, with the maximum clear spaces at most 28 centimeters square.
- Up to 60 feet high on building facades facing the shoreline, decrease reflectivity of glass, using design techniques such as plastic or metal screens, light-colored blinds or curtains, frosting of glass, angling glass towards the ground, UV-A glass, or awnings and overhangs;
- Eliminate the use of clear glass on opposing or immediately adjacent faces of the building without intervening interior obstacles such that a bird could perceive its flight path through the glass to be unobstructed;
- Mute reflections in glass using strategies such as angled glass, shades, internal screens, and overhangs; and
- Place new vegetation sufficiently away from glazed building facades so that no reflection occurs. Alternatively, if planting of landscapes near a glazed building façade is desirable, situate trees and shrubs immediately adjacent to the exterior glass walls, at a distance of less than three feet from the glass. Such close proximity will obscure habitat reflections and will minimize fatal collisions by reducing birds’ flight momentum.

Educating Residents and Occupants. The City shall ensure, as a condition of approval for every building permit, that the project applicant agrees to provide educational materials to building tenants, occupants, and residents encouraging them to minimize light transmission from windows, especially during peak spring and fall migratory periods, by turning off unnecessary lighting and/or closing window coverings at night. The City shall review and approve the educational materials prior to building occupancy

#### General Plan Land Use and Zoning Designation

The project site is designated as Specified Mixed Use in the General Plan Land Use Element and a Housing Opportunity site in the General Plan Housing Element. General Industry and Parks and Open Space uses are located directly to the west. Directly to the south is the Del Monte parcel, also designated as Specified Mixed Use, beyond which Medium Density Residential and Parks and Open Space uses are located. To the east of the site are areas designated for Commercial Recreation and additional Specified Mixed Use lands. To the north are the waters of the Oakland Estuary. The project site is zoned mixed use planned development (M-X) with approximately 17 acres of the site, outside the tidelands area, falling within the multi-family overlay (MF) in the Zoning District. The surrounding parcels include: one large parcel to the west zoned commercial manufacturing planned development (C-M-PD); one parcel to the southwest zoned intermediate industrial planned development (M-1-PD); an adjacent parcel to the south (Del Monte) zoned mixed use (M-X) that falls within the multi-family overlay (MF); a parcel to the southeast zoned neighborhood residential planned development (R-4-PD) with multi-family overlay (MF); and a parcel zoned for open space (O) to the southeast. The broader surrounding land uses include mixed use (M-X), two-family residential (R-2), garden residential (R-3), and neighborhood residential (R-4)

Of primary concern to BCDC is the placement of new “fill” (generally defined as any material in or over the water surface, including pilings, structures placed on pilings, and floating structures) in the Bay. The McAteer-Petris Act imposes very strict standards for the placement of new fill. Placement of fill may be allowed only for uses that are (1) necessary for public health, safety or welfare of the entire Bay Area; (2) water-oriented uses, such as water-related industry, water oriented recreation, and public assembly and the like; or (3) minor fill to improve shoreline appearance and public access. Fill must be the minimum necessary for the purpose and can be permitted only when no alternative upland location exists.

The General Plan, by its comprehensive nature, contains policies that could sometimes conflict with one another, depending on the nature of a particular project. City decision-makers must determine whether, on balance, a project is consistent (i.e., in general harmony) with the General Plan. The fact that a specific project does not meet all General Plan goals, policies, and objectives does not inherently result in a significant effect on the environment, because a significant effect must be related to a significant adverse physical change. To the extent that a General Plan policy that is adopted for the purpose of avoiding or mitigating an environmental effect is used as a significance criterion or contains a regulatory threshold that the project must meet, the project’s consistency with such policies is addressed within the relevant impact analysis discussions throughout Chapter 4.

#### Site Development

Policy E-T 1 Require that the master plan for the development of the Encinal Terminals site illustrate how the various parcels can be developed as a unified development. The master plan must address all phases of the development of the site.

Policy E-T 2 Require that the master plan include adequate open space and a clear public access around the perimeter of the site.

Policy E-T 3 The Master Plan should consider relocating the tidelands trust lands to the perimeter of the site to allow residential mixed-use development in the core of the site with publicly accessible open space around the perimeter of the site.

Policy E-T 4 Cluster development to maximize open space and view corridors to the estuary.

Policy E-T 5 Given that Encinal Terminals is surrounded by water on three sides, taller buildings should be located at the southern end of the site. Policy E-T 6

If a parking structure is proposed, require ground floor uses and/or a pedestrian friendly facade.

Policy E-T 7 If a parking structure is proposed, locate the structure to serve public access to the waterfront and future development at the Del Monte site.

Policy 10.8.e To ensure design compatibility with adjacent developments and neighborhoods, limit new building heights to 60 feet.

#### Public Improvements and Infrastructure

Policy E-T 14 The Encinal Terminals development should fund a fair share of the costs of the Clement Street extension from Sherman to Grand.

Policy E-T 15 The Encinal Terminals development should fund a fair share of the costs to upgrade storm sewer and wastewater facilities necessary to serve all future development within the Northern Waterfront area.

#### City Design Element Policies

Policy 3.2.a Maximize views of water and access to shorelines.

Policy 3.2.d Maintain views and access to the water along streets and other public rights-of-way that extend to the bulkhead line. Construct benches, ramps, rails, and seating appropriate for viewing and access, and provide walls or other screening where needed to protect adjoining property. Westline Drive, Grand Street, Park Street, Central Avenue and Encinal Avenue are candidates for architectural or landscape features that would enhance the meeting of land and water.

Policy 3.2.e Encourage landmark structures at prominent locations.

Policy 3.2.g Work with BCDC staff to prepare a schematic plan for development of the 100-foot-wide strip above mean high tide on properties likely to require BCDC development approval.

Impact 4.C-2: The proposed project would not conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the General Plan and zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. (Less than Significant)

According to The General Plan Guidelines published by the State Office of Planning and Research (OPR), a general rule for consistency determinations can be stated as follows: "An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment."

The current proposal includes a proposal to exceed the height limit for the site established by General Plan policies (See Policy ET 10.8.e). The applicant has submitted a request for density bonus and a height limit exemption pursuant to the State of California and City of Alameda Density Bonus Law. The project is eligible for the waiver of the height limit due to its inclusion of additional affordable housing units within the project. Although the waiver may be necessary, such a waiver would not result in a conflict with a policy adopted for the purpose of "avoiding or mitigating an environmental effect" because a building over 60 feet in height does not in and by itself automatically result in an environmental impact. The subject policies were originally adopted to create a consistent architectural massing with the nearby Wind River office campus, not for the purpose of protecting the environment. Therefore, a conflict with Policy ET 10.8.e would not be considered a significant environmental impact. Regarding consistency with plans and policies, future development within the project must be consistent with the City's General Plan and other applicable land use plans and requirements. The cumulative projects also would be subject to the General Plan, Specific Plan (if applicable) and the Zoning Ordinance to ensure land use compatibility

#### TABLE 4.G-2

##### EXISTING INTERSECTION LEVEL OF SERVICE

Where are the traffic counts for the conclusions by Abrams 2016, 2017 and the Nelson Nygaard VMT analysis?

No where in this DSEIR is there a complete explanation of all the input data employed for the Transportation section.

The consultant technical report/contract product by Abrams Associates was omitted from the Technical appendices, only Abrams Associates' Synchro intersection levels of service calculations were included in the Technical Appendices of the DSEIR. All traffic modeling forecast data used for the traffic analysis.

The DSEIR omits documentation such as a technical report for the development of the forecasts (input data ) employed in the impact analysis.

Need:

a) the model forecast plots for the Base Year and for the cumulative conditions

(Note: the full increment difference between these two mode plots are added to existing counts to produce the forecasts as per previous City documents and the forecasts are similar to the Alameda Point DEIR Both plots are needed not just the difference of the two plots. That is because the Base plot should be compared to the Existing counts.

b) all the assumptions and other modeling records (s.a. network assumptions and land use assumptions, calibration checks etc)

c) all calculations employed to develop the traffic forecast input data in the DSEIR.

The traffic analysis for the Northern Waterfront GPA in 2008. (The ET DSEIR compares the current proposal to the earlier GPA)

Traffic counts were new counts taken for this project? How were building vacancies accounted for? And how was the demand calculated for the existing conditions?

For the VMT analysis, the records from MTC employed in the analysis. All consultant correspondence and meeting minutes, technical reviews by city staff (pertaining to transportation)

including that to/from ESA and Nelson Nygaard and Abrams Assoc.

ESA consultant contracts including Abrams Associates' / Nelson Nygaard's contracts and invoices

all communications to/from the Planning Board members regarding the DSEIR

#### ATTACHMENT - ALAMEDA MUNICIPAL CODE - EXCERPTS

##### CHAPTER I - GENERAL

##### 1-1 - SHORT TITLE, REFERENCE TO CODE.

This Code shall be known as the "Alameda Municipal Code" and it shall be sufficient to refer to the Code as the "Alameda Municipal Code" in any prosecution for the violation of any provisions thereof. It shall also be sufficient to designate any ordinance adding to, amending or repealing, the Code, or portions thereof, as an addition or amendment to, or a repeal of, the "Alameda Municipal Code," or a portion thereof.

##### 1-3.1 - Applicability to Code and Ordinances.

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council:

"Shall" is mandatory and "may" is permissive.

"Or" may be read "and" and "and" may be read "or" if the sense requires it.

Unless otherwise specifically provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last; except that the last day shall be excluded if it is Sunday or a holiday.

##### 1-5.3 - Civil Action Enforcement.

a. In addition to the penalties provided for in this chapter, any violation of this code or City ordinance may be redressed by civil action. Any condition existing in violation of this code or a City ordinance or any order, rule or regulation issued or promulgated by any duly authorized officer or agent of the City, is deemed to be a public nuisance.

b. The City attorney may bring civil suit or other action to enforce any ordinance or section of this Code, to enjoin or prevent any violation of any ordinance, or to abate any public nuisance as defined or declared by this Code. c. The remedy by civil action to enforce any ordinance or section of this Code is in addition to any other remedies available under ordinance, City code or statute and does not replace or support any other remedy but is cumulative thereto.

##### 1-5.4 - Liability for Costs.

Any person or entity against whom such civil action is filed shall be liable to the City for the costs thereof, including but not limited to costs of investigation, costs of monitoring compliance and court costs. In any civil action, administrative proceeding or special proceeding to abate a nuisance, the prevailing party may recover attorneys' fees. Recovery of attorneys' fees is limited to those individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

##### 1-5.8 - Judicial Review; Administrative Decisions.

The provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to the City.

##### 2-91.5 - Agenda Requirements; Regular Meetings.

a. Twelve (12) days before a regular meeting of City Council, and seven (7) days for all other policy bodies, the policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. These time requirements shall apply to posting on the internet.

b. A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item,

such as correspondence or reports, and such documents shall be posted with the agenda or, if such documents are of more than one (1) page in length, made available for public inspection and copying at a location indicated on the agenda during normal office hours.

- c. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.
- d. All agendas shall be posted on the City's website and the City's cable channel and available at the Alameda Public Library. Complete agenda packets for each body shall be posted on the City's website to the extent fiscally and technologically feasible and shall be available for review at the Alameda Public Library and at the City Clerk's office during normal business hours. The time for compliance with this subsection shall be in accordance with the time of the posting of the agenda for the meeting.
- e. All documents material to an agenda item must accompany the agenda.

#### 2-91.15 - Public Testimony.

- a. Every agenda for regular meetings shall provide, before undertaking regular business and again at the end of the meeting, an opportunity for members of the public to directly address a policy body on items of interest to the public that are within the policy body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 2-91.5e of this article. The Council agenda shall provide up to fifteen (15) minutes for this use. However, in the situation of the City Council, the agenda does not have to provide an opportunity for members of the public to address the Council on any item that has been considered by a subcommittee comprised only of Councilmembers at a public meeting, unless the item has been substantially changed since the subcommittee heard the item. The City Council shall have the authority to determine whether the item has been substantially changed. 1. If the number of speakers interested in speaking under "Public Comment/Non-Agendized Items" exceeds the 15-minute period, additional time will be made available at the end of the meeting. 2. In the instance where more speakers than can be accommodated within fifteen (15) minutes have signed up to speak, the City Clerk's office will randomly select the order in which speakers will be chosen to speak at the beginning of the meeting.
- b. Every agenda for regular or special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item before taking action. Public comments on closed session items shall be taken before the closed session is convened. The presiding official of any body may request speakers representing similar views to designate a spokesperson in the interest of time. Spokespersons for the proponent(s) of an agenda item and for the opponent(s) shall each have fifteen (15) minutes to present their case. The spokesperson for the proponent(s) shall have five (5) minutes to present any rebuttal. Other speakers may be requested to keep their remarks concise.

#### 2-92.4 - Notices and Posting of Information.

- a. At a minimum, the following shall be posted on the City's website and provided in written form in the City Clerk's Office and at the reference desk of each Alameda public library. These documents must be posted on the City's Website for a period of at least four (4) years:
- b. Each policy body shall have posted on the City's website all current meeting Agendas, minutes and other documents required to be made public and thereafter, make reasonable efforts to post past materials. Each policy body shall make reasonable efforts to ensure that its portion of the City's website is updated on a weekly basis.
- c. Large documents, such as drafts and final copies of City budgets and records concerning environmental impacts, including but not limited to, those resulting from compliance with the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA), shall be posted on the City's website and made available at designated City offices with copies available for borrowing by the public at each Alameda public library.

### CHAPTER XIII - BUILDING AND HOUSING

#### ARTICLE I. - UNIFORM CODES RELATING TO BUILDING, HOUSING AND TECHNICAL CODES

### CHAPTER XXVII - DEVELOPMENT FEES

#### 27-1 - AFFORDABLE HOUSING UNIT/FEE REQUIREMENTS

##### 27-1.1 - Purpose.

a. Mitigation of Affordable Housing Impacts . The purpose of this chapter is to (1) implement the goals and objectives of the Housing Element of the City of Alameda General Plan and the Strategic Plan of the City of Alameda, (2) mitigate the housing impacts caused by new, changed and expanded commercial and industrial development in the City of Alameda and (3) meet the need for housing affordable to persons of low- and moderate-income. The City Council has determined that affordable housing requirements are needed, has found the following requirements to be consistent with its General Plan and, pursuant to Government Code Section 65913.2, has considered the effects of the fee with respect to the City's housing needs as established in the Housing Element of the General Plan.

##### 27-1.2 - Findings.

a. Need for Affordable Housing . The City Council has found that persons of low- and moderate-income are experiencing increasing difficulty in locating and maintaining adequate, safe and sanitary affordable housing. As noted in the City's Housing Element, a regional shortage of affordable housing is contributing to overpayment for housing accommodations, sometimes leading to temporary or permanent homelessness. According to the Association of Bay Area Governments' Housing Needs Projections, the City of Alameda needs to provide housing affordable to persons of low- and moderate-income. Further, the City's Housing Assistance Plan identifies the need for rental subsidies for low- and moderate-income households.

Imposing Housing Requirement on Developers Whose Projects Create the Need . It is appropriate to impose some of the cost of the increased burden of providing housing for low- and moderate-income people necessitated by such development directly upon the sponsors of a development, and indirectly upon the occupiers. The imposition of an affordable housing unit/fee requirement is an appropriate means to accomplish the purpose of this chapter. In calculating the affordable housing unit/fee requirement, the City Council has taken into account other factors in addition to the simple calculation of contribution. These include impact of the unit requirements and in lieu fee on construction costs, special factors and hardships associated with certain types of development, and legal issues. e. Rational Relationship Between Affordable Housing Need Created and Unit/Fee Requirement . The unit requirements and

housing fees contained in this chapter are designed to create a rational relationship between the amount of housing need created by the land use and housing unit requirement or the size of the fee, taking into account the effect of such unit or fee requirement on providing affordable housing opportunities and economic feasibility of imposing such requirements.

#### 27-1.4 - Affordable Housing Requirements.

a. Unit Requirement . An affordable housing unit requirement is hereby established for new, changed or remodeled and expanded nonresidential development in the City. The City Council shall, by resolution, based upon the Nexus Study prepared for the City by Economic and Planning Systems Inc., in November of 1989, set forth the formula for determining the number of units to be provided, the beneficiaries thereof, the relationship between this requirement and the various types of new and expanded developments, and time for the provision of the units. The requirements of this chapter shall be met by each developer prior to the issuance of the building permit or, where a building permit is not required, the use permit for the new, expanded, or changed use.

#### 27-3 - DEVELOPMENT IMPACT FEES.[2]

##### 27-3.1 - Authority.

This Section 27-3 of the Alameda Municipal Code may be referred to as the Development Impact Fee Ordinance and is adopted pursuant to the police power of the City and under Government Code Section 66000 et seq. (Mitigation Fee Act). All words, phrases, and terms used in this section shall be interpreted in accordance with the definitions set forth in the Mitigation Fee Act, unless otherwise specifically defined herein.

##### 27-3.2 - Application.

This section applies to development impact fees charged as a condition of development in the portion of the City outside Alameda Point to defray the cost of certain public improvements, services, and amenities. The cost of developing and administering the City's development impact fee program may be included as a component of the established fees. The fees charged under this section do not replace or repeal any other fee or charge levied pursuant to any section of the Alameda Municipal Code, nor do the fees charged under this section replace any subdivision map exactions; other site-specific mitigation measures or conditions; other regulatory, or processing fees, funding required pursuant to a development agreement or reimbursement agreement or special assessments, unless such charges, exactions or assessments relate to the facilities funded pursuant to this section.

##### 27-3.3 - Intent and Purpose.

The intent and purpose of the development impact fee is to mitigate the impacts of new residential and new or intensified industrial and commercial development on transportation, parks and recreation, general public facilities, and public safety as more specifically described in the projects listed in Appendix B to the Nexus Study. The purpose of each component of the development impact fee is as follows:

- a. The purpose of the transportation component is to fund required improvements related to public safety such as traffic signals, street overlays, handicap ramps at intersections, and other traffic safety improvements and to mitigate the degradation in the levels of service on public roads from new developments.
- b. The purpose of the parks and recreation component is to fund a portion of the capital costs associated with construction of new park and recreation improvements and facilities.
- c. The purpose of the general public facilities component is to fund a portion of the capital costs associated with library improvements and collections, seismic upgrades, and other improvements to existing public facilities and equipment.
- d. The purpose of the public safety facilities and improvements component is to fund a portion of the costs associated with construction of public safety facilities and the purchase of public safety equipment.

##### 27-3.4 - Findings.

The City Council finds and declares:

- a. The City provides public services and constructs and maintains public improvements for the benefit of residents, businesses and employees within the City.
  - b. New development potential in the City has been made available by the redevelopment of the northern waterfront area and intensification of existing uses and development of new uses such as housing as well as other infill or urban redevelopment activity throughout the City.
  - c. This anticipated residential and commercial development will generate an increase in the need for City services and the corresponding capital facilities necessary to provide those services. New residential and new or intensified commercial development will thus create an additional burden on the existing capital facilities and services.
  - d. If additional capital facilities and public services are not added as development occurs, the existing facilities and services will not be adequate to serve the community. This could result in adverse impacts, such as inadequate public safety services, inadequate traffic safety and transportation improvements, inadequate parks and recreation facilities, as well as inadequate other general public facilities.
  - e. There is a reasonable relationship between the need and use of development impact fee projects and new development.
1. There is a reasonable relationship between the need for transportation projects and the type of development project on which the fee will be imposed since new development throughout the City will increase trips on local, citywide, and regional roads, leading to potential deterioration of service levels and the need for more traffic signals, additional turn lanes, and other improvements. The City's General Plan establishes a service standard for traffic congestion. New development will lower the level of service unless improvements are made. The resurfacing of streets and pathways ensures that both drivers and pedestrians are safe from accidents resulting from cracks, potholes, and other damage that occurs. New development also adds to the wear of city streets. Further, there is a reasonable relationship between the need for the transportation projects and the type of development project on which the fee will be imposed since each new development project will add to the incremental need for new roadway capacity, safety or replacement projects in order to meet public safety standards.

2. There is a reasonable relationship between the need for parks and recreation facilities and improvements and the type of development project on which the fee will be imposed since new residents will use parks and recreational facilities throughout the City. Further, there is a reasonable relationship between the need for the parks and recreation projects and the type of development project on which the fee will be imposed since current parks and recreation service levels will fall if additional facilities and equipment are not provided and a greater variety of facilities, as called for in the General Plan and the Park Master Plan, will not be able to be provided.
3. There is a reasonable relationship between the need for public improvements and the type of development project on which the fee will be imposed since new residential and commercial development will result in new City residents and employees who will demand and use the services offered by the new public buildings and improvements included in this program. Further, there is a reasonable relationship between the need for the public improvement projects and the type of development project on which the fee will be imposed as further explained in the City's Capital Improvement Program and the City's General Plan.
4. There is a reasonable relationship between the need for public safety facilities and improvements and the type of development project on which the fee will be imposed since new development throughout the City will increase the need for public safety improvements. Further, there is a reasonable relationship between the need for public safety facilities and improvements and the type of development project on which the fee will be imposed since current levels of police and fire services cannot be maintained if additional facilities and equipment are not provided to serve new development. The need for these facilities and equipment is further explained in the Land Use Element of the General Plan and the City's Capital Improvement Program.

The determination of how there is a reasonable relationship between the use of the development impact fee and the type of development project on which the fee is imposed is set forth in more detail in the Nexus Study.

f. To prevent these undesirable consequences, and to reduce the impacts of new development on capital facilities, equipment, and services, the City's capital facilities must be constructed, and the City's public services must be provided, at a rate which will accommodate the expected growth in the City.

g. The development impact fees established by this section will be imposed upon development projects for the purpose of mitigating the impact of the development on the ability of the City to provide specified public improvements and services.

h. The City has caused to be prepared Willdan Financial's City of Alameda Development Impact Fee Update and Nexus Study, dated June 2014 (Nexus Study). The Nexus Study is on file with the City Clerk. i. The Nexus Study identifies the development potential of the City from the year 2014 until 2040; identifies four (4) categories of capital facilities and equipment required to serve and accommodate new development; and provides a summary of the portion of each improvement category's costs that can be funded by new development.

j. The four (4) categories of capital facilities and equipment that will be funded by the development impact fee established by this section are (1) transportation; (2) parks and recreation facilities; (3) general public facilities; and (4) public safety. These capital facilities and equipment are needed to promote and protect the public health, safety and general welfare within the City, to facilitate orderly urban development, to maintain existing levels of service, and to promote economic and social well-being. k. The City Council has relied upon the factual information, analysis, and conclusions in the Nexus Study in adopting this section.

#### 27-3.5 - Development Impact Fee Established.

- a. A development impact fee is hereby established on development in the City to pay for transportation improvements and facilities; parks and recreation improvements and facilities; general public facilities; and public safety facilities. The development impact fee will be imposed by land use category of development. The development impact fee shall be imposed upon all new, or expanded existing, commercial development and on new residential development and also upon uses which intensify the use of existing commercial or residential structures as set forth herein, except as provided in subsection 27-3.11.
- b. The improvements summarized by category in subsection 27-3.4j are listed specifically in Appendix B to the Nexus Study.
- c. Except as otherwise provided in subsection 27-3.5d, the development impact fee shall be paid by each developer prior to the issuance of a building permit.
- d. For development which intensifies the use of an existing non-vacant structure or a structure for which the development impact fee has not been paid, the fees shall be payable prior to issuance of a building permit, or if no building permit is required, prior to the issuance of a certificate of occupancy, the final inspection, or the commencement of the use (pursuant to a use permit or other similar permit), whichever occurs first. 1. Regardless of whether a building permit is required, a structure, subject to any permit, which has been vacant (as defined in subsection 27-3.5g.6) shall be assessed the Development Impact Fee based on the proposed use at the time of permit issuance. No credit shall apply to such vacant structure. 2. Notwithstanding Section 27-3.5d.1, a structure for which the development impact fees have been paid shall not be considered vacant for the purposes of the fee and shall be assessed consistent with the provisions of subsection 27-3.11.
- e. The City Council shall adopt a resolution or ordinance setting forth the specific amount of the fee. The amount of the fee shall not exceed the estimated reasonable cost of providing the facility, equipment, or improvement for which the fee is imposed.
- f. The City Council shall review the development impact fee annually following the first deposit into the accounts established pursuant to subsection 27-3.6, and shall identify the purpose of the fee, demonstrate a reasonable relationship between the fee and the purpose for which it is charged; identify all sources and amounts of funding anticipated to complete financing incomplete improvements funded by the fee; designate the approximate dates on which the funding referred to is expected to be deposited into the appropriate accounts; and adjust the fee schedule if necessary.
- g. Definitions. For the purposes of the development impact fee, the following definitions apply: 1. Single-Family Residential. Any residential development that consists of a single residential unit (or units) on individual parcels. 2. Multi-family Residential. Any residential development that consists of more than one residential unit on individual parcels. 3. Commercial or Office. Any building or portion of a building that is defined by the California Building Code as an Assembly Group A, Business Group B, Educational Group E, Institutional Group I. This category also includes Group R-1, R-2, and R-4 buildings or portions of buildings designed for hotels, motels, residential care facilities, congregate living health facilities and other commercial developments that provide sleeping, eating, and/or other services to temporary or permanent residents. 4. Retail. Any non-residential building or portion of a building that is defined by the



California Building Code as a Mercantile Group M. 5. Warehouse/Manufacturing. Any non-residential building or portion of a building that is defined by the California Building Code as a Factory Industrial Group F, High Hazard Group H, or Storage Group S. 6. Vacant. For the purpose of this section, a non-residential property or a multi-family residential property shall be deemed "vacant" during the two years prior to the issuance of the building permit for a new structure, if the property owners or property tenants failed to maintain an active business license for the property during the entire two year period. For the purpose of a single family home, the property is "vacant" if Alameda Municipal Power records do not show energy usage consistent with occupancy of the building and/or adjacent single family properties that were occupied during the two-year period. 7. Improvement Plans. For the purpose of this section, "improvement plans" shall be defined as a building permit to construct improvements on real property which are designed to be occupied for the purpose of residential, commercial, office, retail, or warehouse manufacturing use as defined in this section. 8. Alameda Point. For the purposes of this section, "Alameda Point" is the area covered by the Alameda Point Zoning Ordinance, adopted on February 4th, 2014, by the City.

#### 27-3.6 - Use of Development Impact Fee.

Development impact fee revenues shall be deposited in segregated accounts and all interest earned on deposited fee revenues shall be used solely to:

- a. Pay for the cost of providing the specified projects listed in Appendix B to the Nexus Study. The projects are divided into four (4) categories: transportation; parks and recreation; general public facilities; and public safety.
- b. Reimburse the City for such projects if funds were advanced by City for such projects from other sources to pay new development's share of such costs.
- c. Fund reimbursement or refund under subsections 27-3.7 or 27-3.9.
- d. Fund loans or transfers made in conformance with Government Code Section 66006(b)(1)(G).
- e. The use of each component of the development impact fee is more specifically set forth in the resolution or ordinance referenced in subsection 27-3.5e establishing the amount of the fee and making certain findings.

### CHAPTER XXX - DEVELOPMENT REGULATIONS

#### ARTICLE I. - ZONING DISTRICTS AND REGULATIONS

#### 30-3.3 - Establishment of Districts.

- a. The boundaries of districts shall be shown upon the zoning maps of the City. The maps, and all amendments, changes, and extensions thereof, and all legends, symbols, notations, references, and other matter shown thereon shall be parts of this article and shall constitute the various subsections of paragraph b. hereof.
- b. The zoning map(s) of the City of Alameda shall be that certain map(s) entitled "Zoning Map of the City of Alameda" dated April 8, 1958, and marked "Filed in the office of the City Clerk June 10, 1958."
- c. The boundaries of such districts as are shown upon the zoning map(s), or amendments thereto, are hereby adopted and the specific regulations applicable therein, as set forth herein are hereby established and declared to be in effect upon all lands included within the boundaries of each and every district as shown upon the zoning map(s).
- d. No land shall be used, and no building or structure shall be erected, constructed, enlarged, altered, moved, occupied or used in any district, as shown upon the zoning map(s) except in accordance with the regulations established by this article.
- e. All lands now or hereafter included within the incorporated territory of the City which are not included within any district on the zoning map(s) shall constitute R-1 Districts.

#### 30-4.20 - M-X, Mixed-Use Planned Development District.

- a. Purpose . The purpose of the Mixed-Use District is to encourage the development of a compatible mixture of land uses which may include residential, retail, offices, recreational, entertainment, research oriented light industrial, water oriented or other related uses. The compatibility and interaction between mixed uses is to be insured through adoption of Master Plan (defined in subsection 30-4.20f) and development plan site plan (defined in subsection 30-4.20h), which indicate proper orientation, desirable design character and compatible land uses to provide for: 1. A more pedestrian-oriented nonautomotive environment and flexibility in the design of land uses and structures than are provided by single purpose zoning districts, including but not limited to shared parking; 2. The enhancement and preservation of property and structures with historical or architectural merit, unique topographic, landscape or water areas, or other features requiring special treatment or protection; 3. Recreation areas that are most accessible to both the M-X district's inhabitants and other City residents; 4. Environments that are more conducive to mutual interdependence in terms of living, working, shopping, entertainment and recreation; and 5. Flexibility in the design, lay-out and timing of build-out of large-scale mixed use projects in order to respond to market demands while ensuring that development is in conformance with adopted standards, procedures and guidelines. In order to accomplish this purpose, the City may establish Development Standards, Procedures and Guidelines (which govern, among other items, processing procedures, project-wide design guidelines addressing architecture, site planning, parking, circulation, streetscape, open space, landscaping, lighting, project identification and signage, and specific use design guidelines) as part of the Master Plan to which the Development Plans must then conform.

The City Council and Planning Board shall establish all other requirements by conditions of approval. The Planning Board shall recommend whatever conditions it deems appropriate for the Master Plan and shall establish conditions for approval of development plans.

- e. Density. 1. The City Council shall determine the number of dwelling units that are appropriate for the M-X and the appropriate area of noncommercial development therein. 2. Residential development within the entire M-X shall not exceed one (1) dwelling unit per two thousand (2,000) square feet of lot area for land designated on the Master Plan for residential use.
- f. Master Plan . An application for an M-X District development shall be initiated by filing a Master Plan for the entire district for review with public hearing for an approval in principle by the Planning Board and City Council. A Master Plan submitted shall include:
  1. Market Analysis. Except in redevelopment project areas where a project is approved or amended in conjunction with an agreement with the

redevelopment agency, an application seeking approval of a mixed-use development shall submit a market analysis, which shall be prepared and signed by an economist or market analyst as demonstrated by appropriate training and experience, and reviewed by the Planning Board. The market analysis shall demonstrate that the amount of land proposed can be realistically supported in commercial, residential, professional office or research uses. For these purposes such market analysis shall contain the following determinations: (a) Determination of the trade area of the proposed facilities; (b) Determination of the trade area population, present and prospective; (c) Determination of the effective buying power in such trade areas; (d) Determination of net potential customer buying power for stores in the proposed commercial and professional facilities and, on such basis, the recommended use types and floor areas; (e) Determination of the combined market attraction as a result of the combination of proposed uses for the purpose of assessing the benefits projected for a mixed use project.

2. An application form prepared by the Planning Department that identifies the location of the proposed development, the applicant, the owner of the property, and the size of the property;
3. A schematic map showing: (a) Proposed land use designations; (b) Streets and parking lots; (c) Water areas and places of public access to water; (d) Public open space and other public facilities; (e) Structures or natural features to be preserved.
4. Maps indicating the following transportation circulation systems within the project and connecting to larger circulation networks in the City: (a) Vehicular, including public transit, (b) Bicycles, (c) Pedestrians, and (d) Waterways.
5. Preliminary elevations of each structure or elevations of each model or typical structure.
6. A narrative text including: (a) Identification and description of the uses proposed; (b) Statement of the scale of each use, expressed in numbers (i.e., number of residential units, number of boat berths, square footage of retail-commercial, square footage of office uses, etc.) and in acreage allotted; (c) Description of the vehicular transportation circulation system within the project and connecting to larger circulation networks in the City; (d) Description of alternatives to private vehicles, including facilities for public transportation use, pedestrians, and bicycles; (e) Preliminary plans for parking, describing scale and location; (f) Tabulations of approximate acreage allotted to public open space, common private open space, and noncommon private open space; (g) Description of public access to water and public utilization of water related facilities; and (h) Statement of probable uses of public open space and other public facilities, including a rationale for scale and location.
7. A preliminary development schedule and phasing diagram showing each phase of the development schedule of the Master Plan, for purposes of planning public amenities and infrastructure.
8. In lieu of (f)(5) and (7) above, at its discretion, the City Council may approve as part of the Master Plan, a document containing detailed Development Standards, Procedures and Guidelines to which Development Plans must conform and which shall generally cover the topics described in (f)(5) and (7) but permit flexibility in design, lay-out and timing of buildout. The City Council may approve in the Development Standards, Procedures and Guidelines, as provided for in subsection 30-4.20 a5, the delegation of some, or all, of the decisions on the development plans to the Planning Director.

g. Procedures and Standards. 1. At least one (1) public hearing shall be held by the Planning Board, noticed pursuant to subsection 30-21.7 on each Master Plan after the Board shall make its recommendations to the City Council. 2. The City Council shall also hold at least one (1) public hearing on the Master Plan before making its decision therein. 3. The Planning Board may approve a development plan only if it determines, in the context of the Master Plan, that the mixed use development: (a) Qualifies; (b) Satisfies the purpose of these regulations; (c) Is designed in a manner compatible with existing and potential contiguous uses; (d) Provides a sufficient vehicular and nonvehicular circulation system within the project with the least amount of duplication; and the best interface with other systems; (e) Provides and maintains adequate landscaping using, where appropriate, native plants and taking maximum advantage of the screening capabilities of landscaping; (f) The amount of land proposed for any particular use can be marketed for that use within a reasonable time after development is complete; (g) Provides sufficient area, and encourages adequate public accessibility and usage of the water/land interface; (h) Provides a comprehensive, coordinated, controlled system of informational and directional graphic signage throughout the development; and (i) Demonstrates progressive techniques for the conservation of, and decreased consumption of, nonrenewable energy. 4. Planning Director Decisions. (a) Where authority for decisions on development plans is delegated to the Planning Director, pursuant to subsection 30-4.20 f8a, the Planning Director shall be responsible for making the determinations required in subsection 30-4.20 g3 and providing the same public notice required for Planning Board action on a development plan, but may take action administratively without holding a public hearing. In those instances where the Planning Director believes an application will generate significant public interest or involve policy issues, the Planning Director may refer the application to the Planning Board for review and action. Each decision made by the Planning Director pursuant to delegated authority in accordance with this section shall be placed as an information item on the Planning Board agenda and provide a summary of the project and conditions. (b) If the Planning Director receives a written request for a Planning Board public hearing and action by the Planning Board any time during the review process but no later than ten (10) days after the action of the Planning Director or three (3) working days following the Planning Board meeting for which the information item is on the agenda, whichever time period is longer, then the development plan shall be set for Planning Board public hearing and action. h. Development Plans. Applicants shall file development plans which include the following information: 1. Proposed land uses, population densities and building intensities, school sites and usable open space as part of the Site Plan. 2. All other requirements of subsection 30-4.13j.

#### 30-4.21 - E, Estuary District.

- a. General. The following specific regulations, and the general rules set forth in section 30-5, shall apply in all E Districts as delineated and described in the zoning maps and described as follows: those submerged lands between the City limits to the north, the mouth of San Leandro Bay at the eastern end of the Tidal Canal on the east as defined by the intersection of Fernside Avenue and Thompson Avenue, the Oakland Estuary on the west as defined by the western end of Alameda Point, and the Mean Higher High Water Line on the south. It is intended that this district classification be applied in areas in the Oakland Estuary and Tidal Canal, and that the regulations established will promote and protect the environment and water-dependent uses in such districts.
- b. Definitions. 1. Boat House: shall mean a small structure constructed on or near water for the purpose of housing boats and/or boating or other maritime-related equipment and accessories. 2. City Limits: shall mean the boundary of the City of Alameda's jurisdiction. 3. Mean Higher High Water (MHHW) Line: shall mean the average height of the higher high waters (high tide) over a nineteen (19) year period. 4. Oakland Estuary: shall mean the waterway between the cities of Alameda and Oakland, starting from the Tidal Canal on the east to the mouth of the estuary on the west. 5. Tidal Canal: shall mean the Oakland Inner Harbor Tidal Canal that was dredged by the Corps between approximately 1884—1905 and includes the waterway between the cities of Alameda and Oakland from the Oakland Estuary to the west to the mouth of San Leandro Bay on the east.
- c. Uses Permitted. None.

d. Uses Requiring Use Permits. All proposed development within the E District, including: 1. Uses: (a) Marinas, (b) Boat houses, docks, and piers, (c) Seaport distribution facilities, including boat repair and other marine services and similar uses, provided such uses are consistent with the zoning district on the upland portion of the parcel, as applicable or adjacent parcel and subject to the required findings required by subsection 2 of this section.

(d) Bridges, tubes, and other structures and facilities required for the movement of people, energy or materials between the City of Alameda and the City of Oakland.

(e) Uses and facilities determined by the Planning Board or Zoning Administrator determined to be substantially similar in character and scale to the uses and facilities described in subsection (a) through (d) above. 2. Findings. In addition to the findings in subsection 30-21.3, the Planning Board or Zoning Administrator may authorize the issuance of a Use Permit only if the following additional findings can be made: (a) The proposal will not create any additional impairments to navigational safety in the Oakland Estuary or the Tidal Canal. (b) The proposal is appropriate for the specific location and potentially significant safety, congestion, noise, visual obstruction and other environmental impacts have been considered and addressed. (c) The proposed use(s) is/are water-dependent and is/are consistent with the public trust, as applicable. (d) The proposed use(s) will not cause degradation to water quality in the Oakland Estuary or the Tidal Canal, or to water-related habitat. (e) The proposal, as conditioned, shall be required to obtain any other discretionary approvals required by other regulatory or resource agencies, as applicable. (f) The proposed use(s) will not impair or impede the use or enjoyment of neighboring properties, including the use of existing docks. (g) The footprint of any new structures included in the proposal must be located entirely within the existing property owned by or under the control of the applicant. 3. Conditions. The approval of a use permit shall be contingent upon the acceptance and observance of specified conditions, including, but not limited to the following: (a) All title information, leases and City permits shall be complete, accurate and maintained up-to-date. (b) For commercial marinas, the applicant shall also comply with all other requirements of subsection 30-4.9(c)(15) of the Zoning Ordinance. (c) The applicant shall comply with all other environmental mitigations determined to be necessary through the environmental documentation and public review process. (d) The applicant shall comply with any setbacks required by the U.S. Army Corps of Engineers for channel dredging and maintenance activities for both fixed structures and moored vessels. (e) The applicant shall maintain the perimeter slope in accordance with City standards. e. Minimum Height, Bulk and Space Requirements. Appropriate height, bulk and setback requirements for the proposal shall be established as a condition of the Use Permit and shall be in conformance with the required findings established by subsection 3, the conditions required by subsection 4, and the requirements in 30-5, as applicable.

(Ord. No. 2662 N.S. § 1)

#### 30-4.23 - Multi-family Residential Combining Zone.

a. Purpose. The Multi-family residential combining zone (MF District) is an overlay zone intended for lands in Alameda that are well located for transit oriented Multi-family housing, necessary to accommodate Alameda's share of the regional housing need, and available to facilitate and encourage the development of a variety of types of housing for all income levels, including Multi-family rental housing as required by California Government Code sections 65580 and 65583. b. Alameda Municipal Code and Underlying Zoning District Provisions and Requirements. 1. Proposed residential use within the MF district shall comply with the provisions of the MF District, the provisions of the underlying zoning district and all other provisions of the Alameda Municipal Code. In the event of a conflict between the provisions of the MF Combining District and the provisions of the underlying district or the Alameda Municipal Code or Alameda City Charter Article 26, the provisions of the MF District shall govern. 2. Proposed non-residential use, if permitted or conditionally permitted by the underlying zoning districts, within the MF District shall comply with the provisions of the underlying zoning district and all other provisions of the Alameda Municipal Code.

#### 30-5.12 Definition - of required open space.

Usable open space is comprised of private open space and common open space. Usable open space is that area of a building site which is landscaped or otherwise developed and maintained for recreation or outdoor living by the occupants. Usable open space shall not include yards or other areas having a width of less than eight (8') feet, except for balconies which may have a minimum horizontal dimension of five (5') feet, or areas devoted to automobile access or storage. The following areas shall constitute usable open space as required by subsections 30-4.2(d)(9), 30-4.3(d)(10), 30-4.4(d)(10), 30-4.5(d)(10), and 30-4.6(d)(10).

a. Common Open Space. Porch, patio, court or other outdoor living area which has common access from more than one (1) dwelling unit and which has a minimum area of three hundred (300) square feet and a minimum horizontal dimension of fifteen (15') feet. Common open space may include structures defined as patio covers in Section 30-2 (Definitions) provided that they are accessory to common open space as herein defined. Common open space may not include required front yards. b. Private Open Space. Private open space shall be accessible from only one (1) unit. Private open space shall not be within five (5') feet of a side lot line or ten (10') feet of a rear lot line. Private open space in the required front yard may not extend more than one-half (½) the depth of the required front yard nor across more than one-half (½) of the frontage of the building. Any private open space developed in the required front yard shall be enclosed by a perimeter wall or fence not to exceed three (3') feet in height unless the wall or fence complies with Section 30-5.14(b)(8) in which case it may not exceed four (4') feet in height. The following will qualify as private open space: 1. Private balcony attached to a dwelling unit with an area of at least sixty (60) square feet and a minimum horizontal dimension of five (5') feet, provided such balcony is unenclosed on at least two-thirds ( 2/3 ) of its perimeter except for required railings. A balcony which is used for access to a dwelling unit does not qualify for private open space. 2. Porch, deck, patio, or court on ground level accessible from only one (1) unit with a minimum area of one hundred twenty (120) square feet, and a minimum horizontal dimension of ten (10') feet, and is unenclosed for at least two-thirds ( 2/3 ) of its perimeter except for screen fencing not more than six (6') feet high if not in the front yard. 3. Roof deck with an area of not less than one hundred twenty (120) square feet and a minimum horizontal dimension of ten (10') feet. Any such roof deck shall have a six (6') foot high wall or screen on at least two-thirds ( 2/3 ) of its perimeter located to provide protection from the wind.

#### 30-17 - DENSITY BONUS ORDINANCE

##### 30-17.1 - Purpose.

The purpose of this density bonus ordinance is to create incentives for the provision of affordable housing, senior housing and the development of child care facilities in Alameda. The California Legislature requires each local government to adopt an ordinance that specifies how the jurisdiction will comply with Section 65915 et seq. of the California Government Code. This chapter is intended to acknowledge the requirements of that code.

## 30-17.4 - Density Bonus Application.

- a. In order to receive concessions and/or incentives, or waivers under this Section 30-17, an Applicant must submit to the City a Density Bonus Application which will be treated as part of the Development Application. At any time during the review process, the Planning and Building Director may require from the applicant additional information reasonably necessary to clarify and supplement the application or to determine the development's consistency with the requirements of this section.
- b. The Density Bonus Application shall include the following:
  1. A development plan illustrating that the "base" project meets all existing general plan and zoning development standards.
  2. A description of the Development, including the total number of proposed affordable housing units, senior housing units, or age-restricted mobile home park units; a description of any land the applicant proposes to donate for low income housing units; and any child care facilities the applicant proposes to construct as part of the qualifying housing development premises or on an adjacent property.
  3. The zoning and General Plan designations and assessor's parcel number(s) of the project site.
  4. A vicinity map showing the location of the proposed project.
  5. A set of preliminary project plans that include a site plan showing all building and structure footprints or locations, drive aisles and parking layout; floor plans of all structures and buildings; and architectural elevations of all buildings and structures, all drawn to scale.
  6. A request for a concession or incentive shall include evidence to justify why it is necessary to provide for affordable housing costs. Specifically, the application shall include a financial report or pro forma demonstrating: i) whether the concessions or incentives sought would result in identifiable, financially sufficient, and actual cost reductions; ii) whether the concessions or incentives sought are necessary to reduce the cost of the housing project sufficiently to make feasible the provision of the affordable housing units; and iii) how any additional concession or incentive would contribute significantly to the economic feasibility of the construction of the child care facility if a child care facility is proposed.
  7. A request for a waiver shall include evidence to justify why it is necessary to allow construction of the development on the site. Specifically, any applicant requesting a waiver of development standards that physically preclude construction at the densities and/or concessions and incentives permitted shall submit evidence in the form of a site plan, drawing or written explanation describing why the waiver is needed to permit the project. A financial report or pro forma is not required to justify a waiver.
  8. The Affordable Housing Unit Plan which shall include: (a) The location, structure (attached, semi-attached, or detached), proposed tenure (sale or rental), and size and number of bedrooms of proposed market-rate and affordable housing units and the proposed size of non-residential uses included in the development; (b) The income level to which each affordable housing unit will be made affordable; (c) For phased developments, a phasing plan that provides for the timely development of affordable housing units in proportion to other housing units in each proposed phase of development as required by this section.
  9. Any other information reasonably requested by the Planning and Building Director to aid in the implementation of this Section 30-17.
- c. In the event that construction of a project is to be: 1) phased over more than two (2) years, and those entitlements are vested by instruments such as a Development Agreement or other similar instrument, and 2) the vesting document(s) allows for the phased submittal of Design Review plans including the floor plans and elevations of proposed buildings, then the applicant may be allowed to phase submittal of the floor plans and elevations required by subsection 30-17.4.5 of all planned residential buildings until such time that the Design Review plans are submitted pursuant to the vesting documents.
- d. A project with a Density Bonus Application, including a request for concessions, incentives or waivers, shall be reviewed for approval by the Planning Board; provided, however, that if a development involves another permit or entitlement requiring City Council approval, then the Planning Board may deny the development project or recommend its approval to the City Council.
- e. A requested concession, incentive, or waiver shall be approved unless the findings for denial listed in subsection 30.17.9a., "Requests for Incentives or Concessions," or 30-17.12a., "Waivers of Development Standards the Physically Preclude Construction," are made in writing.
- f. Decisions of the Planning Board may be appealed to or reviewed by the City Council as provided in Section 30-25 of this Code, "Appeals or Calls for Review."

## 30-17.5 - Density Bonus Standards.

- a. Developments subject to this section include projects undertaken in phases, stages, or otherwise developed in distinct sections.
- b. If the site of a development proposal is located in two or more zones, the number of dwelling units permitted in the Development is the sum of the dwelling units permitted in each of the zones. The permitted number of dwelling units may be distributed within the development without regard to the zone boundaries.
- c. Total units or total dwelling units does not include units added by a Density Bonus awarded pursuant to this section.
- d. The Applicant shall elect whether the density bonus shall be awarded on the basis of the development category they select. The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval. All density calculations resulting in fractional units shall be rounded up to the next whole number.
- e. For projects subject to Section 30-16 of this Code, "Inclusionary Housing Requirements for Residential Projects," the inclusionary units required by that section may be counted toward the affordable unit requirements of this Section 30-17. To the extent that the provisions of this section and Section 30-16 conflict, the more demanding provisions in terms of affordable housing production of Section 30-16 shall prevail.
- f. An applicant shall agree and the City shall ensure continued affordability of all low-and very-low-income units that qualified an applicant for the award of the density bonus for thirty (30) years for "for sale" units, and fifty-five (55) years for rental units, or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, rental subsidy program, or other City ordinances or requirements.
- g. An applicant shall agree and the city shall ensure that the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in a Common Interest Development are persons and families of moderate income and that units are offered at an affordable sales price and housing cost as defined by Section 30-17 and Government Code Section 65915 as it exists when a complete application for a Development is submitted to the City.

## 30-17.6 - Development and Housing Unit Types.

- a. The provisions of this section 30-17 apply to the following development categories:
  1. New residential development projects of five (5) or more dwelling units, regardless of the type of dwelling units proposed. Applicant shall demonstrate that at least five (5) residential units can be developed on the project site in compliance with all zoning and development regulations.
  2. Where permitted or conditionally permitted by the underlying zoning designation of a site, mixed-use developments that include at least five (5) dwelling

units.

3. Substantial rehabilitation of one (1) or more multiple-family residential structures containing at least five (5) units that results in a net increase in the available residential units.
4. Development that will change the use of an existing building from nonresidential to residential and that will provide at least five (5) residential units;
5. Development that includes the conversion of at least five (5) residential rental units to ownership housing.

b. Developments projects that may be considered under the above categories include the following housing unit types:

1. Developments where at least five (5%) percent of the total units are for very low income households. (See subsection 30-17.7.1.)
2. Developments where at least ten (10) percent of the total units are for Low Income Households. (See subsection 30-17.7.2.)
3. Developments where at least ten (10) percent of the total units in a common interest development, as defined in section 1351 of the Civil Code, are for moderate income households. (See subsection 30-17.7.3.)
4. A Senior citizen housing development or mobile home park that limit residency based on age requirements. (See subsection 30-17.7.4.)
5. Developments that include the donation of land. (See subsection 30-17.7.5.)
6. Developments that include child care facilities. (See subsection 30-17.7.6.)
7. Condominium conversions. (See subsection 30-17.7.7.)

c. These provisions shall not apply to projects on sites where the density of dwelling units already exceed the maximum permitted by the General Plan or Municipal Code. Projects on such sites shall not be entitled to a density bonus, concessions, incentives, waivers, or reductions in parking standards.

30-17.7 - Specified Housing Unit Type, Criteria, and Standards.

30-24 - DUTIES OF OFFICIALS, ENFORCEMENT AND PENALTIES.

30-24.1 - Duties of Officials.

a. All departments, officials, and public employees of the City which are vested with the duty or authority to issue permits or licenses shall issue no permit or license where the same would be in conflict with the provisions or intent of this article. b. It shall be the duty of the Zoning Administrator to enforce the provisions of this article.

In the prosecution of the above described duties, the Zoning Administrator or his authorized representative shall have the right to enter upon any premises or structures to make necessary inspections at any reasonable time, and in accordance with the law.

30-24.2 - Enforcement.

Any building erected, altered, moved or maintained, and/or any use of property contrary to the provisions of this article shall be and the same is hereby declared to be unlawful and a public nuisance, and the City Attorney shall commence action or actions, proceeding or proceedings for the abatement, removal and the enjoinder thereof in the manner provided by law, and by the Charter.

30-24.3 - Penalties.

Any person violating the provisions of this article shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 1-5 of the Alameda Municipal Code. All remedies provided for therein shall be cumulative and not exclusive.

30-24.4 - Reference.

This article shall be known and may be cited as the "City of Alameda Zoning Regulations."

30-25 - APPEALS OR CALLS FOR REVIEW.

30-25.1 - Purpose and Authorization for Appeals and Calls for Review.

a. Appeals. To avoid results inconsistent with the purposes of this chapter, decisions of the Planning Director or Zoning Administrator may be appealed to the Planning Board and decisions of the Planning Board or Historical Advisory Board may be appealed to the City Council by any person aggrieved or by any officer, agency or department of the City affected by any decision, determination or requirement. b. Calls for Review. As an additional safeguard to avoid results inconsistent with the purposes of this chapter, decisions of the Planning Director or Zoning Administrator may be called up for review to the Planning Board by the Planning Board or by the City Council and decisions of the Planning Board or Historical Advisory Board may be called up for review to the City Council by the City Council or a member of the City Council.

30-25.2 - Final Decisions.

a. Final Decision of the Zoning Administrator. Any decision of the Zoning Administrator shall be final on the date of the decision, unless any person aggrieved or by any officer, agency, or department of the City affected by any decision of the Zoning Administrator, files a Notice of Appeal with the Planning Department no later than ten (10) days following the decision or a City councilmember files a call for review with the Planning Department no later than ten (10) days following the decision. Decisions that are appealed or called for review shall not become effective until the appeal or call for review is resolved by the appropriate City body. b. Final Decision of the Planning Board or Historical Advisory Board. Any decision of the Planning Board or Historical Advisory Board shall be final on the date of the decision, unless any person aggrieved or by any officer, agency, or department of the City affected by any decision of the Planning Board or Historical Advisory Board, files a Notice of Appeal with the Planning Department no later than ten (10) days following the decision or a City councilmember files a call for review with the Planning Department no later than ten (10) days following the decision. Decisions that are appealed or called for review shall not become effective until the appeal or call for review is resolved by the appropriate City body. c. Final Decision of the City Council. A

decision by the City Council regarding an appeal or call for review shall become final on the date of the decision subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5. Any petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6 after the date of the City Council's decision. d. End of Appeal or Call for Review Period. When the end of an appeal or call for review period falls on a weekend or a statutory holiday, the period shall continue until the first working day thereafter.

#### ARTICLE VII. - DEVELOPMENT AGREEMENTS

##### 30-91 - GENERAL.

###### 30-91.1 - Authority.

This article is enacted pursuant to Article 2.5 of Chapter 4 of Division 1 of Title 7 of the California Government Code, Section 65864 et seq. This article is adopted to supplement existing provisions of the Alameda Municipal Code.

###### 30-91.2 - Purpose.

The purpose of this article is to strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development by providing an option to both the City and developers to enter into development agreements.

To accomplish this purpose the procedures, requirements and other provisions of this article are determined to be necessary to promote orderly growth and development, the economic welfare, and to ensure provision for adequate circulation, utilities and services.

###### 30-91.3 - Applicability.

The procedures and requirements set forth in this article shall apply to all development agreements proposed by developers and entered into by the City Council.

###### 30-92.3 - Notice.

a. The time and manner of giving notice shall be as prescribed in the Government Code for amendments to the zoning regulations. b. The notice of intention to consider adoption of the development agreement shall contain: 1. The time and place of the hearing. 2. A general explanation of the matter to be considered, including a general description of the area to be affected; and 3. Other information required by law or which the Planning Director considers necessary or desirable. c. The failure of any person entitled to notice to receive such notice does not affect the authority of the City to enter into a development agreement.

###### 30-92.4 - Public Hearings, Generally.

a. The public hearing shall be conducted as nearly as may be in accordance with the procedural standards prescribed in the Government Code for the conduct of zoning hearings. Each person interested in the matter shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed development agreement. b. No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by the Court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation, or any matters of procedure whatever unless after an examination of the entire case, including the evidence, the Court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is not a presumption that error is prejudicial or that injury was done if error is shown.

###### 30-92.5 - Review by Planning Board.

The Planning Board shall hold a public hearing on the application and shall make its recommendation and reasons therefor in writing to the City Council. The recommendation shall include the Planning Board's determination whether or not the development agreement proposed:

a. Is consistent with the objectives, policies, general land uses and programs specified in the general plan; and b. Is compatible with the uses authorized in, and the other regulations prescribed for, the use of land.

###### 30-93.3 - Subsequent Approvals.

Development agreements may be considered on the applicant obtaining, subsequent to their execution, required land use approvals.

##### 30-94 - ACTIONS ON APPLICATIONS.

###### 30-94.1 - Decision by City Council.

a. The City Council shall hold a public hearing, after which it may accept, modify or disapprove the recommendation of the Planning Board. b. The City Council may not approve the development agreement unless it finds that the provisions of the agreement are consistent with the General Plan and other regulations prescribed for the use of land.

Adopted April 29, 1937

Approved May 5, 1937

Senate Concurrent Resolution No. 75

Amended to November 8, 2016

#### ARTICLE XXVI

##### Multiple Dwelling Units

Sec. 26-1. There shall be no multiple dwelling units built in the City of Alameda.

Sec. 26-2. Exception being the Alameda Housing Authority replacement of existing low cost housing units and the proposed Senior Citizens low cost housing complex, pursuant to Article XXV of the Charter of the City of Alameda.

Sec. 26-3. The maximum density for any residential development within the City of Alameda shall be one housing unit per 2,000 square feet of land. This limitation shall not apply to the repair or replacement of existing residential units, whether singlefamily or multiple-unit, which are damaged or destroyed by fire or other disaster; provided that the total number of residential units on any lot may not be increased. This limitation also shall not apply to replacement units under Section 26-2.

#### ATTACHMENT - California Public Resources Code Governing Tidelands Exchange

##### ARTICLE 1. Administration and Control Generally [6301 - 6320] ( Article 1 added by Stats. 1941, Ch. 548. )

6307. (a) The commission may enter into an exchange, with any person or any private or public entity, of filled or reclaimed tide and submerged lands or beds of navigable waterways, or interests in these lands, that are subject to the public trust for commerce, navigation, and fisheries, for other lands or interests in lands, if the commission finds that all of the following conditions are met:

- (1) The exchange is for one or more of the purposes listed in subdivision (c).
- (2) The lands or interests in lands to be acquired in the exchange will provide a significant benefit to the public trust.
- (3) The exchange does not substantially interfere with public rights of navigation and fishing.
- (4) The monetary value of the lands or interests in lands received by the trust in exchange is equal to or greater than that of the lands or interests in lands given by the trust in exchange.
- (5) The lands or interest in lands given in exchange have been cut off from water access and no longer are in fact tidelands or submerged lands or navigable waterways, by virtue of having been filled or reclaimed, and are relatively useless for public trust purposes.
- (6) The exchange is in the best interests of the state.

(b) Pursuant to an exchange agreement, the commission may free the lands or interest in lands given in exchange from the public trust and shall impose the public trust on the lands or interests in lands received in exchange.

(c) An exchange made by the commission pursuant to subdivision (a) shall be for one or more of the following purposes, as determined by the commission:

- (1) To improve navigation or waterways.
- (2) To aid in reclamation or flood control.
- (3) To enhance the physical configuration of the shoreline or trust land ownership.
- (4) To enhance public access to or along the water.
- (5) To enhance waterfront and nearshore development or redevelopment for public trust purposes.
- (6) To preserve, enhance, or create wetlands, riparian or littoral habitat, or open space.
- (7) To resolve boundary or title disputes.

(d) The commission may release the mineral rights in the lands or interests in lands given in exchange if it obtains the mineral rights in the lands or interests in lands received in exchange.

(e) The grantee of any lands or interests in lands given in exchange may bring a quiet title action under Chapter 7 (commencing with Section 6461) of Part 1 of Division 6 of this code or Chapter 4 (commencing with Section 760.010) of Title 10 of Part 2 of the Code of Civil Procedure.

# FW: ACT Opposition to Encinal Terminals Development Plan-Dec. 19 2017 City Council Agenda Item #6-B

Paul Foreman <ps4man@comcast.net>

Sun 12/17/2017 7:09 PM

To: LARA WEISIGER <LWEISIGER@alamedaca.gov>;

Lara, please include the letter below in the file for Item # 6-B on the Dec. 19, 2017 City Council Agenda.

Paul foreman

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From: Paul Foreman [mailto:ps4man@comcast.net]

Sent: Sunday, December 17, 2017 7:07 PM

To: 'Trish Spencer' (tspencer@alamedaca.gov); mvella@alamedaca.gov; fmatarrese@alamedaca.gov; Marilyn Ezzy Ashcraft (mezzyashcraft@alamedaca.gov); joddie@alamedaca.gov

Cc: Jill Keimach (JKeimach@alamedaca.gov); Andrew THOMAS (ATHOMAS@alamedaca.gov); Debbie Potter (DPOTTER@alamedaca.gov); jkern@alamedacityattorney.org; Andrico Penick (apenick@alamedacityattorney.org)

Subject: ACT Opposition to Encinal Terminals Development Plan-Dec. 19 2017 City Council Agenda Item #6-B

## ACT

### Alameda Citizens Task Force

### Vigilance, Truth, Civility

Dear Mayor Spencer and Councilmembers, Vella, Mataresse, Ashcraft and Oddie:

ACT supports residential and commercial development at Encinal Terminals, particularly affordable housing and improving our jobs to housing ratio. However we can only support a development plan/agreement that meets the following criteria:

1. A maximum housing density number that is formulated in compliance with The City General Plan, MX/MR Zoning Ordinances and California Law
2. A Market Analysis required by the City MX Zoning Ordinance that clearly assures the marketability of the land uses proposed.
3. A CFD to cover excess public safety costs
4. A distribution between housing and commercial uses that significantly improves, rather than exacerbates our poor jobs/housing ratio
5. Provides multiple access roads for evacuation in the event of a disaster
6. Contains a sustainable funding mechanism for perpetual maintenance of the shoreline
7. Contains a tidelands swap that fairly compensates the City as trustee for the State for its relinquishment of tidal lands.
8. Is supported by an EIR that is fully compliant with CEQA

We must oppose the proposed development plan and agreement that is before you now because it meets none of the above criteria. If City Council approves the current proposal we fully intend to file for a Writ of Mandate in the Superior



Court seeking to overturn the same as an abuse of discretion and a violation of both City and State law.

A detailed explanation of our opposition is set forth below. (With the exception of EIR and other issues which will be raised in separate documents)

### 1. Miscalculation of maximum allowable gross residential density:

At the time of Developer's filing of his Application, it owned 15.48 acres of land zoned MF/MX and 1.25 acres zoned under MX at 21 units per acre. (16.73 acre total) Planning Staff then calculated the density for the two sub-parcels based on the applicable zoning plus the required 20% density bonus and set the maximum allowable residential density at 589 units. The current Staff Report attached to the Dec. 19, 2017 agenda justifies this calculation by citing California law which requires the calculation of, "maximum allowable gross residential density as of the date of application".

Staff is misinterpreting the law. The law is simply consistent with other anti-nimby laws that forbid applying different zoning standards than existed at the time of the application. It is not requiring that density be determined at the time of the application regardless of any amendments to the Master Plan after the date of the application.

The law applies only to "residential density." This is consistent with AMC 30-4.20 - M-X, Mixed-Use Planned Development District, Sec. e (1), which states that the density calculation only applies "for land designated on the Master Plan for residential use." Also see AMC 30-4.23 - Multi-family Residential Combining Zone, commonly referred to as the Multi-family Overlay, Sec. B (1), which states that the provisions of the underlying zoning district shall apply if not in conflict with the overlay ordinance. There is no conflict regarding density calculation.

The Housing Element in its realistic capacity estimates, reduces high density gross per acre by 10% (27 units per acre) to account for "setbacks, building height, parking, and open space requirements" This language appears to recognize that common open space does not count toward residential acreage for the density calculation.

AMC Section 30-5.12 states "Usable open space is comprised of private open space and common open space. Usable open space is that area of a building site which is landscaped or otherwise developed and maintained for recreation or outdoor living by the occupants." (Boldface mine) Public open space is not included in the definition.

The Encinal Terminals Master Plan of July 7, 2017 at page 18 asserts that if the development falls short of the open space requirement, it will, "make off-site improvements to City parks (or contribute an in-lieu fee) as a condition of a subdivision map." The Dec. 1, 2017 version of the Master Plan, at the same page, continues to claim open space credit for public parks. This was done at Del Monte, with the same developer providing funding and other benefits for Jean Sweeny Park in lieu of meeting normal open space requirements. However Del Monte was not given credit for the acreage of the portion of the Park adjacent to the project with regard to the density calculation. Developer was given density calculation credit only for the 11 acres devoted to residential use. Thus, there is no basis for the public park acreage provided by the developer being counted toward his density calculation, regardless of whether it is part of a land swap or retained by the developer.

It logically follows from the above that maximum allowable residential density cannot be calculated at the time of the initial application, but only after a final Master Plan is presented that specifically calculates the portion of the parcel dedicated to residential use. Thus, acreage dedicated to commercial use, streets\*, public parks\*\*, and land conveyed to the City under the swap must be excluded from the calculation of maximum allowable residential density. (\*See Sec. 2.2 General Plan, Land Use Element Residential. \*\*See AMC 30-5.12 Definition - of required open space., which defines open space in a residential district as private or common space, with no mention of public space.)

The conclusion to be drawn from the preceding paragraph is that the residential density calculation must be limited to acreage used for residential structures, appurtenances, and required private open space. Fortunately, the revised Development Agreement, attached as Exhibit 1 to the Staff Report, contains a new map (Exhibit C) that provides the needed information for determining the starting point for calculating maximum allowable gross residential density. It labels all of the developable non-trust land after the swap at 14.17 acres. Thus, we know that after the swap the land owned by the developer will be reduced in size by 2.56 acres. (16.73- 14.17) Thus, the starting point for calculating maximum allowable gross residential density is the deduction 2.56 acres from the calculation.

However, deductions must be made from this calculation for acreage within the above parcels not dedicated to residential uses as categorized above. Unfortunately there is no information in any of the Encinal terminals documents that specifically identifies the acreage within the non-trust land that will be used for these purposes. However we do have various maps and verbiage that establish that there will be cross streets throughout the development, an access road and a marina running up the western shore of the parcel (Fortmann side). See below map reproduced from Figure 1.1, page 13 of the current Master Plan. Also note the building marked #4 which is a proposed market hall. All of this acreage is legally excluded from the calculation of maximum allowable density. Thus it must be surveyed and the appropriate deduction made from the unit count.

After the appropriate deductions are made it is certain that the project will surely contain well over 100 units less than 589 living units and can be built without any waiver of the building height restrictions currently contained in the General Plan and MX Zoning Ordinance.



## 2. Failure to attach a Market Analysis to the Master Plan

AMC Sec. 30-4.20 - M-X, Mixed-Use Planned Development District provides that the Developer must file a Master Plan. The very first item that must be included is a Market Analysis by a qualified economist. It goes into great detail as to what must be covered and contains no provision for confidentiality. There is no Market Analysis attached to the Master Plan. Debbie Potter has produced the Market Analysis which was filed with the initial application, but never attached to the Master Plan, as required. Amazingly, even after this omission was raised with Ms. Potter and City Council after the public hearing before the Planning Board, it is still not attached to the new version of the Master Plan!

The failure to attach the Market analysis to the Master Plan invalidates the public hearing before the Planning Board and the public hearing to be convened before City Council on Dec. 19<sup>th</sup> as this vital and required information is not being presented publically.

## 3. Failure to require a Public Safety CFD is inconsistent with the General Plan.

AMC 30-94.1 (b) provides that “The City Council may not approve the development agreement unless it finds that the provisions of the agreement are consistent with the General Plan and other regulations prescribed for the use of land.”

The Northern Waterfront Amendments to the General Plan, section 10.1 state, "Financially Sound Development The General Plan policies and land use designations are designed to ensure that new development will fund the public facilities and services that are needed to serve the new development and that redevelopment of the area does not result in a negative financial impact on the City's ability to provide services to the rest of the City."

The failure to provide for a Public Safety CFD in the Encinal Terminals Development Agreement for a project that is almost entirely residential, and thus will not produce sufficient revenue to cover public safety costs, is beyond unwise. It is clearly inconsistent with the General Plan section quoted above, and thus invalidates the proposed Agreement. The problem is exacerbated by the unique peninsular location of the property with its special needs regarding earthquake and fire.

City staff and the developer seek to blunt this issue by submitting a Fiscal Impact Analysis (Agenda Exhibit 4) which it commissioned from Economic and Planning Systems, Inc. (EPS) This Report was never submitted to the Planning Board or to the public hearing before the Board On July 17, 2017. The law requires public hearing before both the Board and Council. The purpose of two separate hearings is rendered meaningless by presenting an exhibit to council that was never reviewed by the Board.

This is a report that was not generated by the City, but by the developer. This is in contrast to the financial impact analysis done for Site A at Alameda Point, where the report from Willdan was generated by the City. This is a critical distinction. Every Councilmember needs to read a short non-fiction book, Confessions of an Economic Hit Man that was a best seller in 2004 and remains popular today. One of the strong lessons in the book is that a financial analyst can produce reports that support any conclusion his client wishes, because these reports are not based upon facts, but on predictions of what will occur in the future and the analyst is never held responsible for predictions that fail. Some indications that the predictions in this Analysis are unsound follow.

It is widely accepted that residential development does not provide enough tax revenue to support the public services it requires, with particular emphasis on public safety costs. It is also widely accepted that commercial development provides tax revenues substantially in excess of the public services it requires. Yet EPS predicts a large annual surplus of revenues over expenditures while Willdan predicts Alameda Point with only 2.4 times the residential units (589 to 1425) and about 117 times the commercial space (30,000 sq. ft. to 3,500,000 sq. ft.) will yield a revenue deficit!

In estimating increased fire and police staffing needs, EPS uses a formula that requires only 1.87 new police officers and 1.39 new firefighters. This number is calculated by dividing the daytime population of the City by the current staffing of both departments and then using the result to project the service need for the projected 1414 residents and 69 on site workers. This ignores several factors unique to Encinal Terminals; 1) extremely high density (589 units squeezed into 14.12 acres yields 42 living units per acre); 2) building heights of 5 to 14 stories; and 3) a narrow peninsula that will clearly require water based intervention for public safety. Amazingly, the report contains no documentation from either the Police or Fire Chief regarding staffing needs.

For a more comprehensive analysis of this issue see Robert Sullwold's latest posting in the Alameda Merry-go-Round at <https://alamedamgr.wordpress.com/2017/12/17/summon-the-chiefs/>

Perhaps the clearest evidence of how much “fluff” is in the financial analysis is this statement from page 16 of the report:

“Reduce Commuter Traffic

By locating residential, retail, and office on one site, this project hopes to generate jobs and services while reducing long commute trips for Alameda residents and workers. Bringing more jobs to Alameda should reduce overall citywide traffic.”

This project is at least 92% residential and 7% commercial, based on acreage. The commercial usage is even smaller when one understands that much of the commercial sq. footage will be on the ground floor of residential buildings. There is no way that the traffic demands of placing close to 1200 adult residents at Encinal Terminals with only 30,000 sq. feet of commercial space and including a public recreational site will do anything but increase overall City traffic.

Council should reject this Analysis and adhere to the wise admonition that “you get what you pay for”. The developer is getting exactly what it paid for, while the City is also getting what it paid for, namely nothing! In the face all of the



above, how can Council fail to commission its own Financial Impact Analysis to insure against a drastic drain of City revenues.

To make the need for this CFD even more imperative is the report given to Council in November on the coming increased annual CalPERS bill which by itself increases our expenditures more than our annual revenue increase.

#### 4. Failure to improve the jobs to housing ratio is inconsistent with the General Plan.

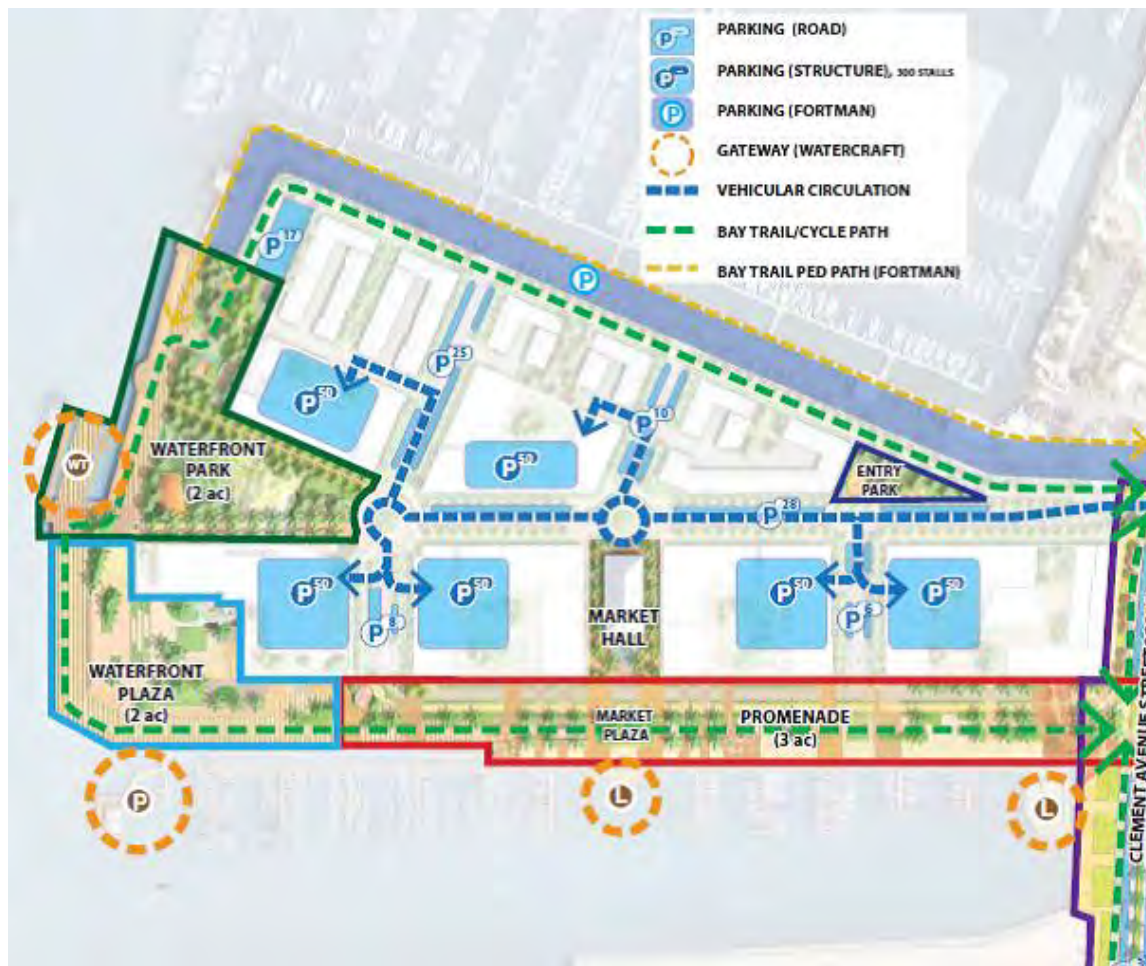
The Northern Waterfront Amendments to the General Plan, section 10.1 state, "Facilitating a Jobs/Housing Balance. With an emphasis on mixed use development, the General Plan policies for the area are intended to facilitate a jobs housing balance in the area and in the City for the purpose of reducing citywide traffic and the associated environmental, economic and social impacts of long commute trips."

Consistent with the above, the current City Housing Element states the reasonable residential capacity for Encinal Terminals at 234 units, based on the projection that 40% of the acreage will be dedicated to commercial use. More recently Planning Staff submitted a proposed Resolution to City Council that set a standard of 50% commercial and open space use for all of the MX zoned parcels and publically stated that this was already in place as informal policy in the Planning Department.

Notwithstanding all of the above, Planning Staff not only ignores the General Plan, The Housing Element, and their own internal policy, but exacerbates the poor housing/jobs ratio by supporting a project that provides for minimal job expansion and major housing expansion. The aforesaid internal policy does allow for a waiver of these standards if the project does not pencil out at the lower level of residential use. However the Staff Report attached to the Dec. 19 agenda does not even discuss the issue!

#### 5. Public Safety-Evacuation Routes:

Encinal Terminals has a very unique issue with regard to fire and/or earthquake in that it is a narrow peninsula that has only one access road to a City street combined with high density, high verticality buildings surrounded on three sides by water, and situate in a liquefaction zone. Objections were expressed to 2100 Clement having a similar issue and an additional access road was provided. The much more serious risks involved with the ET's unique features are inarguable. Yet the Specific Plan for ET appended to our General Plan does not deal with this at all, nor does the Master Plan. Below is a copy of the Figure at page 18 of the current Master Plan that illustrates the issue. Also see page 20 of the same that gives you a narrative of the street plan.



The Ca Govt. Code addresses this issue:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements: (boldface italics mine)

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peak load water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

We have not studied the General Plan closely enough to determine if it addresses water supply, road widths and clearances around structures, but we do know that the Specific Plan for ET does not address the very obvious evacuation issues raised by its unique location and design.

It must also be noted that the Final Focused Supplemental EIR also fails to address this issue, other than to require the developer to prepare, "... an earthquake preparedness and emergency response plan for all public use facilities... submitted for review and approval by the Community Development and/or Public Works Department, prior to occupancy of the structures." The time to address this basic project design issue is now, not after the project is completed!

#### 6. Inappropriate funding mechanism for perpetual maintenance of shoreline:

The only major amendment to the Development Plan presented to the Planning Board was the abandonment of the HOA funding mechanism for perpetual maintenance of the shoreline in favor of the CFD option.

The abandonment of the HOA option was a good decision. However the CFD option is also unworkable for both legal and practical reasons.

The legal problem for the CFD option stems from the passage of Proposition 218 in 1996, termed the Right to Vote on Taxes Act. This is a constitutional provision which allows California voters to use initiative power to reduce or repeal any local tax. This provides local voters in a CFD with a remedy if they believe that a CFD parcel places a disproportionate tax burden on them compared to others in the community.

Therefore, after the CFD is approved in an election where only the developers, as sole owners of the property vote, the subsequent unit owners can repeal or reduce the tax through the initiative process which will only require the vote of the residents of the CFD.

The CFD proposed here is arguably disproportionate on its face. CFDs are normally designed to cover excess costs of services or infrastructure that specifically benefits the taxing district. This CFD is of primary benefit to the public at large and to the trendy shops on the shoreline. In fact, unit owners could argue that it was not a benefit at all to have public recreational facilities outside of their front doors!

The practical problem is that this approach is inappropriate when applied to perpetual maintenance of a shoreline because, while future police and fire funding is reasonably predictable, perpetual maintenance of a shore line is impacted by the variable costs of construction, sea level rise, natural disaster, etc., thus making it very unpredictable.

The initial CFD election is a baked in win for the tax because it is held before any units are sold while the only eligible voters are the developers who have previously agreed to the same in a Development Agreement. However, after all of the units are sold and any unforeseen events cause that tax to be insufficient, there must be another election where you are asking hundreds of property owners to approve an additional tax to maintain property that they don't even own and is at least partially a public asset. Fat chance of that happening! You are then left with the City holding the bag.

Even if the CFD option could work, the Development Agreement simply identifies the option, but contains no expression of the formulation required for a financial analysis to provide the required funding. Obviously this formulation impacts both the finances of the City and the marketability of these housing units. Without these numbers the "Agreement" is not an agreement at all. It is simply an expression of intent to agree on the right formulation in the future.

It is doubtful that any funding mechanism would work to relieve the City from its obligation to maintain this shoreline. However the State will require the preservation of basic public access, so the issue must be addressed in some way.

Here are a few suggestions:

1. Abandon the Cadillac improvements to the shoreline proposed by the developer and instead provide the basic minimum required by the State. The concept is simple, less bells and whistles, less to maintain.
2. The City must impose terms in the Development Agreement requiring the shops, marinas, and other recreational facilities to provide an annual income stream for maintenance of the shoreline.
3. The City must require a large capital contribution from the developer to a shoreline maintenance trust fund for the purpose of producing significant investment income to at least make a major contribution to perpetual maintenance of the shoreline.

#### 7. Unfair Land Swap:

The developer of Encinal Terminals, want us to believe that our city is getting a great bargain in their proposed tidelands swap. The proposal is that the city conveys the developer five acres of tidelands situated in the middle of the parcel in return for 9.5 acres of land along the shoreline. Seven acres of said shoreline will be "public open space" constructed by the developer and dedicated to parks, a plaza and a promenade. The developer will also rebuild the exiting wharf.

It is asserted that all of the above will cost \$30 million. In addition, the developer assures perpetual maintenance of the same. Sounds like a great deal! However, the fact is that the city is getting very little, if any, benefit.

This conclusion is supported by determining what the developer's obligations would be if the tidelands did not exist and the developer owned the entire parcel. The combination of the City's open space development requirements and the legal authority and obligation of the California Land Commission and the Bay Conservation and Development Commission (BCDC) to assure public benefit from shoreline developments would require the developer to dedicate shoreline acreage to public access for recreational use. This may not be quite as fancy as now proposed, but basically similar. Also, the developer would be required to repair the wharf. Therefore, the proposed swap gives the developer five acres of valuable high density zoned property in exchange for a benefit already owed to the city and State without any swap!

Sincerely,

Paul S Foreman (Authorized Correspondent for Alameda Citizens Task Force.

12/18/2017

Fwd[4]: Please Reserve Next Tuesday's City Council Meeting ... - LARA WEISIGER

# Fwd[4]: Please Reserve Next Tuesday's City Council Meeting 12/19/17 on your Calendar

walt.judy@jacobs148.com

Sun 12/17/2017 2:29 PM

To: LARA WEISIGER <LWEISIGER@alamedaca.gov>;

--

Sent from myMail for Android

----- Forwarded Message ----- From: [walt.judy@jacobs148.com](mailto:walt.judy@jacobs148.com) To: [lweisiger@alamedagov.net](mailto:lweisiger@alamedagov.net) Date: Saturday, 16 December 2017, 00:58PM -10:00  
Subject: Fwd[3]: Please Reserve Next Tuesday's City Council Meeting 12/19/17 on your Calendar

I am forwarding this email to you which I have already sent to all members of the city council. I would like it in the record for the next city council meeting where this matter is apparently being discussed thank you very much. Walt Jacobs

--

Sent from myMail for Android

----- Forwarded Message ----- From: [walt.judy@jacobs148.com](mailto:walt.judy@jacobs148.com) To: [tspencer@alamedaca.gov](mailto:tspencer@alamedaca.gov) Date: Saturday, 16 December 2017, 00:53PM -10:00  
Subject: Fwd[2]: Please Reserve Next Tuesday's City Council Meeting 12/19/17 on your Calendar

Hi this is Walt Jacobs. My wife and I are heartsick to believe that you would consider the development of the Del Monte property with such incredible density. You are destroying what we love about Alameda by overpopulating it and not dealing with the major issues associated with the development. There are no state requirements that say anything about that kind of density. Frankly I'm too old to ride a bicycle as are many other people in this town. I hope that you will reconsider any action with that kind of density notwithstanding the infrastructure problems associated with it that will land in the pocket books of the city of Alameda and its citizens.

--

Sent from myMail for Android

----- Forwarded Message ----- From: Marie Kane [mariekane94502@gmail.com](mailto:mariekane94502@gmail.com) To: Marie Kane [mariekane94502@gmail.com](mailto:mariekane94502@gmail.com) Date: Saturday, 16 December 2017, 10:50AM -10:00 Subject: Fwd: Please Reserve Next Tuesday's City Council Meeting 12/19/17 on your Calendar

An important email from Alameda Citizens Task Force.

Marie

## URGENT NOTICE

### Please Reserve Next Tuesday, 12/ 19/ 17 on your Calendar

City Council will be voting  
on one of the most important decisions  
in the history of Alameda

It will be decided whether to approve the proposed Encinal Terminal project located behind the former Del Monte warehouse on Buena Vista Avenue at Sherman



Street. TLC (Tim Lewis Communities) has expanded the original 165 planned units to 589 units and the Planning Board has OKed a proposal filled with errors and defects. We will be sending Council a detailed, multi-paged document setting forth our concerns. We fully intend to seek relief from the courts if this project is approved in its present form. Here are some of our major points:

- A housing density of 589 units that far exceeds the density provisions of City and State law and results in mid and high rise buildings.
- The failure to require the project residents to pay an annual parcel tax to cover excess police and fire costs
- A distribution between housing (92%) and commercial (7%) uses that worsens our poor jobs/housing ratio
- The failure to provide multiple access roads for evacuation in the event of a disaster
- The absence of a funding mechanism that will require the residents to pay for perpetual maintenance of the shoreline
- A tidelands swap that does not fairly compensate the City for its relinquishment of tidal lands.
- An inadequate Environmental Impact Report.

ACT will be there to speak for you, but our words may fall on deaf ears without Council seeing the strength of community involvement. (This is the only major item on the Council agenda so the item may be presented as early as 7:30.) We need you to send emails to Council and/or attend the Council meeting and stand up to express your support when asked to do so by our speaker and, if you choose, speak yourself.

Please email ACT copies of your letters and/or confirmation that you will be attending the meeting. We don't want to ask people to stand and be embarrassed by only a tiny group. We need assurance of your attendance, at least by Tuesday morning. Your emails should be directed to our President, Gretchen Lipow, at [gretchenlipow@gmail.com](mailto:gretchenlipow@gmail.com). You may address any questions to her.

Thank you in advance for your support. Here is a copy of the email address line you can use for your letters to Council.

[tspencer@alamedaca.gov](mailto:tspencer@alamedaca.gov); [mvella@alamedaca.gov](mailto:mvella@alamedaca.gov); [fmatarrese@alamedaca.gov](mailto:fmatarrese@alamedaca.gov); [m  
ezzyashcraft@alamedaca.gov](mailto:m<br/>ezzyashcraft@alamedaca.gov); [joddie@alamedaca.gov](mailto:joddie@alamedaca.gov)

# Return the Northern Waterfront to Alamedans!

Rosemary Reilly <reilly129@sbcglobal.net>

Rosemary Reilly <reilly129@sbcglobal.net>

To

Add to Contacts

Ashcraft  
atarrese@alamedaca.gov>; Jill Keimach

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie and Matarrese:

I support the proposal to redevelop Encinal Terminals and encourage your YES vote on December 19th.

The City is the steward of Public Trust Lands on the site, and yet water access has been cut-off from the public for decades. By approving the plan for Encinal Terminals, you will open at least seven acres of unparalleled waterfront public open space along the perimeter of the property at no cost to the City.

North Waterfront Cove LLC/Tim Lewis Communities will make a huge investment in wharf restoration, estimated at \$20 million to restore, repair and improve the deteriorating structure - and spend an additional \$10 million to create the balance of public waterfront parks, promenades and facilities. This investment, along with the addition of new businesses, and the opportunity for a marina, will transform the island's Northern Waterfront.

By activating the estuary, you will provide recreational opportunities, like sailing, kayaking, and paddle boarding, as well as biking and walking along the Bay Trail, which today is blocked from contiguous use.

Return the waterfront to Alamedans! Vote YES on Encinal Terminals on December 19th.

Thank you.

Rosemary Reilly  
Sent from my iPad

## Encinal Terminals. Please vote no!

DELETE

REPLY

REPLY ALL

FORWARD

Tom Krysiak &lt;tsitjk@gmail.com&gt;

mark as unread

Sun 12/17/2017 9:39 AM

To: Trish Spencer; Malia Vella; Jim Oddie; Frank Matarrese; Marilyn Ezzy Ashcraft;

Cc: LARA WEISIGER; Donna Cheng <donnacheng2@yahoo.com>;

[Bing Maps](#)[Get more apps](#)

Dear Mayor Spencer and Members of the Alameda City Council:

I am joining my fellow Alamedans who oppose approval of the Encinal Terminals Project.

I understand the challenges of the requirement for more housing in our city but It appears that this project is poorly planned and too heavily slanted in favor of The developer, Tim Lewis Communities.

Being a long time resident of Alameda, I'm not interested in paying for Encinal Terminal's Parcel Tax burden for their specific fire and police service needs. Emergency evacuation access for this peninsula location is obviously inadequate. The tidelands swap plan does not appear to favor our city and the lack of an environmental impact report seems to be grossly negligent.

I strongly urge you to vote against this project and demand that the city planning staff revise the project again to responsibly address these major safety, environmental and financial deficiencies. Thank you.

Sincerely,

Tom Krysiak and Donna Cheng-Krysiak  
308 Sweet Road  
Alameda, CA 94502

## Public Comment - December 19, 2017

DELETE

REPLY

REPLY ALL

FORWARD

Jay and Jill Ingram &lt;jj2ingram@aol.com&gt;

mark as unread

Sat 12/16/2017 1:18 PM

To: LARA WEISIGER;

Cc: City Manager;

[Action Items](#)

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Ms. Weisinger,

Please forward this to the City Council, Planning Board, and Design Review Board, prior to the December 19, 2017 City Council Meeting.

City Council Members,

I write with much interest regarding the 589 unit housing project, Encinal Terminals, proposed by Tim Lewis Community Partners. Please know that I'm a neighbor of the Del Monte project and I'm under no illusion that current planners and City Council want to carefully consider and scrutinize maximum development wherever possible on our limited size island. I was one community member that was engaged early in the Del Monte project, attending meetings at the Mastic Senior Center. It was painfully obvious that Mr. Lewis was just checking the "community meetings" box and didn't thoughtfully listen to what the audience had to say. Once I realized that the project was going to happen I continued to attend Planning Board meetings to address design enhancements (residents attending the community workshops weren't listened to, but I was hopeful that someone would listen to simple design suggestions like blending the entire Del Monte project with the existing environment). Initially my concerns were the height of the main Del Monte building and the aesthetics of the senior housing development. With the latter, I expressed concern that the senior housing building was proposed to be silver and blue - not fitting in with the neighborhood NOR the refurbished Del Monte. Sure enough, the blue paint has gone on the buildings and it already looks like it doesn't fit. A simple brick facade would have been nice (I mentioned that at multiple PB meetings, with nobody listening). Now I see that there are cut-outs on the sides of the buildings and I'm told that the cut-outs are for air conditioning units. So this building will look like a Motel 6 with AC units hanging out the side, sad. My two issues with this design could have been avoided if the City had higher design standards and held Tim Lewis Community Partners more accountable to a high quality project.

Another interesting meeting I attended many months ago at the Mastic Senior Center was again a Tim Lewis lead "workshop" to talk about Encinal Terminals. At this meeting TLC Partners showed a design that cast a shadow of a 21 story building on the Encinal Terminals site, at different times of the day. Most in the audience were shocked and surprised that TLC Partners would even show something like this. My previous experience with the lack of listening from TLC Partners, the Planning Board and City Planners, lead me to believe that one day, there would be a multi-story high density building placed on the waterfront. That day has arrived.

## LARA WEISIGER

---

**From:** Michael McDonough <mmcdono@gmail.com>  
**Sent:** Friday, December 15, 2017 6:16 AM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; Becca Perata-Rosati  
**Subject:** Bring New Housing to Alameda

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie and Matarrese:

I support the proposal to bring badly needed housing to Alameda and encourage your YES vote on Encinal Terminals on December 19th. We know that a shortage of homes is the main culprit for runaway housing costs, including the displacement of longtime working-class residents & the continued rise in rents. Measure A has directly contributed to this crisis by strangling the city's housing supply for decades.

Encinal Terminals is one of the sites designated in Alameda's Housing Element to bring new multi-family housing stock, & the proposal addresses the "missing middle" housing segment by building smaller units that are more affordable by design. Encinal Terminals includes 79 deed-restricted affordable units for very-low, low, & moderate incomes. And for buyers who make too much to qualify for inclusionary housing, but are still priced out of the market, the developer will contribute funds toward the Alameda Housing Authority's down payment assistance program.

To address traffic concerns, the project will include a dock for a water shuttle, contribute funds toward the Clement Avenue extension, & provide public transit passes to residents. Building housing at Encinal Terminals is not only an obligation, it's an opportunity for future generations. Vote YES on Encinal Terminals on December 19th. Thank you.

## LARA WEISIGER

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**From:** Robert Del Rosario <RDelRosa@actransit.org>  
**Sent:** Friday, December 15, 2017 4:51 PM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese  
**Cc:** Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; 'becca@voxpoplpr.net'; Michael Hursh; Elsa Ortiz; Beverly Greene; Steven C. Jones; Ramakrishna Pochiraju  
**Subject:** AC Transit comment letter re: Encinal Terminals  
**Attachments:** 2017\_12\_15 Encinal Terminals Comment Letter.pdf

Honorable Mayor Spencer and the Alameda City Council,

On behalf of AC Transit, I respectfully submit the attached comment letter regarding Item 6-B – Encinal Terminals on the December 19 City Council meeting agenda.

Please do not hesitate to contact me should you have any questions or comments.

Sincerely,

Robert del Rosario  
Director of Service Development and Planning  
AC Transit  
510.891.4734  
c510.326.9654  
f510.891.4874  
[rdelrosa@actransit.org](mailto:rdelrosa@actransit.org)  
[www.actransit.org](http://www.actransit.org)



Service Development  
1600 Franklin Street, Oakland CA 94612

December 15, 2017

Honorable Mayor Spencer and the Alameda City Council  
2263 Santa Clara Avenue  
Alameda, CA 94501

Re: Item 6-B 2017-4800 – Encinal Terminals Property

Dear Mayor Spencer and City Council:

AC Transit appreciates the City of Alameda's continued coordination with our agency on projects and initiatives. We look forward to enhancing our partnership with the City, and to continuing to play an active role in providing transportation solutions to mitigate traffic impacts resulting from new projects, such as the proposed Encinal Terminals development.

AC Transit is constantly working with the City to build a robust transit network that allows residents and employees to travel to multiple key destinations in Alameda, Oakland and San Francisco via public transit. This network reduces the need for private automobile use and reduces overall congestion, particularly through the City's tubes and bridges. We are currently exploring new service to connect to the ferries, as well as optimized Transbay service to maximize ridership on our existing resources. This includes high-capacity transit vehicles to meet growing demand on the island.

The addition of multi-family projects, such as Encinal Terminals, will help AC Transit continue its improvement of the network in the Northern Waterfront of Alameda. A year ago, we reinstated the Line 19 on Buena Vista Avenue, which runs directly in front of the proposed new community, and provides direct service to two BART stations in Oakland. This line currently serves existing neighborhoods, as well as residents in the new communities at Marina Shores and Mulberry, and will serve both the Del Monte

Warehouse property and Encinal Terminals. As such, we anticipate increased ridership on AC Transit buses on the Line 19 and throughout the Northern Waterfront.

AC Transit will continue to work with the City of Alameda's recently established Alameda Transportation Management Association (Alameda TMA), whose members will include all future Northern Waterfront projects, such as Encinal Terminals. We are especially excited to add another project to the EasyPass program, which provides each household with one AC Transit EasyPass (a transit pass for unlimited rides on local and Transbay service) with their annual TMA assessment.

AC Transit looks forward to working with the City to further develop and implement these proposals to provide a high-level of quality and sustainable transit service.

Sincerely,



Robert del Rosario

Director of Service Development and Planning

CC: Jill Keimach, Alameda City Manager  
Michael Hursh, AC Transit General Manager



## LARA WEISIGER

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**From:** katequick <katequick@comcast.net>  
**Sent:** Friday, December 15, 2017 8:09 AM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; becca@voxpulpr.net  
**Subject:** Bring New Housing to Alameda

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie and Matarrese:

While the information below is in form letter format, it pretty much says what I think about this needed project. I urge you all to consider a yes vote on this badly needed housing.

I support the proposal to bring badly needed housing to Alameda and encourage your YES vote on Encinal Terminals on December 19th. We know that a shortage of homes is the main culprit for runaway housing costs, including the displacement of longtime working-class residents & the continued rise in rents. Measure A has directly contributed to this crisis by strangling the city's housing supply for decades.

Encinal Terminals is one of the sites designated in Alameda's Housing Element to bring new multi-family housing stock, & the proposal addresses the "missing middle" housing segment by building smaller units that are more affordable by design. Encinal Terminals includes 79 deed-restricted affordable units for very-low, low, & moderate incomes. And for buyers who make too much to qualify for inclusionary housing, but are still priced out of the market, the developer will contribute funds toward the Alameda Housing Authority's down payment assistance program.

To address traffic concerns, the project will include a dock for a water shuttle, contribute funds toward the Clement Avenue extension, & provide public transit passes to residents. Building housing at Encinal Terminals is not only an obligation, it's an opportunity for future generations. Vote YES on Encinal Terminals on December 19th. Thank you.

Kate Quick

Sent via the Samsung Galaxy S7, an AT&T 4G LTE smartphone

## LARA WEISIGER

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**From:** Alice <laibitker@comcast.net>  
**Sent:** Friday, December 15, 2017 7:00 AM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; becca@voxpulipr.net  
**Subject:** Bring New Housing to Alameda

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie and Matarrese:

I support the proposal to bring badly needed housing to Alameda and encourage your YES vote on Encinal Terminals on December 19th. We know that a shortage of homes is the main culprit for runaway housing costs, including the displacement of longtime working-class residents & the continued rise in rents. Measure A has directly contributed to this crisis by strangling the city's housing supply for decades.

Encinal Terminals is one of the sites designated in Alameda's Housing Element to bring new multi-family housing stock, & the proposal addresses the "missing middle" housing segment by building smaller units that are more affordable by design. Encinal Terminals includes 79 deed-restricted affordable units for very-low, low, & moderate incomes. And for buyers who make too much to qualify for inclusionary housing, but are still priced out of the market, the developer will contribute funds toward the Alameda Housing Authority's down payment assistance program.

To address traffic concerns, the project will include a dock for a water shuttle, contribute funds toward the Clement Avenue extension, & provide public transit passes to residents. Building housing at Encinal Terminals is not only an obligation, it's an opportunity for future generations. Vote YES on Encinal Terminals on December 19th. Thank you.

Sent from my iPhone

## LARA WEISIGER

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**From:** Honora Murphy <honoramurphy@comcast.net>  
**Sent:** Thursday, December 14, 2017 11:43 AM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; becca@voxpulpr.net  
**Subject:** Return the Northern Waterfront to Alamedans!

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie and Matarrese:

I support the proposal to redevelop Encinal Terminals and encourage your YES vote on December 19th.

The City is the steward of Public Trust Lands on the site, and yet water access has been cut-off from the public for decades. By approving the plan for Encinal Terminals, you will open at least seven acres of unparalleled waterfront public open space along the perimeter of the property at no cost to the City.

North Waterfront Cove LLC/Tim Lewis Communities will make a huge investment in wharf restoration, estimated at \$20 million to restore, repair and improve the deteriorating structure - and spend an additional \$10 million to create the balance of public waterfront parks, promenades and facilities. This investment, along with the addition of new businesses, and the opportunity for a marina, will transform the island's Northern Waterfront.

By activating the estuary, you will provide recreational opportunities, like sailing, kayaking, and paddle boarding, as well as biking and walking along the Bay Trail, which today is blocked from contiguous use.

Return the waterfront to Alamedans! Vote YES on Encinal Terminals on December 19th.

Thank you.

Sent from my iPad

## LARA WEISIGER

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**From:** Vicki Sedlack <vsedlack@gmail.com>  
**Sent:** Wednesday, December 13, 2017 3:04 PM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; Becca Perata-Rosati  
**Subject:** Return the Northern Waterfront to Alamedans!

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie and Matarrese:

I support the proposal to redevelop Encinal Terminals and encourage your YES vote on December 19th.

The City is the steward of Public Trust Lands on the site, and yet water access has been cut-off from the public for decades. By approving the plan for Encinal Terminals, you will open at least seven acres of unparalleled waterfront public open space along the perimeter of the property at no cost to the City.

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By activating the estuary, you will provide recreational opportunities like sailing, kayaking, and paddle boarding, as well as biking and walking along the Bay Trail, which today is blocked from contiguous use.

Return the waterfront to Alamedans! Vote YES on Encinal Terminals on December 19th.

Thank you.

Sincerely,

Vicki Sedlack  
[vsedlack@gmail.com](mailto:vsedlack@gmail.com)

## LARA WEISIGER

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**From:** David Mik <mik@PowerEngConstruction.com>  
**Sent:** Wednesday, December 13, 2017 2:29 PM  
**To:** 'tspencer@alamedca.gov'; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; 'becca@voxpathulipr.net'  
**Cc:** Wendy Fisher  
**Subject:** Encinal Terminal Project Support Letter  
**Attachments:** Encinal Terminals Project\_PEC Support Letter.pdf

Mayor Spencer and City Councilmembers:

Enclosed please find a letter outlining our firm's support for the Encinal Terminal project.

Best Regards,

D.

David Mik  
President

tel: (510)337-3800 ext.218  
cell: (415)559-0097  
fax: (510)337-3808

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Power Engineering Construction Co.  
1501 Viking Street, Suite 200, Alameda, CA 94501



Date: December 12, 2017

Subject: Encinal Terminals Project

Dear Mayor Spencer and City Councilmembers:

I encourage your full support to move forward the proposal for Encinal Terminals. The project revitalizes a large section of the northern waterfront; in addition, the project will bring a substantial number of union construction jobs to Alameda.

As you know, Power Engineering Construction Co. is an Alameda-based engineering construction company that manages complex heavy engineering projects. As a union employer, we provide cross-trained crews that are well practiced in a variety of complex tasks, including shoring, underpinning, piledriving, heavy rigging, and aerial work. We work closely with design engineers and owners on jobs where the risk is high, the timing is critical, and the success and safety of the work depend primarily on pre-planning and pre-engineering.

We are committed to bring our workforce to the job at Encinal Terminals. The wharf restoration alone at Encinal Terminals is significant — estimated at \$20 million to restore, repair and improve the deteriorating structure, plus an additional \$10 million of work to create the balance of the public waterfront parks, promenades and facilities. All told, the project will create more than 7 acres of open space at no cost to the Alameda community.

Power Engineering is ready to get to work and supports the staff recommendation for this project.

Should you have any questions, please call me at 415-559-0098.

Sincerely;

**Power Engineering Construction Co.**

  
David Mik  
President

## LARA WEISIGER

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**From:** Casey Sparks <casey.j.sparks@gmail.com>  
**Sent:** Wednesday, December 13, 2017 1:50 PM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; Becca Perata  
**Subject:** Return the Northern Waterfront to Alamedans!

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie and Matarrese:

I support the proposal to redevelop Encinal Terminals and encourage your YES vote on December 19th.

The City is the steward of Public Trust Lands on the site, and yet water access has been cut-off from the public for decades. By approving the plan for Encinal Terminals, you will open at least seven acres of unparalleled waterfront public open space along the perimeter of the property at no cost to the City.

North Waterfront Cove LLC/Tim Lewis Communities will make a huge investment in wharf restoration, estimated at \$20 million to restore, repair and improve the deteriorating structure - and spend an additional \$10 million to create the balance of public waterfront parks, promenades and facilities. This investment, along with the addition of new businesses, and the opportunity for a marina, will transform the island's Northern Waterfront.

By activating the estuary, you will provide recreational opportunities, like sailing, kayaking, and paddle boarding, as well as biking and walking along the Bay Trail, which today is blocked from contiguous use.

Return the waterfront to Alamedans! Vote YES on Encinal Terminals on December 19th.

Thank you.

P.S. Please!

## LARA WEISIGER

---

**From:** Elizabeth Tuckwell <elizabethtuckwell@gmail.com>  
**Sent:** Wednesday, December 13, 2017 10:33 AM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; becca@voxpulpr.net  
**Subject:** Return the Northern Waterfront to Alamedans!

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Matarrese, Ashcraft, and Oddie:

Please require adequate parking if you decide to go ahead with the development of the Encinal terminals proposed by Star Harbor and its subcontractors. Please do not continue with the patently ridiculous idea that not providing adequate parking will cause people not to buy cars. Young people overall have always preferred not to own a car, because there is no real need (except for a relatively few young men who wish to impress their girlfriends, and are in a financial position to own a flashy sports car). But when people get married and have children, they do need cars. And present-day car-seat requirements, as a practical matter, almost mandate an SUV or larger vehicle to accommodate the required equipment. Parents who boldly attach their child in a buggy to the back of their bicycle are jeopardizing the life of the child, even though they're getting good exercise and benefiting the environment. Overall, carrying a child with a bicycle is not a good thing on city streets such as those in Alameda. On a country road, maybe, but in Alameda, no. Please do not prohibit parking spaces from being bundled with a property. You will bring down the value of the property, but that is not the only damage you will do. Driving in Alameda is already much more difficult than it was ten or twenty years ago, and if the Encinal Terminals are developed as planned by Star Harbor, with many hundreds of residences and a 14-story high-rise, the traffic will inevitably increase greatly, even with additional opportunities for public transportation and bicycle use. It's almost impossible to find street parking in the downtown area, and difficult even on the side streets. But street parking will become even more difficult if you do not provide reasonable accommodation for the large number of additional vehicles that will inevitably accompany so massive development as that proposed by Star Harbor.

I make no comment on whether to approve the project as a whole, because I have not done adequate analysis. But please consider the consequences, not only for the new residents on the Northern Waterfront but for all Alameda residents, and provide for adequate parking based on reasonable assumptions. Obviously, other factors such as infrastructure, schools, and health care also need to be considered.

Thank you for your consideration.

Sincerely,

Elizabeth Tuckwell, long-term Alameda resident



## LARA WEISIGER

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**From:** Cari Trease <caritrease@gmail.com>  
**Sent:** Wednesday, December 13, 2017 9:52 AM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; becca@voxpulpr.net  
**Subject:** Vote to return the Northern Waterfront to Alamedans

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie and Matarrese:

I support the proposal to redevelop Encinal Terminals and encourage your YES vote on December 19th.

The City is the steward of Public Trust Lands on the site, and yet water access has been cut-off from the public for decades. By approving the plan for Encinal Terminals, you will open at least seven acres of unparalleled waterfront public open space along the perimeter of the property at no cost to the City.

North Waterfront Cove LLC/Tim Lewis Communities will make a huge investment in wharf restoration, estimated at \$20 million to restore, repair and improve the deteriorating structure - and spend an additional \$10 million to create the balance of public waterfront parks, promenades and facilities. This investment, along with the addition of new businesses, and the opportunity for a marina, will transform the island's Northern Waterfront.

By activating the estuary, you will provide recreational opportunities, like sailing, kayaking, and paddle boarding, as well as biking and walking along the Bay Trail, which today is blocked from contiguous use.

Return the waterfront to Alamedans! Vote YES on Encinal Terminals on December 19th.

Thank you,

Cari Trease,  
Alameda resident

## LARA WEISIGER

---

**From:** Suzan Kaplan <suzank@pacbell.net>  
**Sent:** Wednesday, December 13, 2017 10:01 AM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; becca@voxpulpr.net  
**Subject:** Northern Waterfront

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie and Matarrese:

I do not support the proposal to redevelop Encinal Terminals and encourage your NO vote on December 19th.

This is not the right plan for Alameda. Considering we are a coastal community and all studies point to rising oceans, the North Waterfront Cove plan does not take advantage of an opportunity to create a marshland project that would protect Alameda from rising seas.

We have not properly solved our growing traffic problems, particularly those that concern getting on and off the island. Adding 380 housing units at DelMonte, plus 589 units at Star Harbor plus more than 50,000 ft. of retail/commercial space with customers and employees, will dangerously add to the growing unsolved problem. Backups will extend not only down Webster St but also to the feeder streets. I can tell you even now, during evening commute, everyday, there is a bumper to bumper backup on Buena Vista between Sherman and Grand.

Please don't be dazzled by glitzy presentations by fast talking PR people who are paid mighty salaries to convince you that you are making the right decision. The Alameda coastline is both valuable and irreplaceable. The City needs to hold out for a better deal, one that properly develops the shoreline without negative impact to the entire island. Tim Lewis is prepared to make a large investment but he expects a large return. To achieve this Tim Lewis's plan overbuilds the island without realistic consideration of traffic, rising seas and coastline preservation. There are simpler ways than the Star Harbor project to open the Bay Trail to the public.

Vote NO on Encinal Terminals on December 19th.

Thank you,  
Suzan Kaplan

## LARA WEISIGER

---

**From:** Claudia Viera Esq. <claudiaviera@earthlink.net>  
**Sent:** Wednesday, December 13, 2017 8:37 AM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER  
**Subject:** Return the Northern Waterfront to Alamedans!

ODear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie and Matarrese:

I support the proposal to redevelop Encinal Terminals and encourage your YES vote on December 19th.

The City is the steward of Public Trust Lands on the site, and yet water access has been cut-off from the public for decades. By approving the plan for Encinal Terminals, you will open at least seven acres of unparalleled waterfront public open space along the perimeter of the property at no cost to the City.

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By activating the estuary, you will provide recreational opportunities, like sailing, kayaking, and paddle boarding, as well as biking and walking along the Bay Trail, which today is blocked from contiguous use.

Return the waterfront to Alamedans! Vote YES on Encinal Terminals on December 19th.

Thank you.

Claudia Viera  
Mediator  
Sent from my iPad

## LARA WEISIGER

---

**From:** lizrush001@gmail.com on behalf of Liz Rush <lizrush@lizrush.com>  
**Sent:** Wednesday, December 13, 2017 8:37 AM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; Jim Oddie; Frank Matarrese; Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER; becca@voxpulpr.net  
**Subject:** Return the Northern Waterfront to Alamedans!

Dear Mayor Spencer, Vice-Mayor Vella, Councilmembers Ashcraft, Oddie, and Matarrese:

I support the proposal to redevelop Encinal Terminals and encourage your YES vote on December 19th.

The City is the steward of Public Trust Lands on the site, and yet water access has been cut-off from the public for decades. By approving the plan for Encinal Terminals, you will open at least seven acres of unparalleled waterfront public open space along the perimeter of the property at no cost to the City.

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By activating the estuary, you will provide recreational opportunities, like sailing, kayaking, and paddleboarding, as well as biking and walking along the Bay Trail, which today is blocked from contiguous use.

Return the waterfront to Alamedans! Vote YES on Encinal Terminals on December 19th.

Thank you.

Liz Rush and Roger Brewton, 1911 Schiller St. Alameda.

## LARA WEISIGER

---

**From:** Paul Foreman <ps4man@comcast.net>  
**Sent:** Thursday, November 09, 2017 4:39 PM  
**To:** Trish Spencer; Malia Vella; f.j.matarrese@gmail.com; Marilyn Ezzy Ashcraft; Jim Oddie  
**Cc:** Jill Keimach; ANDREW THOMAS; Andrico Penick; DEBBIE POTTER; Janet Kern; LARA WEISIGER  
**Subject:** Encinal Terminals Tidelands Swap-APOLOGY TO ANDRICO PENNICK

Dear Mayor Spencer, Councilmembers and Staff:

Yesterday evening I received an email from Ms. Kern taking issue with the last paragraph of my email of yesterday for what she felt was my criticism of the competence of Mr. Penick. I immediately responded to her that I had no intent to be critical of Mr. Penick. My intent was to state that *if* he did not have expertise on the issue of enforcing perpetual maintenance of the shoreline private counsel should be retained. I did not intend to imply that Mr. Penick did not have that expertise, but, upon reflection, I can understand how one could interpret my remarks in that way.

I had a cordial meeting with Ms. Kern and Mr. Penick this afternoon and directly apologized to Mr. Penick, which apology he graciously accepted. I also learned that he is earnestly working on perfecting the terms of the development agreement. I look forward to viewing the finished product and expressing my views regarding the same.

I ask that all of you accept my regrets regarding this matter. I hope that what was a poor choice of words in the last paragraph of my email will not detract from the constructive suggestions that I was trying to communicate.

Sincerely,

Paul S Foreman

## LARA WEISIGER

---

**From:** Paul Foreman <ps4man@comcast.net>  
**Sent:** Wednesday, November 08, 2017 10:19 AM  
**To:** Trish Spencer; Malia Vella; f.j.matarrese@gmail.com; Marilyn Ezzy Ashcraft; Jim Oddie  
**Cc:** Jill Keimach; ANDREW THOMAS; Andrico Penick; DEBBIE POTTER; Janet Kern; LARA WEISIGER  
**Subject:** Encinal Terminals Tidelands Swap

Dear Mayor Spencer, Councilmembers and Staff:

I trust that you have read my article in last week's Sun and Journal . If not, you can read it at <https://alamedasun.com/news/city-benefits-little-terminals-deal> The point I make about the unevenness of the exchange needs no further explanation here. However the financial risk to the City inherent in the developers proposal for having the perpetual maintenance of the shoreline funded by a CFD or an amalgamation of the Home Owners Associations requires much more explanation than would have been appropriate with the confines of a newspaper article. That explanation follows here:

At the outset I must say that I am dismayed by the very light and non-specific treatment of the perpetual maintenance issue in the proposed Development Agreement. The entire subject is covered by only a statement that the funding will be via a CFD or HOA with no specifics whatsoever as to how either of these alternatives will be structured. I believe that the chances of either one of these alternatives to provide perpetual maintenance is very problematic.

**1. The CFD Alternative:** I have been urging you to establish public safety CFD's for all of the major residential projects and criticizing the failure to include them in any of the current Northern Waterfront Development Agreements. However, this approach is inappropriate when applied to perpetual maintenance of a shoreline because, while future police and fire funding is reasonably predictable, perpetual maintenance of a shore line is impacted by the variable costs of construction, sea level rise, natural disaster, etc., thus making it very unpredictable.

A CFD requires a financial analysis of the projected cost that establishes the annual tax required. That gross number is then broken down to individual parcel tax assessments against each residence or business. The law does allow a small fixed annual increase in the same, similar to Prop 13. However, like any other parcel tax, it must be approved in an election with the eligible voters being all of the owners of property in the CFD.

The initial CFD election is a baked in win for the tax because it is held before any units are sold while the only eligible voters are the developers who have previously agreed to the same in a Development Agreement. However, after all of the units are sold and any unforeseen events cause that tax to be insufficient, there must be another election where you are asking hundreds of property owners to approve an additional tax to maintain property that they don't even own and is at least partially a public asset. Fat chance of that happening! You are then left with the City holding the bag.

**2. The HOA Alternative:** The concept of having perpetual maintenance funded by an HOA is very difficult for me to understand. An HOA pays for common elements in a Condominium. How does one structure a legally enforceable obligation of an HOA to pay for maintaining public tidelands that it does not own? Since the City is not a member of the HOA, how does it assure proper maintenance? If there are multiple HOA's, how is all of this coordinated into one process? In my view, the HOA approach is bound to fail, and the City is again holding the bag.

I will admit that my suggested alternative of having the entire parcel, including the shoreline, owned by the developer, thus placing the shoreline maintenance as the sole responsibility of the developer and the subsequent purchasers of the individual units, also presents the problem of how the City assures that proper maintenance occurs. A possible mechanism is in place at Del Monte with regard to contributing to the maintenance of Jean Sweeney Park wherein an

extra .25% transfer tax is required to be written as a deed restriction on all transfers except the initial transfer by developer of each parcel. A transfer tax would not work here, but some sort of carefully drawn obligation to maintain the shoreline running to all future purchasers should be possible.

This is just one suggestion. Surely a smart real estate lawyer can create a mechanism to assure owner maintenance of the shoreline. The City badly needs a good real estate lawyer to put together this entire deal. They may already have that real estate lawyer on staff, Andrico Pennick, but, if more expertise is needed private counsel should be retained. The City's negative history with shoreline maintenance at Alameda Marina and other sites demands some fresh thinking on this issue.

Paul S Foreman

## LARA WEISIGER

---

**From:** Paul Foreman <ps4man@comcast.net>  
**Sent:** Wednesday, October 04, 2017 10:36 AM  
**To:** LARA WEISIGER  
**Subject:** FW: Encinal Terminals Public Safety Concerns and Another Comment on the Allowable Unit Calculation

Lara

I omitted to add you as an addressee on the email below. Please include as an exhibit when Encinal Terminals is placed on a Council Agenda.

Paul

---

**From:** Paul Foreman [mailto:ps4man@comcast.net]  
**Sent:** Wednesday, October 04, 2017 10:08 AM  
**To:** 'ANDREW THOMAS'  
**Cc:** 'Trish Spencer'; 'Malia Vella'; 'f.j.matarrese@gmail.com'; 'Marilyn Ezzy Ashcraft'; 'Jim Oddie'; 'Jill Keimach'; 'DEBBIE POTTER'; 'Janet Kern'; 'Andrico Penick'; 'Mike Ohara'  
**Subject:** RE: Encinal Terminals Public Safety Concerns and Another Comment on the Allowable Unit Calculation

Andrew,

Thank you for your information, but it does not address the issue that I raised in my Oct. 2, 2017 email, "Public Safety-Evacuation Routes". I am not concerned with emergency vehicles, I am concerned about resident evacuation in an emergency via private vehicle if an evacuation is required in a disaster. I understand that Alameda has an evacuation issue inherent in its island locus. However, I believe that the problem is compounded by the unique location and project design of Encinal Terminals. As I understand the cited section of the Government Code and the law with respect to EIR content, both require that this be addressed.

Paul

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**From:** ANDREW THOMAS [mailto:ATHOMAS@alamedaca.gov]  
**Sent:** Wednesday, October 04, 2017 7:08 AM  
**To:** Paul Foreman  
**Cc:** Trish Spencer; Malia Vella; [f.j.matarrese@gmail.com](mailto:f.j.matarrese@gmail.com); Marilyn Ezzy Ashcraft; Jim Oddie; Jill Keimach; DEBBIE POTTER; Janet Kern; Andrico Penick; Mike Ohara  
**Subject:** Re: Encinal Terminals Public Safety Concerns and Another Comment on the Allowable Unit Calculation

Paul. We will address all of your concerns raised over the last month in one comprehensive staff report, but I wanted to respond to this one quickly.

Per the direction of our public safety folks, The site plan provides two access points for public safety emergency access: the main auto entry and the secondary entry which is for bikes, peds and emergency vehicles. It is described in the staff report and Master Plan as the "EVA" (emergency vehicle access". ).

Obviously, all the utilities, water supply and buildings will be all new and meet the current earthquake standards, which will ensure that these buildings are much better able to handle a disaster than most alameda homes. All residential units will have internal fire sprinkler suppression systems.



Let me know if you still have questions regarding public safety and I will make sure to address them in the staff report along with your other concerns.

Also, feel free to call me or Mike Ohara (project applicant - CC'd) in the future if something doesn't look right. Either one of us would be happy to answer your questions.

Thank you for your interest in this project.

Andrew Thomas - 510-747-6881 (desk); 510-774-5361 (cell)

On Oct 2, 2017, at 10:30 AM, Paul Foreman <[ps4man@comcast.net](mailto:ps4man@comcast.net)> wrote:

Dear Mayor Spencer, Councilmembers and Staff:

I have previously written to you July 30 (to staff only), August 11, August 16 and August 31. concerning; 1) the 589 unit density calculation; 2) the omission of the required market analysis in the Master Plan; 3) the need for a public safety CFD; 4) the failure to mitigate our poor jobs to housing ratio; and 5) the violation of Measure A.

I now have a need to bring yet another issue to your attention, one that trumps all of the other issues that I have raised, that of evacuation routes. I also have added some additional comments concerning the CFD and density calculation issues.

**Public Safety-Evacuation Routes:** ET has a very unique issue with regard to fire and/or earthquake in that it is a narrow peninsula that has only one access road to a City street combined with high density, high verticality buildings surrounded on three sides by water, and situate in a liquefaction zone. You will recall that objections were expressed to 2100 Clement having a similar issue and an additional access road was provided. The much more serious risks involved with the ET's unique features are inarguable. Yet the Specific Plan for ET appended to our General Plan does not deal with this at all, nor does the ET Master Plan. Below is a copy of Figure 2.2 at page 20 (PDF numbering) of the ET Master Plan that illustrates the issue. I would also refer you to page 22 of the same that gives you a narrative of the street plan.

<image003.png>

The Ca Govt. Code addresses this issue:

**65302.** The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements: (boldface italics mine)

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. ***It shall also address evacuation routes, military installations, peak load water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.***

I have not studied the General Plan closely enough to determine if it addresses water supply, road widths and clearances around structures, **but I do know that the Specific Plan for ET does not address the very obvious evacuation issues raised by its unique location and design.** Frankly, I cannot imagine how to mitigate the issue and wonder how this very unique property could have had been considered as a high density housing site.

I would also note that the Final Focused Supplemental EIR also fails to address this issue, other than to require the developer to prepare, "... an earthquake preparedness and emergency response plan for all public use facilities...submitted for review and approval by the Community Development and/or Public Works Department, prior to occupancy of the structures." **The time to address this basic project design issue is now, not after the project is completed!**

**Public Safety CFD:** This same problem also impacts my argument for a CFD. I have to believe that fire and earthquake response from public safety, especially fire, will raise the need for significant capital expenditure for the City to provide additional fireboats and special equipment to deal with the verticality issue.

**Allowable Unit Calculation:** Up to this point I have assumed the current uneven land swap. However, I have been led to believe that the swap may be revised to make it an even exchange. Even if that occurs the 589 unit count is still in error.

Mr. Thomas tells me that the density bonus is set at the time the Staff reviews the initial application. That was accomplished when the Staff determined that ET was entitled to a 20% bonus. However, to say that the allowable number of units is set at that time is wrong. Especially in an MX zoned area, it is impossible to assure a maximum number of units because Council has discretion as to how much of an MX parcel will be residential. Also, the Housing Element in its realistic capacity estimates, reduces gross density per acre by 10% to account for "setbacks, building height, parking, and open space requirements" This language appears to recognize that open space does not count toward residential acreage for the density calculation.

The Encinal Terminals Master Plan at page 18 (20 by pdf numbering) states, "AMC Section 30-5.12 requires a minimum of 300 square feet of common open space per housing unit. With the inclusion of the waterfront park, waterfront plaza, promenade and extension of the Bay Trail through the site, all minimum common open space and park requirements will be met." This statement is at odds with the very AMC Section that it cites, which states, " Usable open space is comprised of private open space and common open space. Usable open space is that area of a building site which is landscaped or otherwise developed and maintained for recreation or outdoor living **by the occupants.**" (boldface mine) Public open space is not included in the definition.

The developer , later in the same paragraph asserts that if the development falls short of the open space requirement, it will, " make off-site improvements to City parks (or contribute an in-lieu fee) as a condition of a subdivision map." I can find no Municipal Code provision that allows such a trade-off, but I don't doubt that it can be done, because it was done at Del Monte, with the developer providing funding and other benefits for Jean Sweeny Park in lieu of meeting normal open space requirements. However Del Monte was not given credit for the acreage of the portion of the Park adjacent to the project with regard to the density calculation. Developer was given density calculation credit only for the 11 acres devoted to residential use. **Thus, there is no basis for the public park acreage provided by the developer being counted toward his density calculation, regardless of whether it is part of a land swap or retained by the developer.**

Also streets are specifically excluded from the density calculation in the General Plan. " Residential densities are expressed in housing units per net acre, exclusive of land used or to be used for public or private streets."

In the case of Encinal Terminals, every document we look at has a different number for residential acreage. **The City needs to verify the exact residential acreage. One thing for sure, land swap or not, after deducting commercial use, open space and streets, the number will be far less than 589, because Planning has computed the number on the entire developable acreage of the plot with no deductions for anything!**

Paul S Foreman

## LARA WEISIGER

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**From:** Paul Foreman <ps4man@comcast.net>  
**Sent:** Wednesday, October 04, 2017 10:35 AM  
**To:** LARA WEISIGER  
**Subject:** FW: Encinal Terminals Public Safety Concerns and Another Comment on the Allowable Unit Calculation

Lara,

I omitted to add you as an addressee on the email below. Please include as an exhibit when Encinal Terminals is placed on a Council Agenda.

Paul

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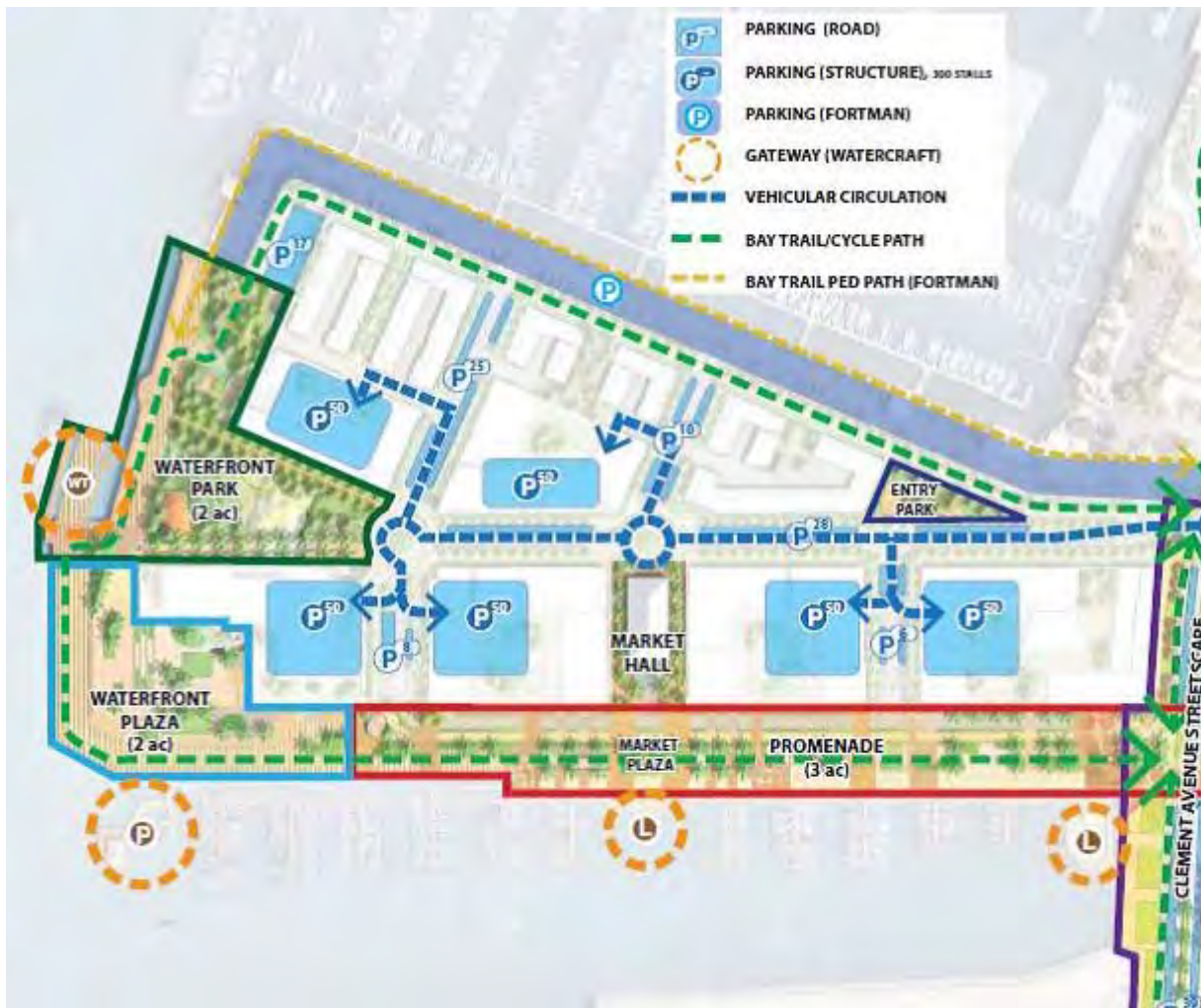
**From:** Paul Foreman [mailto:ps4man@comcast.net]  
**Sent:** Monday, October 02, 2017 10:31 AM  
**To:** 'Trish Spencer' (tspencer@alamedaca.gov); mvella@alamedaca.gov; f.j.matarrese@gmail.com; Marilyn Ezzy Ashcraft (mezzyashcraft@alamedaca.gov); joddie@alamedaca.gov  
**Cc:** Jill Keimach (JKeimach@alamedaca.gov); Debbie Potter (DPOTTER@alamedaca.gov); Andrew THOMAS (ATHOMAS@alamedaca.gov); jkern@alamedacityattorney.org; Andrico Penick (apenick@alamedacityattorney.org)  
**Subject:** Encinal Terminals Public Safety Concerns and Another Comment on the Allowable Unit Calculation

Dear Mayor Spencer , Councilmembers and Staff:

I have previously written to you July 30 (to staff only), August 11, August 16 and August 31. concerning; 1) the 589 unit density calculation; 2) the omission of the required market analysis in the Master Plan; 3) the need for a public safety CFD; 4) the failure to mitigate our poor jobs to housing ratio; and 5) the violation of Measure A.

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Paul S Foreman

## LARA WEISIGER

---

**From:** Dorothy Freeman <dfreeman@pacbell.net>  
**Sent:** Tuesday, September 05, 2017 4:22 PM  
**To:** LARA WEISIGER  
**Subject:** Future Encinal Terminals Agenda Item

Dorothy Freeman  
2050 Eagle Ave #4  
Alameda, CA 94501

September 5, 2017

Mayor Spencer & Council Members  
2263 Santa Clara Ave  
Alameda, CA 94501

Honorable Mayor Spencer and Council Members,

The Encinal Terminals is a property that should be developed but not at the expense of Alameda's future. It is important that our Planning Board and City Council approve developments that are going to preserve our city's character as well as providing new housing.

The development proposed by Tim Lewis Communities poses important issues that are contrary to the future of Alameda. Mixed Use (MX) areas were defined in the housing element to protect specific area of future development so that a good mix of jobs to housing could be preserved. The MX areas are presently business areas providing jobs where hopefully 50% housing to 50% business could be planned.

In our meetings with the developer's representative, it was stated that Encinal Terminals in 90% residential and only 10% commercial. This disproportionate mix was because the development was located in what is already a predominantly business area, Windriver, so it was not the developers responsibility to provide more commercial/business space.

While 589 units is excessive and not conducive to the business to residential split, the height of the planned structures also is detrimental to the future of Alameda's character. Nine story and higher structures will set in place a precedent that cannot be denied to future developers. Neither are they necessary for the developer to achieve the present number of 589 units. We were told by the developer's representative that Encinal Terminals is a special development that requires special considerations and therefore will not set any precedents. Not true. Once Pandora's box has been opened to let loose the evils of undesirable developments, hope that no other developer will want to follow suit will be left locked inside the box where it will be locked away from reality.

Encinal Terminals is a development that dreams of mimicking Brooklyn Basin across the Estuary. Alameda is not Oakland and does not need to look like Oakland. We are developing new housing, but that doesn't mean we have to lose the history and character of our island. We can remain a pleasant oasis in the middle of a metropolitan area. We do not have to sell out by allowing high rise buildings to provide required housing.

In a housing bill AB1086 signed today by Governor Brown, there are important items related to Alameda's direction in housing. The law specifically addresses the need for balance between jobs and housing. Alameda has a very disproportionate balance between housing and jobs as we dedicate all our available land to housing and push jobs off the island.

The Governor's bill also addresses, and I quote, "Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category," end quote. Alameda has a disproportionate number of market rate housing so we must be working to provide a more proportionate number of lower, moderate, and work force housing.

The Encinal Terminals proposal fails in both these important areas. Disproportionate housing to jobs and too much market rate housing pushes jobs and middle and lower families off the island.

In conclusion the following paragraph is from the London Guardian. Some text has been removed for brevity.

"As deputy prime minister, John Prescott, personally approved both the Shard and the Vauxhall Tower.... after strong warnings from his advisers that it ?could set a precedent for the indiscriminate scattering of very tall buildings across London?. How right they were. With a 50-storey shaft already on the skyline, the council was in no position to refuse further skyward ambitions. ....beckoning in a thicket of towers and [opening the floodgates](#) for the emerging ..... wall of glass stumps ...beginning to sprawl along the river ... and beyond". End quote.

Respectfully yours,

Dorothy Freeman

cc: Lara Weisiger  
City Clerk



## LARA WEISIGER

---

**From:** Paul Foreman <ps4man@comcast.net>  
**Sent:** Wednesday, August 16, 2017 11:18 AM  
**To:** Trish Spencer; Malia Vella; Frank Matarrese; Marilyn Ezzy Ashcraft; Jim Oddie  
**Cc:** Jill Keimach; DEBBIE POTTER; ANDREW THOMAS; Janet Kern; Andrico Penick; LARA WEISIGER  
**Subject:** Encinal Terminals Residential Unit Count  
**Attachments:** EXHIBIT D ENC TERMINALS.PDF; IMG\_0007.PNG

Dear Mayor and Councilmembers:

Since my email to you of August 11, 2017, I have made some new discoveries which I think are important.

All of my calculations assume that residential density is formulated by multiplying the acreage designated for residential development by the applicable per acre unit count. (In this case 36.). Therefore my calculations deduct any acreage designated for exclusive commercial use and any open space which serves the same. (in this case, the proposed market hall). If anyone questions my assumption, I refer them to AMC 30-4.20 - M-X, Mixed-Use Planned Development District, Sec. e (1), which states that the density calculation only applies " for land designated on the Master Plan for residential use." Also see AMC 30-4.23 - Multi-family Residential Combining Zone, commonly referred to as the Multi-family Overlay, Sec. b(1), which states that the provisions of the underlying zoning district shall apply if not in conflict with the overlay ordinance. I see no conflict regarding density calculation.

Yesterday, I was provided with a copy of Exhibit D attached to Development Agreement which has much better resolution than the copy that is posted online. I have attached it here. This provides the first and only representation by the developer as to the developable acreage that he will own after the swap. His figure is 14.17. Thus at the very least, subtracting 14.17 from 16.66 produces a net loss of 2.49 acres, reducing his unit count by at least 90 units to 499. However, one still has to deduct any acreage designated for exclusive commercial use, **which information is not provided in either the Master Plan or Development Agreement.**

However, I have reason to doubt developers acreage number. First, it conflicts with the numbers in the Development Agreement that compute to a 3.1 acre net loss as explained in my prior email.

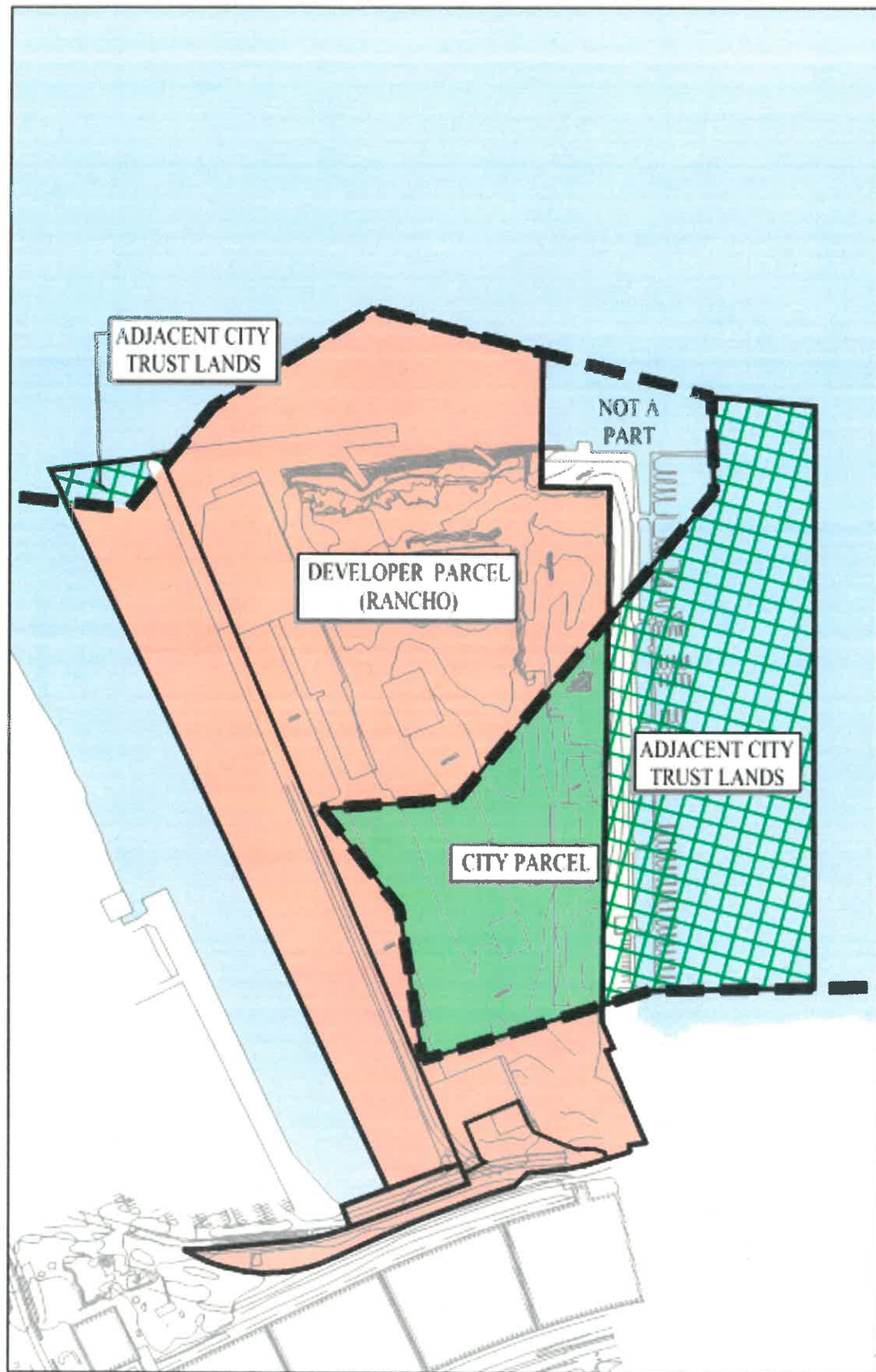
Secondly, it conflicts with the land swap exhibit published in the March version of the Master Plan which I again attach above (IMG 0007). Every time I study it, I see something I missed before. I see now that the 8.73 acre proposed tidelands strip along the western and northern shoreline includes the two little triangular pieces that are part of the existing tidelands. I assume that the acreage for them is 1.4 because that is the residual acreage post-swap computed from the Development Agreement, Therefore I should have subtracted 1.4 from the 8.73 (7.33) to calculate what portion of that piece is current developer land. However, I also should have added .81 acres to the net loss to cover the blue crosshatched area just below this strip, since this is also developer land to be conveyed to the City, so that the net loss is now 8.14.

Even with the above recalculations drawn from IMG 0007, I still don't know the new tidelands street acreage shown on both exhibits and I don't know how much of the total acreage will be designated for exclusive commercial use.

**If, by now, your eyes are glazing over from all of the above, that is exactly my point. Before a vote by Council, the Master Plan and Development Agreement must be sent back to Staff and to the Planning Board to work with the developer to establish the VERIFIABLE acreage that will be designated for residential and related open space use and acreage designated for exclusive commercial and related open space use. From the residential acreage a new maximum unit figure must be computed.**

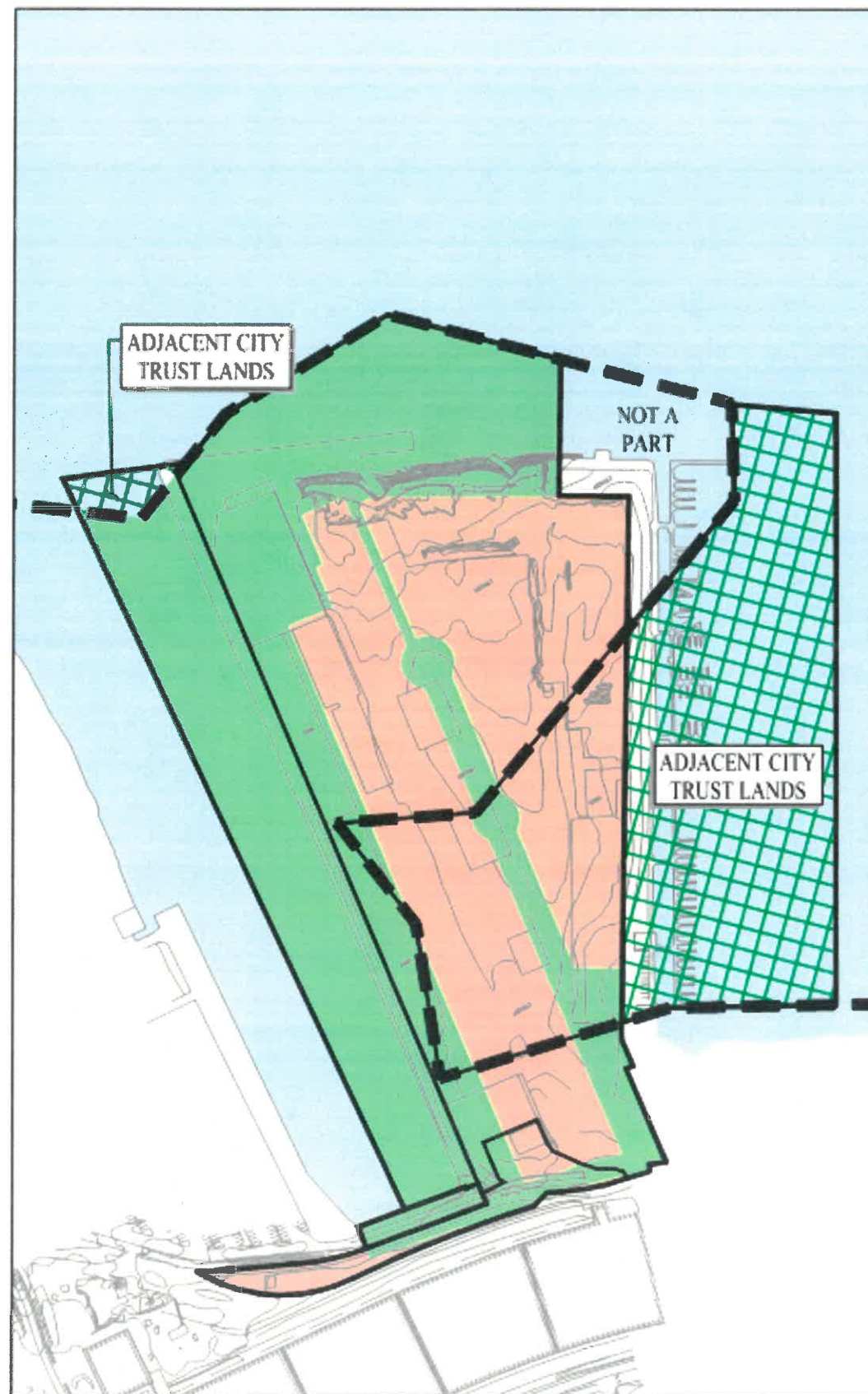
Ms. Weisiger. Please place this email in any future Agenda item file concerning Council consideration of the Encinal Terminals Master Plan and/or Development Agreement.

Paul S Foreman



### EXISTING CONDITIONS

(BASED ON THE FINAL APPROVED SURVEY OF THE PERALTA GRANT)



### POST EXCHANGE

AREA SUMMARY				
COLOR	DESCRIPTION	EXISTING CONDITIONS AREA (AC)	POST EXCHANGE AREA (AC)	NET CHANGE (AC)
Orange	NON-TRUST LANDS	26.18	14.17	-12.02
Green	TRUST LANDS	6.40	18.42	+12.02
TOTAL		32.58	32.58	0

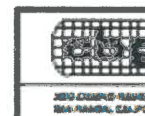
--- PERALTA GRANT LINE (PER MAP OF ALAMEDA MARSH LAND BOOK NO. 25, 1990 - RESURVEY OF 1871 RANCHO SAN ANTONIO)

DRAFT

## ENCINAL TERMINALS PROPOSED TRUST EXCHANGE

CITY OF ALAMEDA ALAMEDA COUNTY CALIFORNIA

DATE: AUGUST 14, 2017 SCALE: 1"=300'



Carlson, Barber  
& Olson, Inc.  
CIVIL ENGINEERS, SURVEYORS & PLANNERS

200 COMPTON BLVD., SUITE 100  
SAN FRANCISCO, CALIFORNIA 94105

2017-08-14  
www.carlsonbarber.com









## CURRENT TIDELANDS TRUST CONFIGURATION

Currently, there are approximately 6 acres of land that are subject to the Tidelands Trust restrictions ("Trust Property") noted above; this is shown in blue below. The remaining approximately 16 acres is not subject to the Tidelands Trust restrictions.



FIGURE 3.1 CURRENT TIDELANDS CONFIGURATION

## POST EXCHANGE TIDELANDS TRUST CONFIGURATION

The Northern Waterfront Plan anticipates that an exchange of land would reconfigure the Tidelands Trust land such that all of the Trust Property is primarily waterfront property on the perimeter of the site, and would remove the Tidelands restrictions on some of the property in the interior of the site. Figure 3.2 shows the proposed exchange, in which 4.93 acres of current Tidelands Trust land will be removed from the Tidelands Trust (red). This will be exchanged for a total of 18.38 acres, that will be placed into the Tidelands Trust (8.73 acres of uplands property (red cross hatch) plus 9.65 acres of submerged land (8.84 acres in yellow cross hatch and .81 acres in blue crosshatch)). Phasing of the Tidelands Exchanges is included in Section 4.



FIGURE 3.2 CONCEPTUAL LAND EXCHANGE

## LARA WEISIGER

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**From:** Paul Foreman <ps4man@comcast.net>  
**Sent:** Friday, August 11, 2017 10:32 AM  
**To:** Trish Spencer; Malia Vella; Marilyn Ezzy Ashcraft; f.j.matarrese@gmail.com; Jim Oddie  
**Cc:** Jill Keimach; Janet Kern; Andrico Penick; DEBBIE POTTER; ANDREW THOMAS; LARA WEISIGER  
**Subject:** FW: Encinal Terminals Fact and Law Issues  
**Attachments:** IMG\_0007.png; Screenshot 2017-08-03 09.58.53.png

Dear Mayor and Councilmembers:

Now that I have had telephone conversations with Ms. Potter on Aug. 2 and Mr. Penick yesterday afternoon I think it is appropriate to forward the message below to you as a legislative group. I suggest that you read it first, and then read the update which follows.

### **Update to Issues Raised in My July 30 Message to Staff:**

I would have preferred to have had conversations with Ms. Kern and Mr. Thomas, but their vacation schedule did not permit that. However, both Ms. Potter and Mr. Penick were very gracious and responsive to my concerns. However, neither of them has changed my views as expressed in my July 30 message. In fact, my views have been reinforced by the conversations, and I have uncovered new information set forth below.

#### **1. The Residential Density Calculation:**

There is a conflict between the land swap acreage recited in the draft Development Agreement with computes to a net loss of residential land of 3.1 acres and the drawings attached hereto.

See IMG 0007 above which is page 52 of the March 17, 2017 version of the ET Master Plan. The advantage of this over page 35 of the July 7, 2017 ET Master Plan (Attachment Screenshot 2017-08-03) is that the older item shows the exact acreage of the tidelands swap. When you compare the two, they are identical, except the 7/7/2017 version extends the street portion of the land to be conveyed to the City through the proposed waterfront park to the northern edge of the proposed new City tidelands.

As you can see, the actual Swap is 4.93 acres of the current tidelands for 8.73 of new tidelands, Actually the acreage conveyed to the City will be closer to 9 acres because of the added little strip mentioned above. Thus, after the swap, the Developer will own only 12.59 acres (16.66 acres-9.0 acres+ 4.93 acres)

To compute residential density, one should deduct about .5 acres from the 12.59 to account for the one piece of the parcel designated for a market hall which will not be dedicated for residential use. You can see that in image IMG 0007, just west of the first roundabout from the entrance. This brings the total acreage available for residential density calculation down to 12.09.

In order to calculate the maximum units allowed, we need to first deduct 1.25 acres from the 12.09 to account for the acreage that the developer admits is Measure A density and can only hold 27 + 20% density bonus = 32 units. That leaves 10.84 acres X 36= 390 units, for total allowable units for the entire project at 422 (32 + 390).

In the alternative, if the 8 acre to 5 acre swap set forth in the Development agreement is accurate, then the loss of land to the developer is only 3 acres + the ½ acre for the market hall = a 3.5 acre loss of land. Thus, you get a net residential acreage of 16.66-3.5 = 13.16 and net high density acreage of 11.91.

Applying the same formula as above you get 11.91 acres x 36 = 429, for a total allowable units of 461 (32 + 429)

## **2. Market Analysis Issue:**

Ms. Potter has forwarded me the Market Analysis filed by the developer with the initial application and has assured me that it is on file and available for viewing in the Planning Office. However, that is a far cry from the specific requirements of the MX District Zoning Ordinance at Section (f) thereof with regard for its inclusion in the Master Plan and approval process.

The issue of whether the Market Analysis contains all of the elements required by the Ordinance is for someone with much more financial acumen than me to address. However I would raise the point that perhaps it would be a good idea if at least one member of the Planning Board had expertise in this area.

If any addressees wish to discuss the above issues with me I am always available at 455-1315. I would ask Ms. Weisiger to include this email as an exhibit attached to any Agenda item relating to the approval of the pending ET Master Plan and Development Agreement.

Sincerely,

Paul S Foreman

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**From:** Paul Foreman [mailto:ps4man@comcast.net]

**Sent:** Sunday, July 30, 2017 1:48 PM

**To:** Jill Keimach (JKeimach@alamedaca.gov); Debbie Potter (DPOTTER@alamedaca.gov); Andrew THOMAS (ATHOMAS@alamedaca.gov); jkern@alamedacityattorney.org

**Subject:** Encinal Terminals Fact and Law Issues

Dear City Manager Keimach, Development Officers Potter and Thomas, and Attorney Kern:

Next Wednesday, August 2 at 7 p.m. on the 2nd floor of Alameda Hospital, ACT will be convening a meeting for the membership and any interested citizens of Alameda. This meeting is dedicated to addressing any issues raised by the Encinal Terminals Master Plan and Development Agreement approved by the Planning Board last week and scheduled for presentation to Council in September.

I will be speaking at that meeting and will be raising issues with these documents that address both matters of policy and matters of fact and law. My policy issues are more appropriately addressed to Council, but I believe that my fact and law issues should be raised with you and that I should give you the opportunity to respond to me regarding the same prior to Wednesday evening. If you can demonstrate to me that my conclusions regarding any of these issues are in error, I will delete them from my presentation. Those issues are as follows:

**1. The Developer and City Staff projection of 589 units is in error.** The formula has been published by Staff and in the Master Plan as follows:

" The draft Master Plan provides for 589 for-sale and for-rent housing units, including 79 deed-restricted affordable units. The 589 units is permissible under State and local law, because 15.48 acres of the property is within the Multi Family (MF) Overlay, which allows the maximum density of 30 units per acre, and 1.25 acres of the property is within the MX Mixed Use Zoning District which permits a maximum allowable base residential density of 21.78 units per acre. (An additional 6.4 acres of the land on the Encinal terminals site is currently owned by the City of Alameda and is subject to the Tidelands Trust, which does not permit residential development.) Therefore, the existing zoning allows 491 housing units. However, since this Master Plan proposes to 5% very low-income deed restricted units instead of 4% very low income for a total of 79 affordable units, State and local law requires a 20% density bonus for a total of 589 units."

The above formula is reasonably accurate so long as there is no tidal lands swap. I say "reasonably accurate" because you would need to deduct from the residential acreage any of the commercial development that is stand alone, like the proposed Market Hall. **However, after the swap, the developer only owns 13.56 acres.**

My calculation comes from the numbers in Recitals C, D, & I and Sec.5(a) of the proposed Development Agreement. They recite that the City owns 6.4 acres of tidelands and will convey to the developer 5 acres thereof. Thus, I conclude that this leaves the City 1.4 acres of its original tidelands. The Agreement goes on to state the land exchanged for that acreage by the Developer will give the city a total of 9.5 acres of tidelands. Deduct the above 1.4 acres and I conclude that the developer is conveying 8.1 acres of the original 16.66 and getting back only 5 acres, which means that the developer, after the swap, owns only 13.56 acres.

Applying the City formula to the 13.56 acres and the maximum allowable units is 470. (27 Units in the 1.25 acre Measure A plot plus 443 units in the remaining 12.31 acres of high density zoning.) Now we know why ET is arguing that they need 90 ft. buildings to include all of their units, when Del Monte requires no more than 55 ft., even though based on the same 36 unit/acre formula. ET is not really working on 36 units per acre on the high density 12.31 acres, but 46 units per acre. ( $562/12.31$ ),

2. AMC Sec. 30-4.20 - M-X, Mixed-Use Planned Development District. provides that the Developer must file a Master Plan. The very first item that must be included is a Market Analysis by a qualified economist. It goes into great detail as to what must be covered and contains no provision for confidentiality. There is no Market Analysis in the Master Plan, nor do I see one in any other Master Plan for other projects. Why is it missing? Is it confidential? Has Council or the Planning Board ever seen it? Is the public not entitled to view this crucial information, especially in view of our current issues with Site A and Alameda Landing?

I hope to hear from you before Wednesday night.

Paul S Foreman





## CURRENT TIDELANDS TRUST CONFIGURATION

Currently, there are approximately 6 acres of land that are subject to the Tidelands Trust restrictions ("Trust Property") noted above; this is shown in blue below. The remaining approximately 16 acres is not subject to the Tidelands Trust restrictions.



FIGURE 3.1 CURRENT TIDELANDS CONFIGURATION

## POST EXCHANGE TIDELANDS TRUST CONFIGURATION

The Northern Waterfront Plan anticipates that an exchange of land would reconfigure the Tidelands Trust land such that all of the Trust Property is primarily waterfront property on the perimeter of the site, and would remove the Tidelands restrictions on some of the property in the interior of the site. Figure 3.2 shows the proposed exchange, in which 4.93 acres of current Tidelands Trust land will be removed from the Tidelands Trust (red). This will be exchanged for a total of 18.38 acres, that will be placed into the Tidelands Trust (8.73 acres of uplands property (red cross hatch) plus 9.65 acres of submerged land (8.84 acres in yellow cross hatch and .81 acres in blue crosshatch)). Phasing of the Tidelands Exchanges is included in Section 4.



FIGURE 3.2 CONCEPTUAL LAND EXCHANGE



## CHAPTER 3: SITE DEVELOPMENT REQUIREMENTS AND STANDARDS

### INTRODUCTION

The purpose of the site-specific Encinal Terminals Master Plan Development Requirements and Standards is to serve as the site-specific zoning standards, which establish the requirements for the review of all future Development Plan and Design Review applications. The requirements and standards within this chapter are organized by Subarea and District to allow for phased development of the property and the re-configuration of the Tidelands Property as envisioned in the General Plan. Figure 3.1 depicts the configuration of the existing 6.4-acre Tidelands Property. Figure 3.2 depicts the proposed re-configuration and enlargement of the Tidelands Property to include over 8 acres of upland area and rehabilitated wharf and over 9 acres of adjacent submerged property. Figure 3.3 shows the Subarea Plan, delineating the 16 subareas labeled A through P.

FIGURE 3.1 EXISTING TIDELANDS CONFIGURATION



FIGURE 3.2 PROPOSED TIDELANDS CONFIGURATION



FIGURE 3.3 SUBAREA PLAN

