CEDAR BOULEVARD RESIDENTIAL DEVELOPMENT

Initial Study & Mitigated Negative Declaration

prepared by

City Of Newark

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Project Description

Project Location and Setting

The project site (site) is located on 38288-38594 Cedar Boulevard, Newark in Alameda County (**Figure 1**). The site (APNs: 92A-2375-002-06, 092A-2375-022-01) is a 337,842 square feet (7.76 acre) rectangular property, consisting of (4) legal lots, bordered by Interstate 880 (I-880) to the northeast and Cedar Boulevard to the southwest. A public storage facility is located to the northwest of the site with industrial buildings to the southeast. Single-family residential development, which is fenced from the street by an approximately 8 foot tall masonry wall, two church buildings (Cedars Church) and a pre-school (King Kids Preschool) are located across Cedar Boulevard to the southwest of the site. **Figure 2** below shows the location and context of the project site.

Figure 1: Regional Location

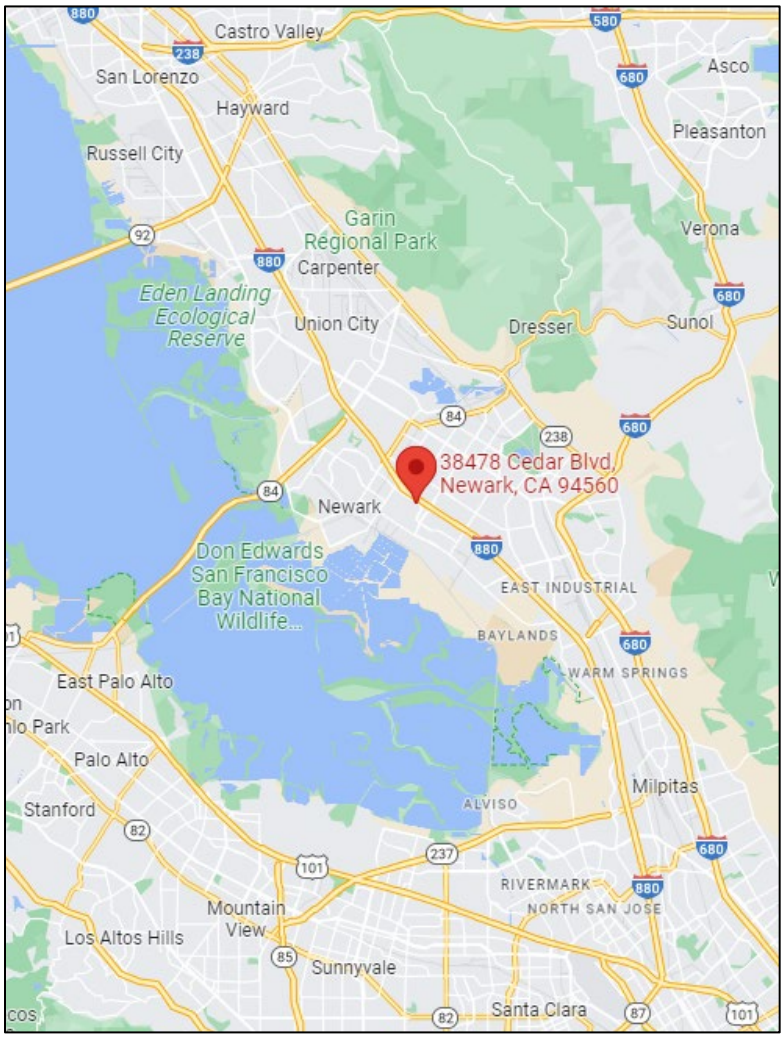


Figure 1 Regional Location in the Bay Area.
(Source: Google Maps, Accessed on May 2022)

Currently, the site contains several commercial buildings predominantly including automotive repair, automotive parts supply shops and associated paved areas for circulation and parking for both vehicles

brought in for repairs as well as employees and visitors to the site. The site also includes a large metal storage shed and parking for campers and trailers in the northwest portion of the site. Additionally, spaces in between the buildings and rear of the property are used for vehicle storage and in some areas are marked by discarded items and debris.

Vegetation in and around the site includes grown coniferous trees along Cedar Boulevard in front of the wrought iron fence, which marks the border of the site along Cedar Boulevard. A few trees or large bushes are also located in the northern portion of the site, and a hedge partially borders the site to the rear in its southern portion. **Figure 3** includes a series of photographs of the site and surrounding area.

Figure 2: Project Site Location

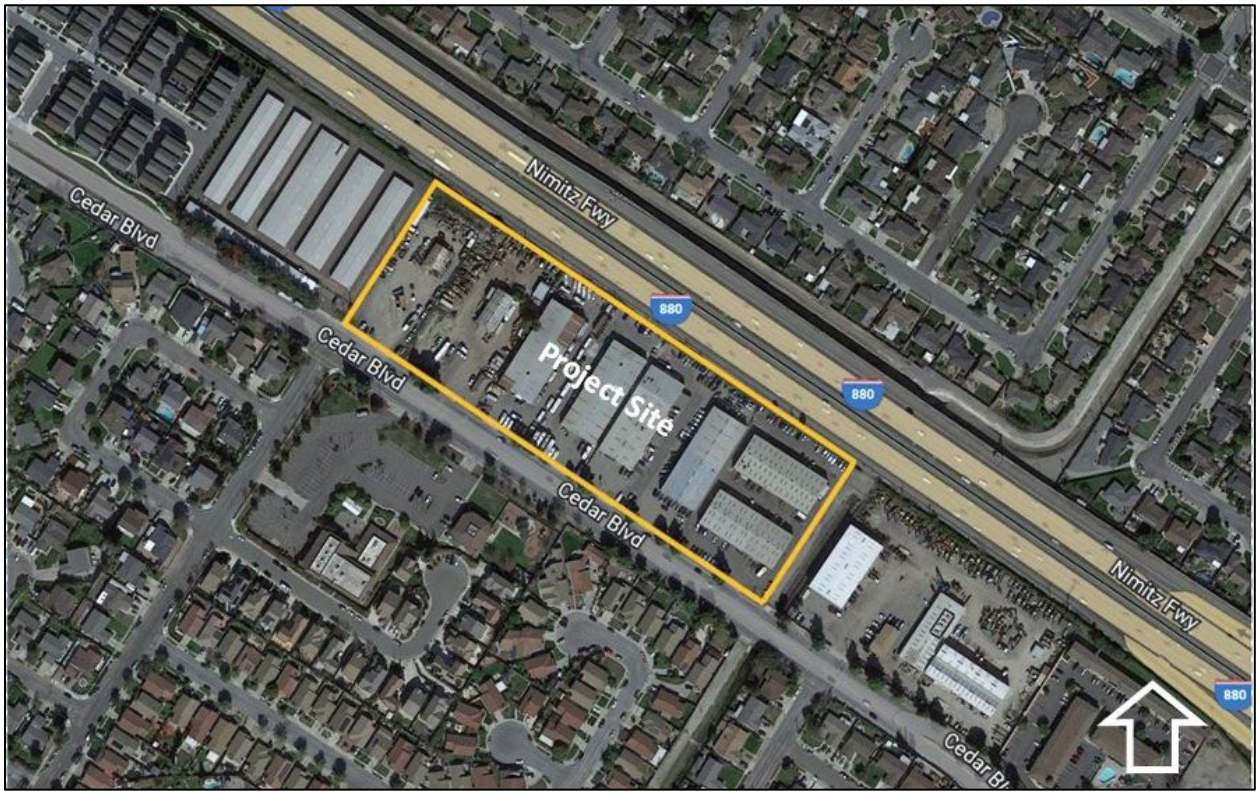


Figure 2. Project Site Location.
(Source: Google Earth, accessed May 2022)

Figure 3: Photographs of Project Site and Surroundings

Figure 3.a Looking southeast from near the Cedar Boulevard/Smith Avenue intersection toward the project site.

Figure 3.b Looking east at the project site (northern portion) from Cedar Boulevard.

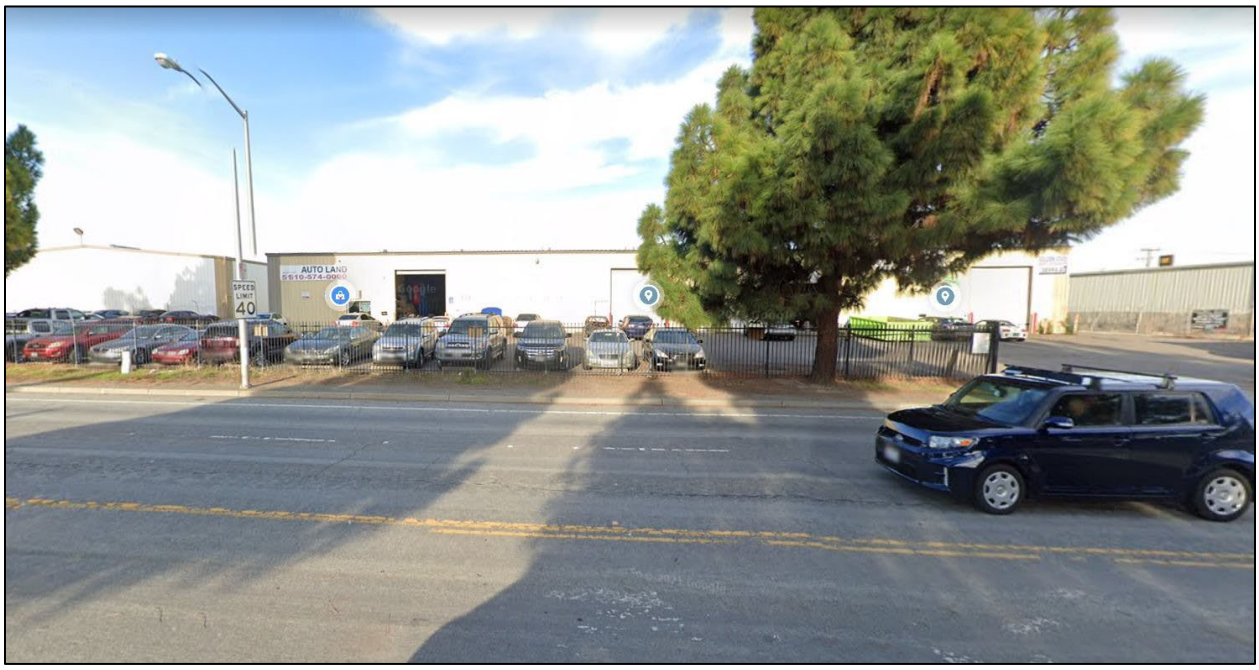


Figure 3.c- Looking east at the project site (southern portion) from Cedar Boulevard.

Figure 3.d- Looking south at the rear of the project site behind the building at 38486 Cedar Blvd within the site.

Figure 3.e Looking east between the buildings on the project site.

Figure 3.f Looking southwest across Cedar Boulevard toward the Church property.

Figure 3.g Looking southwest across Cedar Boulevard toward the Church property.

Project Characteristics

The project proposes to redevelop the subject site with a residential development containing 118 units, incorporating single family residences and two-unit attached townhouses (duets). The proposed residences range in size from 1,961 to 2,589 square feet.

The single family and duet residential units would be arranged on the site as shown on the site plan (**Figure 4**). Access to the units will be provide via private street on the site, which will be accessed via two

driveways from Cedar Boulevard. The proposed residential buildings will be three stories and exhibit an architectural style that is interpretive of early California architecture developed as a combination of the traditional New England and Spanish styles with incorporation of available building materials.

The project would entail demolition of the existing buildings, paving and private utilities on site, removal of trees along the site frontage facing Cedar Boulevard and vegetation on site. Trees located across Cedar Boulevard in the street segment at the front of the site are also proposed to be removed. Additionally, the project would entail new landscaping and other associated improvements, including utility upgrades and offsite improvements.

Figure 4: Project Site Plan

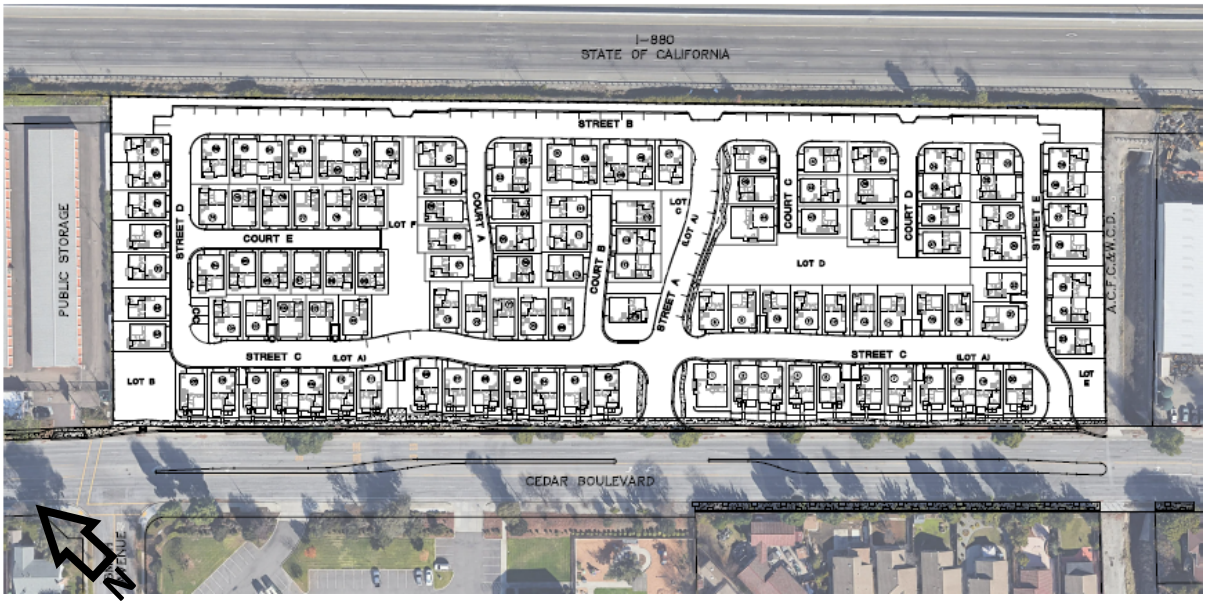


Figure 4 Site Plan Schematic
(*Source: 38478 Cedar Boulevard Project Plans, July 2022*

Access and Circulation

As indicated above, access to the proposed development would be provided via two driveways from Cedar Boulevard. On site circulation would consist of internal roads and courts that would provide access to two-car garages with each residential unit. Pedestrian circulation within the site would occur via sidewalks and interconnected pedestrian walks.

Grading and Drainage

The project would entail grading the entire site for building pads, private streets and sidewalks, and resurfacing for open space and landscaping. The project balances the cut and fill quantities on site with 25,300 cubic yards of cut and fill each. The site currently drains toward Cedar Boulevard. The project would include bioretention areas for stormwater in four of the proposed open space areas on site, and silva cells on either side of the entrance of the northern access road to the site. The stormwater collected on site would ultimately drain into the City's stormwater system.

Landscaping

The project proposes six open space areas. Four of these open spaces, two in central locations within the development (Lot D and Lot F) and one at each of the property corners (Lot B and E) adjacent to Cedar Boulevard, would incorporate bioretention areas for stormwater. The remaining two, located at the northeastern and southeastern corners of the site, would serve as dog areas. Landscaping would consist of trees along the property boundaries and trees and shrubs within the open spaces on the site. Additionally, the project proposes planting pockets for accent plants on the sidewalks along private streets within the subject site.

An 18-foot tall masonry wall is proposed along the rear of the property adjacent to I-880. 18- to 8- foot tall masonry walls would be located along the site's northwestern and southwestern boundaries that would step down from the rear to the front of the property The project proposes a low stucco wall along Cedar Boulevard. Five foot tall wood fences on site would create trash enclosures between buildings.

Utilities

The proposed project is located within an urbanized environment within the City of Newark where the utility infrastructure is substantially in place to which the development would connect. The project proposes undergrounding of utilities including tie-ins for storm, sewer, and water along Cedar Boulevard, and relocation of certain streetlights, fire hydrant and other on-site utilities. Existing 18 inch stormwater drainpipes in Cedar Boulevard, near the southwestern and southeastern corner of the project site, will be removed for the installation of upsized 24 inch stormwater lines to serve the project.

Off-site Improvements

The project proposes several off-site improvements as follows:

1. Two 8-foot tall masonry walls, sidewalk reconstruction, and street tree plantings and landscape installation across the subject property, on the south side of Cedar Boulevard, in the street segment fronting the residential development to the south
2. Traffic signal and crosswalk improvements at the Cedar Blvd and Smith Ave intersection
3. Traffic median improvements on Cedar Boulevard (Blvd)
4. Undergrounding of utilities along Cedar Blvd including tie-ins for storm, sewer, and water
5. Bus shelter on the project site (within private property) adjacent to Lots 68 & 111
6. Sidewalk extension across the adjacent Public Storage property to the northwest
7. Left turn queue lane extension at the corner of Cedar Blvd and Mowry Avenue

Construction

Construction of the project would include the demolition of the existing buildings, grading/site preparation work, utilities installation and the construction of the 118 residential units and associated on-site and off-site improvements. Equipment used in construction would include saws, dozers, loaders, graders, scrapers, backhoes, cranes, forklifts, generators, welders, cement mixers, pavers, rollers, and air compressors that are all assumed to be diesel-fueled. It would take approximately 30-36 months to

construct the project. The storage and location of construction equipment would be a combination of on and off-site.

Approvals Required

The proposed project requires the following entitlements from the City of Newark:

1. Planned Development Plan and Zoning Amendment from Residential Medium Density (RM) to Residential Medium Density-Planned Development (RM-PD) overlay.
2. Design Review, which is required for all projects that require a permit for new construction, reconstruction, rehabilitation, alteration, or other improvements to the exterior of a structure, site, or a parking area.
3. Minor Use Permit to allow for fence/wall height in excess of six feet; the proposed development would include walls up to 18 feet in height adjacent to I-880.
4. Vesting Tentative Subdivision Map to create 124 lots including six common and 118 residential lots on the 337,842 square feet (7.76 acre) site.

Environmental Factors Potentially Affected

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact," as indicated by the checklist on the following pages.

☐	Aesthetics	☐	Agriculture and Forestry Resources	■	Air Quality
■	Biological Resources	■	Cultural Resources	☐	Energy
■	Geology and Soils	☐	Greenhouse Gas Emissions	■	Hazards and Hazardous Materials
☐	Hydrology / Water Quality	☐	Land Use/ Planning	☐	Mineral Resources
☐	Noise	☐	Population / Housing	☐	Public Services
☐	Recreation	☐	Transportation	■	Tribal Cultural Resources
☐	Utilities / Service Systems	☐	Wildfire	☐	Mandatory Findings of Significance

Determination

On the basis of this initial evaluation:

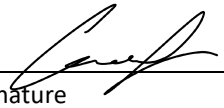
☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

■ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



Signature

12/21/22

Date

CARMELISA LOPEZ

Printed Name

SENIOR PLANNER

Title

Evaluation of Environmental Impacts:

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors, as well as general standards (e.g., the project would not expose sensitive receptors to pollutants, based on a project- specific screening analysis).

2. All answers must take account of the whole action involved, including off-site as well as on- site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level.

5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

    a. Earlier Analyses Used. Identify and state where they are available for review.

    b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

    c. Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9. The explanation of each issue should identify:

    a. the significance criteria or threshold, if any, used to evaluate each question; and

    b. the mitigation measure identified, if any, to reduce the impact to less than significance.

Environmental Checklist

Aesthetics

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a. Have a substantial adverse effect on a scenic vista?	☐	☐	■	☐
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	■
c. In nonurbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	☐	☐	■	☐
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	■	☐

Aesthetics Setting

The project site is in the northeastern quadrant of the City of Newark and is in an urbanized area. It is bordered to the northeast by I-880, which is not a state designated scenic highway. Like most of Newark, the topography of the site is flat. There are no officially designated scenic vistas or view corridors in Newark. However, views of the undeveloped Coyote Hills to the northeast, of Mission Peak to the east, and of the East Bay Hills to the east and southeast are available from open spaces in the City.[1]

Regulatory Setting

Caltrans Scenic Highway

Caltrans maintains a map of all scenic highways in the state of California. The subject site is not adjacent to a state designated scenic highway.

City of Newark General Plan

The Newark General Plan has policies regarding aesthetics and view protection. Conformance to these policies is discussed in the impact analysis below.

[1] General Plan Tune Up Draft EIR, City of Newark, August 13, 2013

Impact Analysis

a. *Would the project have a substantial adverse effect on a scenic vista?*

The project proposes construction of 118 three-story residential units in an urbanized area. The closest open spaces to the project site are Byington Park on Central Avenue and Birch Grove Park on Birch Street, located approximately 1.1 miles and 0.8 miles, respectively, generally to the southwest of the site. There could potentially be distant views of the hills to the east from these parks. However, these views would be blocked by existing development, and therefore, the construction and operation of the project would not result in a substantial adverse effect on these views. In addition, the distant views of the hills from public roads would not be significantly impacted by the proposed project. **LESS THAN SIGNIFICANT IMPACT**

b. *Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?*

The project site is located adjacent to I-880, which is not a state scenic highway. The project site contains existing light industrial/commercial development and does not contain any scenic resources, rock outcroppings or historic buildings, which could be damaged by its redevelopment. **NO IMPACT**

c. *Would, in non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?*

Newark's scenic areas are located on the western and southern edges of the City toward the bay and shoreline areas. The project site is located near the eastern edge of the City adjacent to I-880, which is not a scenic highway. The distant views of the eastern hillsides may be available from the topmost, third story of the buildings along the rear of the project site. Low stucco walls proposed on the Cedar Boulevard side would be required to comply with Policy LU-4.12 of the City's General Plan regarding fences and gates, and would be required to be compatible with adjacent structures and with the neighborhood context.

Policy LU-4.14 View Protection, of the City's General Plan speaks to the protection and enhancement of panoramic views and vistas of horizon features such as Coyote Hills, Mission Peak, the East Bay and Peninsula Hills, and San Francisco Bay. As discussed under subsection (a) above, the proposed project would not have any substantial adverse impacts on scenic vistas and would not conflict with General Plan Policy LU-4.14. The project site is proposed to be zoned Residential Medium Density (RM) with Planned Development (PD) overlay. Development in the RM zoning district is subject to the supplemental regulations incorporated in Newark Municipal Code (NMC) Chapter 17.07, which pertain to project design, and provisions of NMC Chapter 17.34, Design Review. Furthermore, the PD overlay requires compliance with applicable adopted design guidelines and achievement of superior community design. The requirements of Design Review and Planned Development would ensure acceptable visual quality for the proposed project. **LESS THAN SIGNIFICANT IMPACT**

d. *Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?*

The area surrounding the project site contains existing lighting sources including the church complex, the residences across Cedar Boulevard to the southwest of the site, and lighting along I-880. There is existing security and other lighting on the project site. The development of the proposed project

would introduce new lighting sources in the area. However, the lighting design would be governed by and required to comply with NMC Chapter 17.17.060, which includes standards to prevent glare on adjacent properties. The project also proposes new streetlights that are not anticipated to cause glare as they would be downward lit. Therefore neither lighting on the site or streetlights would create a source of substantial light and glare to adversely affect the day or nighttime views in the area. **LESS THAN SIGNIFICANT IMPACT**

Agriculture and Forestry Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.				
Would the Project:				
a. Convert Prime Farmland, Unique Farmland, Farmland of Statewide Importance (Farmland), as shown on maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	■
b. Conflict with existing zoning for agricultural use or a Williamson Act contract?	☐	☐	☐	■
c. Conflict with existing zoning for or cause rezoning of forest land (as defined in Public Resources Code Section 12220(g)); timberland (as defined by Public Resources Code Section 4526); or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	■
d. Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	■
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	■

Agriculture and Forestry Setting

The City of Newark contains two areas that have been designated as Urban Prime Agricultural Lands, including a conservation area east of the Thornton/Jarvis intersection (designated as Conservation Open Space) and a 90-acre area west of Stevenson Boulevard on the west side of the Union Pacific Railroad. Cargill harvests, refines, and produces salt within Newark (separate and apart from Cargill's solar salt pond in Fremont) in the areas zoned for agricultural use and covered by Williamson Act Agricultural Preserve contracts.[2] All of these areas are located in the western part of the City and are not in close proximity to the project site.

[2] Newark General Plan, adopted December 12, 2013.

Regulatory Setting

Williamson Act

The Williamson Act (California Land Conservation Act of 1965) enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space uses. In return, landowners receive property tax assessments which are lower than full market value of the property because they are based on farming and open space uses.

Farmland Mapping and Monitoring Program

The California Natural Resources Agency's Farmland Mapping and Monitoring Program (FMMP) provides maps and data to decision makers to assist them in making informed decisions regarding the planning of the present and future use of California's agricultural land resources.

Forest Land and Timberland

Public Resources Code Section 12220(g) identifies forest land as land that can support a 10 percent native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefit. Public Resources Code Section 4526 identifies timberland as land, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of a commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis.

Impact Analysis

a. *Would the project convert Prime Farmland, Unique Farmland, Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?*

   There is no Prime Farmland, Unique Farmland, or Farmland of Statewide Importance within the City of Newark. The subject site is shown as "Urban and Built Up Land" on the most recent maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency[3]. **NO IMPACT**

b. *Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?*

   The project site is not zoned for agricultural use. The subject site is currently developed with commercial/light industrial uses. The surrounding properties are also developed with similar and residential and institutional uses. There is no agricultural or forest land in the vicinity. In addition, the property is not subject to a Williamson Act Contract. **NO IMPACT**.

c. *Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?*

[3] https://maps.conservation.ca.gov/dlrp/ciff/, last accessed June 2022

The project site is proposed to be rezoned from RM: Medium Density Residential to RM: Medium Density Residential with Planned Development (PD) overlay. The RM zoning district allows for residential uses and residential uses may be allowed as part of planned development. The site is currently developed with a light industrial/commercial building and does not contain any forest land (as defined in Public Resources Code Section 12220(g)), or timberland (as defined by Public Resources Code Section 4526). **NO IMPACT**

d. *Would the project result in the loss of forest land or conversion of forest land to non-forest use?*

The project site is currently developed for light industrial/commercial use and would be developed for residential use. **NO IMPACT**

e. *Would the project involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?*

The proposed project would result in a conversion of a light industrial/commercial use to a residential use. The immediate vicinity of the project site is characterized by light industrial/commercial, residential and institutional development with the general vicinity being built up land.

As noted above, there is no Prime Farmland, Unique Farmland, or Farmland of Statewide Importance within the City of Newark. There is no active timberland production, forest resources, or timberland resource zones in the general vicinity of the site. **NO IMPACT**.

Air Quality

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Where available, the significance criteria established by the applicable air quality management district or airpollution control district may be relied upon to make the following determinations.				
Would the project:				
a. Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	■	☐
b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	☐	■	☐	☐
c. Expose sensitive receptors to substantial pollutant concentrations?	☐	■	☐	☐
d. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	☐	☐	■	☐

Air Quality Setting

The project site is located adjacent to I-880 in the City of Newark, which is in Alameda County and within the San Francisco Bay Area Air Basin (SFBAAB). The Bay Area Air Quality Management District (BAAQMD) is the regional agency tasked with managing air quality in the region with jurisdiction over the nine-county San Francisco Bay Area Air Basin, which includes San Francisco, Alameda, Contra Costa, Marin, San Mateo, Santa Clara, and Napa Counties and portions of Sonoma and Solano Counties. The California Air Resources Board (CARB), which is a part of the California Environmental Protection Agency (CEPA), oversees regional air district activities and regulates air quality at the state level.

Ambient air quality standards (AAQS) have been established at both the federal and state level. The U.S. Environmental Protection Agency (USEPA) has established national AAQS for six of the most common air pollutants— carbon monoxide, lead, ground-level ozone, particulate matter, nitrogen dioxide, and sulfur dioxide. These pollutants are known as “criteria air pollutants” or “criteria pollutants”.

High ozone levels are caused by the cumulative emissions of reactive organic gases (ROG) and nitrogen oxides (NOx). These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area’s attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources. High ozone levels aggravate respiratory and cardiovascular diseases, reduce lung function, and increase coughing and chest discomfort.

Particulate matter is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM10) and fine particulate matter where particles have a diameter of 2.5 micrometers or less (PM2.5). Elevated concentrations of PM10 and PM2.5 are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels

aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

Toxic Air Contaminants (TAC) are a broad class of compounds known to cause morbidity or mortality (usually because they cause cancer) and include, but are not limited to, the criteria air pollutants. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter [DPM] near a freeway). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and federal level. Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average).

The Bay Area meets all ambient air quality standards with the exception of ground-level ozone, respirable particulate matter (PM10), and fine particulate matter (PM2.5). As such the Bay Area is a “non-attainment area” for ground level ozone, PM10 and PM2.5 in that it does not meet the federal or state ambient air quality standards for these “criteria pollutants”.

Regulatory Setting

Federal

The Federal Clean Air Act (FCAA) is the foundation for a national air pollution control effort, and it is composed of the following basic elements: National AAQS for criteria air pollutants, hazardous air pollutant standards, state attainment plans, motor vehicle emissions standards, stationary source emissions standards and permits, acid rain control measures, stratospheric ozone protection, and enforcement provisions.

The USEPA is responsible for administering the FCAA. The USEPA has classified air basins or portions thereof as either "attainment" or "nonattainment" for each criteria air pollutant, based on whether or not the national AAQS have been achieved, pursuant to amendments to the FCAA.

State

The California Clean Air Act (CCAA), which is patterned after the FCAA, was first signed into law in 1988, provides a comprehensive framework for air quality planning and regulation, and defines, through statute, the state’s air quality goals, planning and regulatory strategies, and performance. The CCAA requires all areas of the state to achieve and maintain the California AAQS. The California AAQS are generally more restrictive than the national AAQS. The CCAA also require areas to be designated as "attainment" or "non-attainment" for the California AAQS. Thus, areas in California have two sets of attainment designations: one set with respect to the NAAQS and one set with respect to the CAAQS. The SFAAB is currently designated as a “nonattainment” area for state and national ozone standards, state particulate matter (PM10 and PM2.5) standards, and the federal PM2.5 (24-hour) standard (BAAQMD, 2017a).

Regional

BAAQMD 2017 Clean Air Plan

The BAAQMD’s most recent adopted plan is the Bay Area 2017 Clean Air Plan: Spare the Air, Cool the Climate (2017 CAP), adopted on April 19, 2017, to comply with state air quality planning requirements set forth in the California Health & Safety Code. The primary goals of the 2017 Bay Area Clean Air Plan are to

attain state and federal AAQS, eliminate disparities among Bay Area communities in cancer health risk from toxic air contaminants, and reduce Bay Area greenhouse gas (GHG) emissions to 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050.

The 2017 CAP includes a comprehensive strategy of 85 specific control measures targeting a variety of local, regional, and global pollutants. The control measures have been developed for stationary sources, transportation, energy, buildings, agriculture, natural and working lands, waste management, water, and super-GHG pollutants. A number of control measures are designed to promote mixed use, compact development to reduce vehicle emissions and exposure to pollutants from stationary and mobile sources. Implementation of some of the control measures could involve retrofitting, replacing, or installing new air pollution control equipment, changes in product formulations, or construction of infrastructure to reduce conditions that have the potential to create air quality impacts.

In general, a project is considered consistent with the 2017 Clean Air Plan if:

1. The project supports the primary goals of the CAP,
2. The project includes control measures, and
3. The project does not interfere with implementation of the CAP measures.

BAAQMD 2017 CEQA Air Quality Guidelines

The BAAQMD CEQA Guidelines set forth criteria for determining consistency with the CAP. These guidelines aim to assist lead agencies in evaluating air quality impacts of projects and plans proposed in the SFBAAB. The Guidelines contain instructions on how to evaluate, measure, and mitigate air quality impacts generated from land development construction and operation activities. The guidelines focus on criteria air pollutants, GHGs, TACs, and odor emissions generated from plans or projects and are intended to help lead agencies navigate through the CEQA process. The guidelines for implementation of the thresholds are for information purposes only to assist local agencies. Recommendations in the guidelines are advisory and should be followed by local governments at their own discretion.

The most recent version of the CEQA Air Quality Guidelines were published May 2017, and includes revisions to address the California Supreme Court's opinion (*California Building Industry Association v. Bay Area Air Quality Management District, December 2015*)[4]. The updated guidelines include the existing significance thresholds and provide quantitative screening criteria for various types of development projects allowing for streamlined review of projects that would be considered to have a less than significant impact to air quality due to their size. The updated guidelines do not address outdated references, links, analytical methodologies or other technical information that may be in the guidelines or Thresholds Justification Report. The Thresholds of Significance Justification Report presents the BAAQMD's thresholds of significance for use in determining whether a proposed project will have a

4. The case involved a challenge to BAAQMD's adoption of new CEQA thresholds of significance for air pollutants, including Toxic Air Contaminant (TAC) "receptor thresholds" -– thresholds for "new receptors" consisting of residents and workers who will be brought to the area as a result of a proposed project – and thresholds for GHGs and PM2.5. The California Supreme Court held that ""agencies subject to CEQA generally are not required to analyze the impact of existing environmental conditions on a project's future users or residents. But when a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users. In those specific instances, it is the project's impact on the environment -– and not the environment's impact on the project – that compels an evaluation of how future residents or users could be affected by exacerbated conditions."

significant impact on climate change and provides the substantial evidence that lead agencies will need to support their use of these thresholds. The BAAQMD is currently working to update any outdated information in the Guidelines.

On April 20, 2022, the BAAQMD adopted updated CEQA Thresholds for GHG for Evaluating the Significance of Climate Impacts From Land Use Projects and Plans. These thresholds are discussed under the "Greenhouse Gas Emissions" resource area of this initial study. The BAAQMD 2017 CEQA Air Quality Thresholds of Significance (with the exception of GHG thresholds) are summarized in **Table 1** below.

Table 1: BAAQMD 2017 CEQA Air Quality Thresholds of Significance

	Construction-Related	Operational-Related	
Pollutant	**Average Daily Emissions, lb/day**	**Average Daily Emissions, lb/day**	**Maximum Annual Emissions, tons/year**
ROG	54	54	10
NO_X	54	54	10
PM_{10} (exhaust)	82	82	15
$PM_{2.5}$ (exhaust)	54	54	10
$PM_{10}/PM_{2.5}$ (fugitive dust)	BMPs	None	
Local CO	None	9.0 ppm (8-hour average), 20.0 ppm (1-hour average)	
Risks and Hazards (individual project)	Same as operational thresholds	Compliance with Qualified Community Risk Reduction Plan; or increased cancer risk of greater than 10.0 in a million; or increased non-cancer risk of greater than 1.0 hazard index (chronic or acute); or ambient $PM_{2.5}$ increase of greater than 0.3 µg/m^3 annual average	
Risks and Hazards (cumulative threshold)	Same as operational thresholds	Compliance with Qualified Community Risk Reduction Plan; or increased cancer risk of greater than 100 in a million from all local sources; or increased non-cancer risk of greater than 10.0 hazard index (chronic or acute) from all local sources; or ambient $PM_{2.5}$ increase of greater than 0.8 µg/m^3 annual average from all local sources	
NOTES: BMPs = Best Management Practices			

Source: BAAQMD, 2017b (Table incorporated in 38478 Cedar Boulevard Project. Air Quality & Greenhouse Gas and Health Risk Assessment, September 2022, ESA

Discussion of the air quality impacts of the project that follows is based on the analysis presented in the *Air Quality, Greenhouse Gas and Health Risk Assessment*, dated September 2022, prepared by ESA for the project.

Impact Analysis

a. *Would the project conflict with or obstruct implementation of the applicable air quality plan?*

BAAQMD, with assistance from the Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission (MTC), has prepared and implements specific plans to meet the

applicable laws, regulations, and programs. The Bay Area 2017 Clean Air Plan is the most recent comprehensive air quality plan.

As indicated above under "Regulatory Setting", a project is considered consistent with the CAP if: (1) the project supports the primary goals of the CAP, (2) includes control measures and (3) does not interfere with implementation of the CAP measures. In formulating compliance strategies, BAAQMD relies on planned land uses established by local general plans, which must show consistency with the control measures listed within the Clean Air Plan.

The primary goals of the 2017 CAP are to attain air quality standards, reduce population exposure to pollutants, protect public health within the SFAAB, and reduce GHG emissions and protect the climate. Any project that would not support these goals would not be considered consistent with the 2017 CAP.

The 2017 Clean Air Plan does not include project level control measures. As a result, the recommended approach for determining project support of 2017 Clean Air Plan goals is consistency with BAAQMD-approved CEQA thresholds of significance (i.e. the attainment of criteria air pollutant emissions thresholds and health risk standards). The proposed project would not conflict with the goals of the 2017 Clean Air Plan as it would have emissions below the BAAQMD thresholds, as shown in section b, below. Therefore, per BAAQMD guidance, the project would support the primary goals of the 2017 CAP.

Additionally, the project is urban infill and located near transit with regional connections through bus stops located at the junction of Cedar Boulevard and Central Boulevard, approximately 0.5 miles from the project site. The project itself includes a bus shelter on the project site, on the Cedar Boulevard side as part of associated improvements. Such access to transit would serve to reduce vehicular trips. These project features would ensure consistency of the project with the transportation sector control measures in the 2017 CAP.

The project would be required to comply with the California Green Building (CalGreen) Code and Title 24 building energy efficiency requirements, and would include energy saving features such as high efficiency lighting and water heaters, in addition to solar panels. Additionally, the City would require project compliance with CalGreen residential code requirements ensuring consistency with the control measures in the energy and building sectors of the 2017 CAP.

Since the project would not create a conflict with the feasible control measures and would not interfere with the implementation of the CAP measures, the project would not obstruct the implementation of the 2017 Clean Air Plan. **LESS THAN SIGNIFICANT IMPACT**

b. *Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?*

As discussed under "Air Quality Setting" above, the Bay Area is considered a non-attainment area for ground-level O3 and PM2.5 under both the Federal Clean Air Act and the California Clean Air Act, and considered non-attainment for PM10 under the California Clean Air Act. The area has attained both state and federal ambient air quality standards for carbon monoxide.

As part of an effort to attain and maintain ambient air quality standards for O3, PM2.5 and PM10, the BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds apply to both construction and operations impacts.

Construction Impacts

Construction period emissions would be generated from on-site demolitions and construction activity, construction vehicle trips, and evaporative emissions which consists of vaporized fuel emitted into the atmosphere from the fuel system of a motor vehicle. The proposed project's air quality analysis uses the California Emissions Estimator Model (CalEEMod)[5], version 2016.3.2 to calculate construction emissions associated with land use projects based on land use types and size, and anticipated construction schedule.

The methodology and outputs of this analysis is described in detail in the report (**Appendix 1**). Table 2[6] below summarizes the results of this analysis, which shows that the project construction would not exceed BAAQMD thresholds for ozone precursors (ROG and NOx) and criteria pollutants. As noted in the table below, criteria air pollutant emissions would be less than significant prior to mitigation and would be reduced further with implementation of **Mitigation Measures AQ -1 and AQ-2**.

Additionally, it is noted that the CalEEMod modeling is based on construction commencing in October of 2021, which has passed with construction on the project not having yet commenced. However, emission factors within CalEEMod would decrease into future years because of improvements in vehicle technology and cleaner construction equipment. Therefore, the project's air quality analysis can be considered to have over-estimated project emissions.

Project related demolition, grading, excavation and building construction activities at the project site, however, would temporarily generate fugitive dust in the form of PM10 and PM2.5 and also larger particles that can cause nuisance impacts. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. For mitigation of fugitive dust emissions, the BAAQMD CEQA Air Quality Guidelines recommend using specific Best Management Practices (BMPs), which has been a practical and effective approach to control fugitive dust emissions. The guidelines note that individual measures have been shown to reduce fugitive dust by anywhere from 30 percent to more than 90 percent and consider fugitive dust impacts to be less-than-significant if best management practices (BMPs) are implemented to reduce these emissions. **Mitigation Measure AQ-1** includes the BMPs that are all "Basic Construction Mitigation Measures" recommended by BAAQD for all projects whether or not construction related emissions exceed applicable thresholds of significance[7].

[5] CalEEMod is an emissions estimation model that calculates all emissions associated with land use projects. This model is regulatory-approved for CEQA projects and has been developed by, or in coordination with, the California Air Resources Board (CARB).

[6] The table includes both unmitigated emissions and mitigated emissions, the latter of which includes the use of Tier 4 Final off-road construction equipment. The mitigation is not required for criteria pollutant emissions because the unmitigated construction emissions are below the BAAQMD thresholds. The mitigation is required for health risks, which are discussed in item "c".

[7] BAAQMD recommends additional construction mitigation measures for all projects that exceed the applicable thresholds of significance. Since the project's construction emissions would not exceed the threshold of significance as shown in the table above, Mitigation Measure AQ-1 includes the "Basic Construction Mitigation Measures"

Table 2: Construction Period Emissions

Year/Construction Phase	Unmitigated Average Daily Emissions (pounds per day)					Unmitigated Average Daily Emissions (pounds per day)				
	ROG	NOX	PM10 Exhaust	PM2.5 Exhaust	Fugitive Dust	ROG	NOX	PM10 Exhaust	PM2.5 Exhaust	Fugitive Dust
2021										
Demolition[b]	1.54	16.41	0.72	0.67	---	0.29	2.83	0.03	0.03	---
Site Preparation[c]	0.61	6.24	0.31	0.29	---	0.08	0.32	0.01	0.01	---
Grading[d]	0.97	12.12	0.45	0.42	---	0.23	3.21	0.03	0.03	---
Total Average Daily[f]	3.12	34.77	1.49	1.38	7.21	0.60	6.36	0.07	0.07	3.25
2022										
Grading[d]	0.04	0.52	0.02	0.02	---	0.01	0.15	0.00	0.00	---
Building Construction[e]	1.90	16.80	0.80	0.75	---	0.55	3.67	0.05	0.05	---
Total Average Daily[f]	1.94	17.32	0.82	0.77	0.80	0.56	3.82	0.05	0.05	0.36
2023										
Building Construction[e]	1.78	15.56	0.70	0.66	---	0.54	3.41	0.05	0.04	---
Total Average Daily[f]	0.78	15.56	0.70	0.66	0.61	0.54	3.41	0.05	0.04	0.28
2024										
Building Construction[e]	1.33	11.61	0.49	0.46	---	0.41	2.70	0.04	0.04	---
Paving[g]	0.02	0.20	0.01	0.01	---	0.01	0.03	0.00	0.00	---
Architectural Coating[h]	42.34	0.13	0.01	0.01	---	42.33	0.02	0.00	0.00	---
Total Average Daily[f]	43.69	11.93	0.51	0.48	0.50	42.75	2.74	0.04	0.04	0.23
BAAQMD Significance Threshold	54	54	82	54	N/A	54	54	82	54	N/A
Significant Impact	No	No	No	No	N/A	No	No	No	No	N/A

NOTES:
[a]Mitigation includes Tier 4 Final off-road construction equipment.
[b]Demolition occurs from 10/4/2021 to 11/12/2021 for 30 workdays.
[c]Site Preparation occurs from 11/13/2021 to 11/26/2021 for 10 workdays.
[d]Grading occurs from 11/27/2021 to 1/7/2022 for 30 workdays.
[e]Building Construction occurs from 1/8/2022 to 8/2/2024 for 670 workdays.
[f]Total average daily emissions for each year are averaged over the following annual workdays: 65 in 2021, 260 in 2022, 260 in 2023, and 195 in 2024.
[g]Paving occurs from 8/3/2024 to 8/30/2024 for 20 workdays.
[h]Architectural Coating occurs from 8/31/2024 to 9/27/2024 for 20 workdays.

Source: 38478 Cedar Boulevard Project. Air Quality & Greenhouse Gas and Health Risk Assessment, September2022, ESA

Operations Impacts

Operational air emissions from the project would be generated primarily from vehicular trips by project occupants, delivery vehicles, as well as from on-site area and energy sources for space and water heating, landscape maintenance, use of consumer products such as hairsprays, deodorants,

cleaning products, etc. The project's operational emissions of ROG, NOX, PM10, and PM2.5 were also calculated using the CalEEMod. The results of the analysis indicate that these emissions would not exceed BAAQMD thresholds, as shown in **Table 3** below:

Table 3: Operational Emissions

Emission Source	Average Daily Emissions (pounds per day) [a]				Total Annual Emissions (tons per year)			
	ROG	**NO_X**	**PM_{10}**	**PM2.5**	**ROG**	**NO_X**	**PM_{10}**	**PM2.5**
Area	8.05	0.05	0.03	0.03	1.47	0.01	0.01	0.01
Mobile	1.10	5.59	4.00	1.10	0.20	1.02	0.73	0.20
Total	*9.15*	*5.64*	*4.03*	*1.13*	*1.67*	*1.03*	*0.74*	*0.21*
BAAQMD Significance	54	54	82	54	10	10	15	10
Thresholds								
Significant Impact?	No	No	No	No	No	No	No	No

NOTES:

Categories defined as follows:

Area = Emissions from landscaping equipment. Emissions were modeled using CalEEMod.

Energy (natural gas) = Emissions from natural gas combustion for space heating and cooking. Emissions were modeled using CalEEMod.

Mobile = Operating emissions from daily vehicle trips. Emissions were estimated outside of CalEEMod using emission factors from EMFAC2017.

[a] Average daily emissions are calculated by dividing by 365 days per year.

Source: 38478 Cedar Boulevard Project. Air Quality & Greenhouse Gas and Health Risk Assessment, September 2022, ESA

The project would also not exceed the BAAQMD screening criteria for local CO impacts as outlined in the project's Air Quality & Greenhouse Gas and Health Risk Assessment (**Appendix 1**), and would, therefore, have less than significant impact to localized CO concentrations.

Mitigation Measure

AQ-1. The project's construction plans shall include the Bay Area Air Quality Management District's (BAAQMD) Best Management Practices for fugitive dust control that shall be implemented for all construction activities in the project area, as follows:

i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

iii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

iv. All vehicle speeds on unpaved roads shall be limited to 15 mph.

v. All streets, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

vi. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]).

vii. Clear signage shall be provided for construction workers at all access points.

viii. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

ix. A publicly visible sign shall be posted with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

c. *Would the project expose sensitive receptors to substantial pollutant concentrations?*

California Air Resources Board (CARB) identifies children under 16, the elderly over 65, athletes, and people with cardiovascular and chronic respiratory diseases as sensitive receptors. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, and parks.

For cancer risk assessments, children are the most sensitive receptors, since they are more susceptible to cancer causing toxic air contaminants (TACs). Residential locations are assumed to include infants and small children. Development across Cedar Boulevard to the southwest of the project site is predominantly residential. There may also be potential sensitive receptors in the preschool in the same general vicinity of the project site. Impacts related to increased community risk can occur either by introducing a new source of TACs during construction and operation with the potential to adversely affect existing sensitive receptors in the project vicinity.

Construction Impact

The potential for the project to expose sensitive receptors to substantial pollutant concentrations is associated mainly with construction emissions, which involve diesel combustion equipment. Project construction activity would generate dust; construction equipment and associated heavy-duty truck traffic would generate diesel exhaust or diesel particulate matter (DPM), which is a known TAC due to its potential to cause cancer. Nearby sensitive receptors could be exposed to these pollutants as a result of construction activity.

The health risk assessment prepared for the proposed project evaluated potential health effects to nearby sensitive receptors to find the maximally exposed individuals (MEIs) from emissions of DPM and PM2.5 exhaust emissions from heavy construction equipment and trucks, and PM2.5 fugitive road dust from construction activities. The assessment methodology and analysis are described in detail in the report included as **Appendix 1**.

Results of this assessment indicated that the MEIR is in a single-family residence across Cedar Boulevard to the southwest of the project site (Figure 2, Appendix 1), where the maximum increased cancer risks from construction exceed the respective BAAQMD single-source thresholds (greater than 10.0 per million for cancer risk). The noncancer hazards from construction activities would be below

the single-source significance threshold of 1.0. The annual average PM2.5 concentrations would also be below the BAAQMD significance threshold of 0.3 µg/m. **Table 4** below summarizes these results.

Table 4: Modeled Maximum Excess Lifetime Cancer Risk, Chronic Hazard Index, and Average Annual PM2.5 Concentrations at the MEIR Location

Construction Scenario/ Maximally Exposed Individual Receptor	Cancer Risk (in 1 million)	Chronic Hazard Index (unitless)	$PM_{2.5}$ Concentration ($\mu g/m^3$)
Unmitigated Construction			
MEIR (child resident)	22.0	0.03	0.07
Kings Kids Preschool	8.4	0.01	0.03
BAAQMD Significance Threshold	10	1.0	0.3
Exceeds Threshold?	Yes	No	No
Mitigated Construction			
MEIR (child resident)	1.2	0.001	0.004
Kings Kids Preschool	0.4	0.0004	0.001
BAAQMD Significance Threshold	10	1.0	0.3
Exceeds Threshold?	No	No	No

Source: 38478 Cedar Boulevard Project. Air Quality & Greenhouse Gas and Health Risk Assessment, September 2022, ESA

Table 4 also presents a mitigated cancer risk value modeled with all equipment meeting U.S. EPA Tier 4 Final emissions standards. This mitigated scenario reduces the risks down to approximately 1 in one million, which is well below the BAAQMD threshold of 10 in one million. Therefore, **Mitigation Measure AQ 2** is required to reduce the cancer risk from project construction activity to a less than significant level.

Operations Impact

The proposed project being a residential development, would not generate substantial truck traffic or include stationary sources of emissions, such as generators powered by diesel engines. The majority of operational phase emissions from the project would be from gasoline-fueled passenger vehicles, which do not emit substantial amounts of TACs. Additionally, emissions from automobile traffic generated by the proposed project would be spread out over a broad geographical area and not localized because the trips going to and from the project would be dispersed to varied destinations. Therefore, operation of the proposed project is not expected to be a source of TAC or localized air pollutant emissions.

Cumulative Impact

Consistent with BAAQMD's CEQA Guidelines, the project's Health Risk Assessment (HRA) evaluates health risk from cumulative exposure to PM2.5, DPM, and other nearby sources of TACs for the MEIR that include three stationary, permitted automobile repair and body shops within 1,000 feet of the project site and mobile sources of TAC emitting DPM as well as volatile organic compounds in gasoline. Given that two of the automobile repair shops do not have any health risk values reported by the BAAQMD for cancer risk or PM2.5 concentrations and the third will be demolished prior to the construction of the proposed project, the HRA determines mobile sources as the only exiting sources of cumulative health risk at the MEIR.

Table 5 below shows both cumulative cancer risk with unmitigated and mitigated construction activity related to the project. As shown, both unmitigated and mitigated cancer risk impacts are below the BAAQMD cumulative cancer risk threshold of 100 per million, and both the unmitigated and mitigated cumulative PM2.5 concentrations are below the BAAQMD cumulative threshold of 0.8 μ/m3. The methodology for this analysis is described in detail in the project's HRA (**Appendix 1**).

Table 5: Cumulative Maximum Health Risks for Existing Off-Site MEIR

Receptor Type/TAC Source	**Lifetime Excess Cancer Risk (per million)**	**Annual Average PM2.5 Concentration ($\mu g/m_3$)**
Existing Off-site MEIR Project Construction, unmitigated	21.87	0.07
Background Rail	3.40	0.01
Background Major Street	1.25	0.03
Background Highway	24.53	0.43
Total	*51.05*	*0.54*
BAAQMD Significance Thresholds	100	0.8
Exceeds Threshold?	No	No
Existing Off-site MEIR Project Construction, mitigated	1.17	0.004
Background Rail	3.40	0.01
Background Major Street	1.25	0.03
Background Highway	24.53	0.43
	30.35	*0.43*
BAAQMD Significance Thresholds	100	0.8
Exceeds Threshold?	No	No

Source: 38478 Cedar Boulevard Project. Air Quality & Greenhouse Gas and Health Risk Assessment, September 2022, ESA

Mitigation Measure

AQ-2. The project developer and/or its construction contractors shall be required to use off-road diesel construction equipment compliant with U.S. EPA Tier 4 Final non-road engine standards. If Tier 4 Final equipment is unavailable for a portion of the project's equipment fleet, then prior to the commencement of construction activities, an emissions estimate will be modeled to identify the portion of the fleet that must use Tier 4 Final engines to achieve a cancer risk value below the BAAQMD significance threshold of 10 in one million. The list shall be made available at the construction site and shall be updated when new or replacement construction equipment are brought to the site.

LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

d. *Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?*

Operations of the project would not create any significant objectionable odors affecting a substantial number of people due to the residential nature of the proposed use. Nuisance diesel odors impacts could potentially occur to adjacent residences due to the operation of diesel construction equipment on-site during demolition and construction. However, this effect would be localized, sporadic, and short-term in nature and, therefore, less than significant. **LESS THAN SIGNIFICANT IMPACT**

Biological Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	■	☐	☐
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☐	☐	■
c. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	■
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	■
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	■	☐
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	■

Biological Resources Setting

The project site is fully developed/disturbed and in an urban area surrounded by existing urban development. The surrounding development comprises of I-880 to the northeast. A public storage facility is located to the northwest of the site with industrial buildings to the southeast. Single-family residential development, two church buildings (Cedars Church) and a pre-school (King Kids Preschool) are located across Cedar Boulevard to the southwest of the site. Existing development on the site itself consists of several commercial buildings and paved areas for circulation and parking for both vehicles brought in for repairs as well as employees and visitors to the site, and vehicle storage on site. The 2013 General Plan Tune Up Draft EIR did not identify any biologic resources on the project site or surrounding area.

Regulatory Setting

Federal and State

Special Status Species

Individual plant and animal species listed as rare, threatened or endangered under federal and state Endangered Species Acts are considered 'special-status species.' Federal and state "endangered species" legislation has provided the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations.

Permits may be required from both the USFWS and CDFW if activities associated with a proposed project will result in the "take" of a species listed as threatened or endangered. To "take" a listed species, as defined by the State of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill said species. "Take" is more broadly defined by the federal Endangered Species Act to include "harm" of a listed species.

In addition to species listed under state and Federal Endangered Species Acts, Subsections15380(b) and (c) of the CEQA Guidelines provide that all potential rare or sensitive species, or habitats capable of supporting rare species, are considered for environmental review per the CEQA Guidelines. These may include plant species of concern in California listed by the California Native Plant Society and CDFW listed "Species of Special Concern."

Migratory Bird and Birds of Prey Protections

The Federal Migratory Bird Treaty Act (MBTA) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment, a violation of the MBTA. Additionally, nesting birds are considered special-status species and are protected by the USFWS. The CDFW also protects migratory and nesting birds under California Fish and Game Code Section3503, 3503.5, and 3800. The CDFW defines taking as causing abandonment and/or loss of reproductive efforts through disturbance.

Sensitive Habitats

Wetland and riparian habitats are considered sensitive habitats under CEQA. They are also afforded protection under applicable federal, state, and local regulations, and are generally subject to regulation, protection, or consideration by the US Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), CDFW, and/or the USFWS under provisions of the Federal Clean Water Act, which is codified in Title 33 of the Code of Federal Regulations (CFR), and State of California Porter-Cologne Water Quality Control Act.

CDFW Stream/Riparian Habitat

Streambeds and banks, as well as associated riparian habitat, are regulated by the CDFW per Fish and Wildlife Code Section 1602. Work within the bed or banks of a stream or the adjacent riparian habitat requires a Streambed Alteration Agreement from the CDFW.

Local

General Plan

The City's General Plan contains several Goals, Policies and Actions for protection of biological resources. These goals, policies and actions are outlined on pg. CS-22 to CS-27 of the General Plan document.

Municipal Code

NMC Chapter 8.16, Preservation of Trees on Private Property, accords protection to any live woody plant having one or more well defined perennial stems with a trunk diameter of six inches or greater, measured at four feet above ground level growing within the City limits on any parcels of land except developed residential parcels of land 10,000 square feet or less in area. A permit from the Public Works Director is required to cut down, destroy, remove or move such trees.

Impact Analysis

a. *Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?*

Currently, the Project site is developed with commercial buildings and extensive paving for associated parking and access driveway. Vegetation in and around the site includes grown coniferous trees along Cedar Boulevard in front of the subject property. A few trees or large bushes are also located in the northern portion of the site, and a hedge partially borders the site to the rear in its southern portion. The existing building would be demolished and existing vegetation inside and in front of the property, including 28 trees (Appendix 2) removed to make way for the proposed project.

The existing trees could provide nesting habitat and their removal could impact migratory birds that may be nesting on these trees, which has the potential to result in a significant impact. To reduce these potential impacts to nesting birds, the project shall be required to implement **Mitigation Measure BIO-1**.

Mitigation Measure

BIO-1 Should the demolition and construction activities commence during the bird nesting season (February 1 to August 31), a pre-construction nesting bird survey shall be conducted by a qualified biologist no more than 14 days prior to the start of construction activities. Areas within 300 to 500 feet of construction shall be surveyed for active nests. Should active nests be identified, a disturbance-free buffer shall be established based on the needs of the species. The radius of the required buffer zone can vary depending on the species, (i.e., 75-100 feet for passerines and 200-500 feet for raptors), with the dimensions of any required buffer zones to be determined by a qualified biologist in consultation with California Department of Fish and Wildlife (CDFW).

To delineate the buffer zone around the occupied habitat, construction fencing shall be placed at the specified radius from the nest within which no machinery or workers shall intrude. The buffer zone shall be maintained and biological monitoring of active nests shall be conducted by a qualified biologist to ensure that nests are not disturbed and that buffers are appropriate adjusted by a qualified biologist as needed to avoid disturbance. No construction or earth-moving activity shall occur within any established nest protection buffer prior to September 1 unless it is determined by a qualified ornithologist/biologist that the young have fledged (that is, left the nest), have attained

sufficient flight skills to avoid project construction zones, that the nesting cycle is otherwise completed or the nest has failed. Should construction activities cease for 14 consecutive days or more within the nesting season, an additional nesting bird survey shall be required prior to resuming construction if any of the existing trees remain on or are adjacent to the site. Results of the pre-construction nesting bird survey shall be submitted to the City of Newark. **LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

b. *Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?*

As indicated above, the subject site is extensively developed under existing conditions. It is surrounded by urban development and is adjacent to I-880, which is a heavily traveled corridor by automobiles. There are no creeks or riparian habitat or other sensitive natural community on or in the vicinity of the project site. Therefore, the project will not have any impact in this regard. **NO IMPACT**

c. *Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

There is no presence of wetlands or other water bodies on or in the vicinity of the project site. **NO IMPACT**

d. *Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

The project site is urban and is surrounded by fences, buildings, and other barriers (e.g. I-880) to the movement of fish and wildlife species. There are no onsite water bodies on the site. There is no evidence of resident or migratory fish or wildlife species, established native resident or migratory wildlife corridors or native wildlife nursey sites on or in the immediate vicinity of the site where the development of the project could interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. **NO IMPACT**

e. *Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

NMC Chapter 8.16 governs the preservation of trees on private property. The City is not aware of any evidence of special status plant and animal species on the project site, and tree removal of trees on the project site with a trunk diameter of six inches or greater, measured at four feet above ground level shall require a permit from the City's Public Works Director. The grown coniferous trees at the front of the property are in the public right of way of Cedar Boulevard. These trees shall be removed in accordance with the applicable regulations of the Public Works Department and new trees planted as part of improvements associated with the proposed project. The removal of trees in accordance with the provisions of Chapter 8.16 will not result in a conflict with local policies or ordinances. **LESS THAN SIGNIFICANT IMPACT**

f. *Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?*

Newark is located within the California Public Utilities Commission's Bay Area Operations and Maintenance (O&M) Habitat Conservation Plan (HCP) area. In 2017, PG&E began implementation of the Bay Area O&M HCP, which covers the nine counties that surround San Francisco Bay: Sonoma, Marin, Napa, Solano, Contra Costa, Alameda, Santa Clara, San Mateo and San Francisco. This plan specifies various land cover types, including urban (non-natural) types. However, the project site and surroundings are characterized by urban development and the City is not aware of any potentially critical habitat for covered species in in the area of the project site. Alameda County is also not within the area of Natural Community Conservation Plans in the state[8]. **NO IMPACT**

[8] https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=68626&inline, last accessed June 2022

Cultural Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	☐	☐	☐	■
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	☐	☐	■	☐
c. Disturb any human remains, including those interred outside of dedicated cemeteries?	☐	☐	■	☐

Cultural Resources Setting

Cultural resources are defined as prehistoric and historic sites, structures, and districts, or any other physical evidence associated with human activity considered important to a culture, a subculture, or a community for scientific, traditional, religious or any other reason. Cultural resources may be categorized into three groups: historic resources, archaeological resources and Native American resources.

No historic resources in Newark have been placed on the National Register of Historic Places or California Register of Historic Resources. The City of Newark's Historic Preservation Program developed in 1989, provides a list of 42 buildings in Newark of "historic merit" with ownership, address, and ranking.

Native American cultural resources in western Alameda County are typically found near the Bay shore and adjacent to other seasonal and perennial watercourses. Over 50 archeological sites have been documented along the Bay shore from Richmond to Newark.[9] The project site, however, is located inland with no presence of watercourses on or in the vicinity of the site.

Regulatory Setting

Federal

The National Historic Preservation Act (NHPA) was passed in 1966 and established the Advisory Council on Historic Preservation (ACHP), State Historic Preservation Offices (SHPO), the National Register of Historic Places (NRHP), and Section 106 review process. The National Register of Historic Places (NRHP), established under the National Historic Preservation Act (NHPA), is a comprehensive inventory of known historic resources throughout the United States. The National Register is administered by the National Park Service and includes buildings, structures, sites, objects, and districts that possess historic, architectural, engineering, archaeological or cultural significance. National Register Bulletin Number 15, How to Apply the National Register Criteria for Evaluation, describes the Criteria for Evaluation as being composed of two factors. First, the property must be "associated with an important historic context," and second the property must retain integrity of those features necessary to convey its significance. Resources

[9] General Plan Tune Up Draft Program EIR, City of Newark, August 13, 2013, pg. 4.4-7, 4.4-6

determined eligible for listing or listed on the NRHP, are afforded protection under Section 106 of the NHPA (as well as under the California Environmental Quality Act).

The National Register identifies four possible context types or criteria, at least one of which must be applicable at the National, State, or local level. As listed under Section 8, "Statement of Significance," of the National Register of Historic Places Registration Form, these are:

a. Property is associated with events that have made a significant contribution to the broad patterns of our history.

b. Property is associated with the lives of persons significant in our past.

c. Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.

d. Property has yielded, or is likely to yield, information important to prehistory or history.

Upon determination of a resource's significance, an evaluation of a potential resource's integrity should be performed, where integrity is defined as the ability to convey significance. There are seven aspects of integrity including location, design, setting, materials, workmanship, feeling, and association. If a resource is considered significant based on the four criteria provided above and retains integrity, it is eligible for listing on the NRHP. When a cultural resource is added to the NRHP, it is automatically included on the California Register of Historical Resources (CRHR).

State

California Environmental Quality Act

The California Environmental Quality Act (CEQA) specifies that a project may result in a significant impact to the environment if it would cause a substantial adverse change in the significance of a historical resource (CEQA Guidelines Section 15064.5[b]). A substantial adverse change in the significance of a historical resource would occur if a project would result in the demolition or alteration of a historical resource in a manner that adversely impacts the physical characteristics that convey a resources' significance and that justify its eligibility for listing on the CRHR. For the purposes of CEQA, a resource is considered historically significant if it is:

a. Listed or eligible for listing on the California Register of Historical Resources;

b. Listed or eligible for listing on the National Register of Historic Places;

c. Included in a local register of historical resources, as defined in an historical resource survey meeting the requirements of Section 5024.1(g) of the Public Resource Code;

d. An object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California, provided the lead agency's determination is supported by substantial evidence in light of the whole record;

e. Meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code, Section 5024.1, Title 14 CCR, Section 4852).

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. The CRHR aids government agencies in identifying, evaluating, and protecting California's historical resources, and indicates which properties are to be protected from substantial adverse change (Public Resources Code, §5024.1(a)). The significance criteria for determining eligibility under the CRHR is similar to the criteria outlined above for NRHP. The CRHR is administered through the State Office of Historic Preservation (SHPO), which is part of the California State Parks system.

California Historical Building Code

The California Historical Building Code, provided in Part 2.7 of the Health and Safety Code, Division 13, §18950 through §18962 sets forth alternative building regulations and standards to encourage the rehabilitation, preservation, restoration or relocation of historical buildings, structures, and properties determined to have importance to the history, architecture, or culture of an area. The use of the California Historical Building Code is not mandated but provides alternatives to property owners interested in retaining character defining features of their historic resources.

Archaeological Resources and Human Remains

Archaeological, paleontological, and historical sites are protected by state policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 1427), and California Health and Safety Code. California Public Resources Code §5097.9 - 5097.991 require notification of discoveries of Native American remains and provides for the treatment and disposition of human remains and associated grave goods.

State Law requires that the County Coroner be notified if cultural remains are found on a site. If the Coroner determines the remains are those of Native Americans, the Native American Heritage Commission and a "most likely descendant" must also be notified.

Local

The City's General Plan includes goals, policies and actions to minimize or avoid impacts to such resources. These goals, policies, and actions are of the City of Newark And include policies LU-5.1 through LU-5.7 under GOAL LU-5 (Identify, preserve, and maintain historic structures and sites to enhance Newark's sense of place and create living reminders of the city's heritage).

The following discussion pertaining to impacts to cultural resources as a result of the proposed project is partially based on the information presented in the Historic Resource Assessment (HRA), dated June 17, 2022, prepared by Treonorhl for the project.

Impact Analysis

a. *Would the project cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?*

   The buildings on the site were constructed between 1964 and 1986. The 2022 Historic Resource Assessment (**Appendix 3**) includes an assessment and significance evaluation of the existing development on the site, consistent with the NRHP and CRHR criteria. In summary, the development on the site does not qualify as historic resource as described in the project HRA, June 2022. Therefore,

the proposed project would not cause an adverse change in the in the significance of a historical resource as defined in §15064.5. **NO IMPACT**

b. *Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?*

The proposed project would involve grading and a possibility exists of an accidental discovery or recognition of archaeological resource; however, the project site is located in an urban area and has been previously disturbed with past development. **Mitigation Measure CUL-1**, below, would reduce impacts if there is the presence of undiscovered cultural resources associated with past prehistoric human occupation in the vicinity of the Project site. **LESS THAN SIGNIFICANT IMPACT**

Mitigation Measure

CUL-1. During project construction, if historic, archaeological or Native American materials or artifacts are identified, work within 50 foot radius of such find shall cease and the City shall retain the services of a qualified archeologist and/or paleontologist to assess the significance of the find. If such find is determined to be significant by the archeologist and/or paleontologist, a resource protection plan conforming to CEQA §15064.5 shall be prepared by the archeologist and/or paleontologist and approved by the Community Development Director. The plan may include, but would not be limited to, removal of resources and similar actions. Project work may be resumed in compliance with such plan. If human remains are encountered, all ground disturbing activities near or in any area potentially overlying adjacent human remains shall cease, the County Coroner shall be contacted immediately, and the provisions of State law carried out.

c. *Would the project disturb any human remains, including those interred outside of dedicated cemeteries?*

No evidence available to the City suggests that human remains have been interred within the boundaries of the project site. The project site is located in an urban area and subject to decades of prior development. However, in the event human remains are discovered to be present during ground disturbing activities, the applicant would be subject to the California Health and Safety Code (HSC) §7050.5, which mandates the immediate cessation of ground disturbing activities near or in any area potentially overlying adjacent human remains and contacting the Alameda County Coroner. If it is determined by the Coroner that the discovered remains are of Native American descent, the Native American Heritage Commission shall be contacted immediately as required by the above stated permit condition of approval. Compliance with California HSC §7050.5, as required under state law, and performance of actions therein will ensure that in the event of accidental discovery of historically significant remains, all impacts will remain at levels below significance and would be addressed by the **Mitigation Measure CUL-1** above. **LESS THAN SIGNIFICANT IMPACT**

Energy

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	☐	☐	■	☐
b. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	☐	☐	■	☐

Energy Setting

The State CEQA Guidelines recommend that the discussion of applicable energy impacts focus on whether the project would result in the wasteful, inefficient, or unnecessary consumption of energy. Efficiency projects that incorporate conservation measures to avoid wasteful energy usage facilitate long-term energy planning and avoid the need for unplanned or additional energy capacity.

Energy legislation, policies, and standards adopted by California and local governments are enacted and promulgated for reducing energy consumption and improving efficiency (i.e., reducing wasteful and inefficient use of energy). These include the California Energy Efficiency Standards for Residential and Non-Residential buildings (Green Building Code and Title 24).

The following analysis discusses consistency with legislation, policies, or standards designed to avoid wasteful and inefficient energy usage as the basis for evaluating whether the project would result in a significant impact related to energy resources and conservation.

Regulatory Setting

Renewable Energy Standards

In 2002 under Senate Bill (SB) 1078, California established a Renewable Portfolio Standard program with the goal of increasing the annual percentage of renewable energy in the State's electricity mix by the equivalent of at least one-percent of sales, with an aggregate total of 20 percent by 2017. The California Public Utilities Commission subsequently accelerated that goal to 2010 for retail sellers of electricity (Public Utilities Code §399.15(b)(1)). Then-Governor Schwarzenegger signed Executive Order S-14-08 in 2008, increasing the target to 33 percent renewable energy by 2020. In September 2009, then-Governor Schwarzenegger continued California's commitment to the Renewable Portfolio Standard by signing Executive Order S-21- 09, which directs the California Air Resources Board under its AB 32 authority to enact regulations to help the State meet its Renewable Portfolio Standard goal of 33 percent renewable energy by 2020. In September 2010, the California Air Resources Board adopted its Renewable Electricity Standard regulations, which requires all State's load-serving entities to meet this target.

Senate Bill 350, signed into legislation in October 2015 by then-Governor Jerry Brown, requires retail sellers and publicly-owned utilities to procure 50 percent of their electricity from eligible renewable energy resources by 2030. Signed in 2018, SB 100 revised the goal of the program to achieve the 50

percent renewable resources target by December 31, 2026, and to achieve a 60 percent target by December 31, 2030. SB 100 also established a further goal to have an electric grid that is entirely powered by clean energy by 2045 i.e. zero carbon electricity by 2045. Under the bill, the State cannot increase carbon emissions elsewhere in the western grid or allow resource shuffling to achieve the 100 percent carbon-free electricity target.

2008 Energy Action Plan Update

California adopted the California Energy Action Plan in 2003, followed by the Energy Action Plan II in 2005. The current plan, the California 2008 Energy Action Plan Update, is California's principal energy planning and policy document. The updated document examines the state's ongoing actions in the context of global climate change, describes a coordinated implementation plan for state energy policies, and identifies specific action areas to ensure that California's energy resources are adequate, affordable, technologically advanced, and environmentally sound. The California 2008 Energy Action Plan Update establishes energy efficiency and demand response (i.e., reduction of customer energy usage during peak periods) as the first-priority actions to address California's increasing energy demands. Additional priorities include the use of renewable sources of power and distributed generation (i.e., the use of relatively small power plants near or at centers of high demand). To the extent that these actions are unable to satisfy the increasing energy demand and transmission capacity needs, clean and efficient fossil-fired generation is supported. The California 2008 Energy Action Plan Update examines policy changes in the areas of energy efficiency, demand response, renewable energy, electricity reliability and infrastructure, electricity market structure, natural gas supply and infrastructure, research and development, and climate change.

Building Codes

Energy conservation standards for new residential and nonresidential buildings were adopted by the California Energy Resources Conservation and Development Commission (now the California Energy Commission (CEC)) in June 1977 and are updated every three years (Title 24, Part 6, of the California Code of Regulations). Title 24 requires the design of building shells and building components to conserve energy. The standards are updated periodically to allow for consideration and possible incorporation of new energy efficiency technologies and methods. On May 9, 2018, the CEC adopted the 2019 Building Energy Efficiency Standards, which took effect on January 1, 2020, and is the current building code.

The 2019 Standards improve upon the previous 2016 Standards. Under the 2019 Title 24 standards, residential buildings are expected to be about 7 percent more energy efficient, and when the required rooftop solar is factored in for low-rise residential construction, residential buildings that meet 2019 Title 24 standards would use about 53 percent less energy than those built to meet the 2016 standards. Nonresidential buildings will use about 30 percent less energy than those built to meet the 2016 standards.

The proposed 2022 Energy Code update improves upon the 2019 Standards with the goal of 100 percent clean electricity and carbon neutrality by midcentury, or earlier, and focuses on four key areas in new construction of homes and businesses:

1. Encouraging electric heat pump technology and use
2. Establishing electric-ready requirements when natural gas is installed
3. Expanding solar photovoltaic (PV) system and battery storage standards

4. Strengthening ventilation standards to improve indoor air quality.

The California Green Building Standards Code (California Code of Regulations, Title 24, Part 11), commonly referred to as the CALGreen Code, is a statewide mandatory construction code that was developed and adopted by the California Building Standards Commission and the California Department of Housing and Community Development. CALGreen standards require new residential and commercial buildings to comply with mandatory measures under five topical areas: planning and design; energy efficiency; water efficiency and conservation; material conservation and resource efficiency; and environmental quality. CALGreen also provides voluntary measures (CALGreen Tier 1 and Tier 2) that local governments may adopt which encourage or require additional measures in the five green building topics. The current CALGreen Code was adopted in 2019 and took effect on January 1, 2020. The 2022 CALGreen Code will take effect in January 2023.

Impact Analysis

a. *Would the project result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?*

   The proposed project would be considered to result in wasteful, inefficient or unnecessary consumption of energy if it failed to comply with applicable regulations/policies and failed to incorporate applicable, feasible energy demand reduction/efficiency measures.

   During construction, energy use would occur from the use and transport of construction equipment, delivery vehicles, haul trucks, and construction worker vehicles that would rely on petroleum fuels (e.g., diesel fuel and/or gasoline). There are no unusual project characteristics, which would require the use of construction equipment that would be less energy efficient than those commonly used for the construction of similar facilities. As such, it is not anticipated that the project would result in the need for additional capacity or increased peak-period demands for electricity during construction. Therefore, the project is not anticipated to result in wasteful, inefficient, or unnecessary consumption of energy resources during project construction.

   The project, when constructed, would be subject to energy conservation requirements in the applicable California Energy Code (Title 24, Part 6, of the California Code of Regulations, California's Energy Efficiency Standards for Residential and Nonresidential Buildings) and CALGreen (Title 24, Part 11 of the California Code of Regulations). In that the project would be required to comply with the California Energy Code and CALGreen, it is not anticipated to result in wasteful, inefficient or unnecessary consumption of energy resources. Additionally, the project would be developed on an infill housing site identified as Opportunity Site "G" in the City of Newark Housing Element Update, 2015. Infill development is a strategy identified in the 2015 Housing Element to promote energy conservation. Therefore, the project is not anticipated to have a significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. **LESS THAN SIGNIFICANT IMPACT**

b. *Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?*

   As discussed above, the proposed project would be required to comply with energy conservation requirements in the California Energy Code (Title 24, Part 6, of the California Code of Regulations, California's Energy Efficiency Standards for Residential and Nonresidential Buildings) and CALGreen

(Title 24, Part 11 of the California Code of Regulations. These requirements implement State energy plans.

The City of Newark's January 2010 Climate Action Plan (CAP), provides an initial framework can be regarded as the local plan for energy efficiency. The CAP does not incorporate any requirements but sets forth recommended action items where the overall plan for Residential Community action is to outreach, encourage and provide incentives, when possible, for accomplishing energy efficiency in residential buildings. The action items in the CAP are consistent with the goals of Title 24, which would be required to be implemented in the development of the project. As a result, the project would not conflict with or obstruct the City's CAP. **LESS THAN SIGNIFICANT IMPACT**

Geology and Soils

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	■	☐
2. Strong seismic ground shaking?	☐	■	☐	☐
3. Seismic-related ground failure, including liquefaction?	☐	■	☐	☐
4. Landslides?	☐	☐	■	☐
b. Result in substantial soil erosion or loss of topsoil?	☐	☐	■	☐
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	■	☐	☐
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	☐	■	☐	☐
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	■
f. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	■	☐

Geology and Soils Setting

Regional and Site Geology

The project site is in the San Francisco Bay area, which is one of the most seismically active regions in the country because of its proximity to the San Andreas fault system. The major active faults in the area are the Hayward, Calaveras, and San Andreas faults with the former two located to the northeast and the San Andreas fault located to the southwest of the project site. San Gregorio fault is also located in the area further away to the southwest of the site. However, the site is not within an Earthquake Fault Zone, as

defined by the Alquist-Priolo Earthquake Fault Zoning Act[10], and no known active or potentially active faults exist on the site.

Subsurface Conditions

To determine subsurface conditions of the site as part of a geotechnical subsurface exploration program, eight exploratory drill holes (DH-1 through DH-8) and three core penetration test (CPT) probes (CPT-1 through CPT-3), in locations shown in Figure-1 of the project's geotechnical report (**Appendix 4**). A majority of the site includes a pavement section consisting of roughly 2 to 3 inches of asphalt concrete over roughly 4 to 6 inches of base rock at ground surface. Subsurface conditions between the exploratory drill holes and CPT probes are relatively varied. In general, stiff to very stiff and hard clay soils of intermediate plasticity underlain by sandy and sandy clay soils were encountered in exploratory borings; silty clay to clay underlain by silty sand to sandy silt followed by silty clay to clay comprises the interpreted soil behavior types in the CPT. Ground water was encountered at a depth of 10-11 feet below ground surface (bgs). As outlined in the project's geotechnical report, historically high groundwater level at the site has been approximately 10 feet bgs.

Seismic Hazards

Fault Rupture

Fault rupture occurs when the ground surface fractures as a result of fault movement during an earthquake and almost always follows preexisting fault traces, which are zones of weakness. The proximity to faults can result in strong seismic ground shaking.

Ground Shaking

Ground shaking on the site would result from seismic activity at the San Andreas, Calaveras, Hayward and San Gregorio faults. Shaking intensity at the site will depend on the characteristics of the generating fault, distance to the earthquake epicenter, and magnitude and duration of the earthquake. Strong to very strong ground shaking could be felt at the site during a large earthquake from one of the nearby faults.

Liquefaction

Liquefaction is a phenomenon in which saturated granular soils and certain fine-grained soils lose their strength due to the build-up of excess pore water pressure during cyclic loading, such as from strong ground shaking during earthquakes. Soil with loose to medium dense sand and gravel, low-plasticity silt, and low plasticity clay deposits are susceptible to liquefaction. As such, the primary factors affecting soil liquefaction include: 1) intensity and duration of seismic shaking; 2) soil type; 3) relative density of granular soils; 4) moisture content and plasticity of fine-grained soils; 5) overburden pressure; and 6) depth to ground water.

The effects of liquefaction include lateral spreading, differential settlement, and loss of bearing strength. As indicated in the project's geotechnical report, the project site is located in a liquefaction hazard zone per California Geological Survey (CGS) Earthquake Zones of Required Investigation.

[10] Alquist-Priolo earthquake fault zones are regulatory zones surrounding the surface traces of active faults in California. Earthquake fault zones were conceived in the Alquist-Priolo Earthquake Fault Zoning Act (Alquist-Priolo Act) with the intent to reduce losses from surface fault rupture.

Landslides

Landslides may be triggered by earthquakes causing earth and debris flow along slopes. The project site is level and not in proximity to sloping terrain except that the Alameda County Flood Control and Water Conservation District (ACFCWCD) channel is located in close proximity to the site to its southeast. This channel is about 10 feet in depth and lined with Gabion type retaining structures on both banks.

Lateral Spreading

Lateral spreading is a phenomenon where surficial soil is laterally displaced by riding along an underlying liquefied layer in a downslope direction or toward a free face, such as a channel bank. Liquefaction-induced lateral spreading can also occur on mild slopes (flatter than 5%) underlain by loose sands and a shallow groundwater table. If liquefaction occurs, the unsaturated overburden soil can slide as intact blocks over the lower, liquefied deposit, creating fissures and scarps. The potential for lateral spreading in general mirrors the potential for liquefaction, and the depth of the liquefiable soil layers with respect to the creek banks.

As noted above, the project site is in proximity to the Alameda County Flood Control and Water Conservation District (ACFCWCD) channel located off-site to the southeast of the subject site. The top of the western channel bank is about 20 to 25 feet from the eastern property line of the subject project site.

Regulatory Setting

Federal

Earthquake Hazards Reduction Act

The United States Congress passed the Earthquake Hazards Reduction Act in 1977 to reduce the risks to life and property from future earthquakes in the United States through the establishment and maintenance of an effective earthquake hazards reduction program. To accomplish this goal, the act established the National Earthquake Hazards Reduction Program. This program was substantially amended in November 1990 by the National Earthquake Hazards Reduction Program Act, which refined the description of agency responsibilities, program goals, and objectives.

Paleontological Resources Preservation Act

The Federal Paleontological Resources Preservation Act of 2002 codifies the generally accepted practice of limited vertebrate fossil collection and limited collection of other rare and scientifically significant fossils by qualified researchers. Researchers must obtain a permit from the appropriate state or federal agency and agree to donate any materials recovered to recognized public institutions, where they will remain accessible to the public and to other researchers.

State

Alquist-Priolo Earthquake Fault Zoning Act and Seismic Hazards Mapping Act

The Alquist-Priolo Earthquake Fault Zoning Act (Pub. Res. Code Division 2, Chapter 7.5, commencing with Section 2621) was passed in 1972 to mitigate the hazard of surface faulting to structures for human occupancy. The Alquist-Priolo Earthquake Fault Zoning Act's main purpose is to prevent the construction of buildings used for human occupancy on the surface trace of active faults. The legislation only addresses the hazard of surface fault rupture and is not directed toward other earthquake hazards.

The Seismic Hazards Mapping Act (Pub. Res. Code Division 2, Chapter 7.8, commencing with Section 2690) was passed in 1990 and requires the State Geologist to designate Seismic Hazard Zones. These zones assist cities and counties in fulfilling their responsibilities for protecting the public from the effects of non-surface fault rupture earthquake hazards such as strong ground shaking, earthquake-induced landslides, liquefaction, or other ground failures.

California and Uniform Building Codes

The California Building Standards Code (California Code of Regulations (CCR), Title 24) is the compilation of building codes adopted by the State. Title 24 incorporates the International Building Code, prepared as a widely accepted model building code by the International Code Council (ICC), and includes necessary California amendments. These amendments include standards for seismic design.

The purpose of the California Building Code is to establish minimum requirements to safeguard public health, safety, and general welfare, including standards for safety to life and property from fire and other hazards attributed to the built environment. Commercial and residential buildings are plan-checked by local city and county building officials for compliance with the California Building Code.

California Public Resources Code

Section 5097 of the Public Resources Code specifies the procedures to be followed in the event of the unexpected discovery of paleontological resources. Section 5097.5 of the Code states that no person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface any vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, or any other paleontological feature, situated on public lands, except with the express permission of the public agency having jurisdiction over such lands.

Local

City of Newark Building Code

The City has adopted the 2019 California Building Code by reference and it was amended through NMC Chapter 15.08. New construction or improvements are subject to the Newark Building Department's review and approval.

City of Newark Grading and Excavation Code

NMC Chapter 15.50 sets forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspection of grading construction. The City's Grading and Excavation Code is administered by the City's Public Works Department.

The discussion below draws upon the information presented in the *Geotechnical Study*, dated September 8, 2021, prepared by Geo-Logic Associates for the project.

Impact Analysis

a. *1. Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?*

The project site is not located in an Alquist-Priolo Earthquake Fault Zone. As indicated in the project's geotechnical study, the closest fault to the project site is the Hayward fault, located approximately 2.5 miles to the northeast of the project site. There are no known active or potentially active faults that traverse the site. Therefore, the project's geotechnical study concludes that the risk of fault rupture at the site from a known active fault is low. **LESS THAN SIGNIFICANT IMPACT**

a. *2. Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?*

As discussed above, Newark is in the San Francisco Bay region, which is one of the most seismically active regions in the United States, because of the region's proximity to the San Andreas Fault system. The major active faults in the area are the Hayward, Calaveras, San Andreas and San Gregorio faults. As indicated above, the Hayward fault is approximately 2.5 miles northeast of the project site. Therefore, the potential exists for a large earthquake to induce strong to very strong ground shaking at the site during the life of the project. The project's geotechnical study anticipates that the proposed structures will be subject to at least one severe earthquake (magnitude 7 to 8+), and periodically experience small to moderate magnitude earthquakes. To reduce this potential impact to a level considered less than significant, **Mitigation Measure GEO-1** is provided.

Mitigation Measure

GEO-1 . The applicant shall provide evidence that structural considerations for construction on this site include the design parameters listed under CBC Seismic Design Criteria, and recommendations of the project's Geotechnical Study, dated September 8, 2021, prepared by Geo-Logic Associates dated September 8, 2021, prepared by Geo-Logic Associates, including, but not limited, to recommendations related to grading, drainage, excavation, foundations systems, and compaction specifications shall be implemented. Final grading plan, construction plans, and building plans shall demonstrate that recommendations set forth in the geotechnical reports have been incorporated into the final design of the project and the design of the post-tensioned slab foundations addresses potential settlements from building loads and liquefaction to the satisfaction of the City of Newark City Engineer.

LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

a. *3. Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction?*

As noted previously, the project site is located in a liquefaction hazard zone per California Geological Survey (CGS) Earthquake Zones of Required Investigation. Geotechnical investigation undertaken for the project site indicates there are thin layers of potentially liquefiable soil underlying the site below depths of about 28 feet bgs. The analysis incorporated in the Geotechnical Report indicates that some of the subsurface soils are prone to liquefaction when subject to seismic shaking. The estimated liquefaction-induced total ground settlements are on the order of 1½ to 2¼ inches. The potential differential settlements would be on the order of 1 inch. To reduce this potential impact to less than significant level, the project's geotechnical study indicates that the post-tensioned slab foundations recommended for the project can be designed to accommodate the potential settlements from building loads and liquefaction. **Mitigation Measure GEO-1** would reduce this impact to a less than significant level.

LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

a. *4. Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides?*

The project is located in a level area of the City and is not adjacent to any hillside areas. The project's geotechnical study performed a static and pseudo-static slope stability analysis to evaluate the stability of the ACFCWCD channel approximately 20-25 feet from the southeastern boundary of the project site. The analysis, detailed in the geotechnical study (Appendix 4) concluded that the potential for lateral spreading to affect the project site is low. Therefore, the exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides is less than significant. **LESS THAN SIGNIFICANT IMPACT**

b. *Would the project result in substantial soil erosion or loss of topsoil?*

Development of the proposed project will require site preparation and grading activities that will potentially result in soil erosion or the loss of topsoil if not properly controlled. However, ground disturbing activities on the project site will be expected to be carried out in accordance with the City of Newark "Grading and Excavation" regulations (NMC Chapter 15.50), administered by the City's Public Works Department. The project's grading and drainage plans shall be expected to demonstrate compliance with NMC Chapter 15.50 because of which the soil erosion or loss of topsoil impacts as a result of the project would be less than significant. **LESS THAN SIGNIFICANT IMPACT**

c. *Would the project be located on a geologic unit or that would become unstable as a result of the project, and potentially result in on or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?*

The project's geotechnical study indicates the subsurface soils at the project site can be generalized as alluvium. As discussed in section a, there is a potential for liquefaction when the site is subjected to seismic shaking with the estimated liquefaction-induced total ground settlements being on the order of 1½ to 2¼ inches. Per the project's geotechnical study, the post-tensioned slab foundations of proposed structures can be designed to accommodate the potential settlements from building loads and liquefaction. With implementation of **Mitigation Measure GEO-1** the proposed project would result in less than significant impact with respect to on or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse as a result of its development. **LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

d. *Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?*

The near surface soil on the project site has intermediate plasticity that generally corresponds to moderate to high expansion potential. The project site is anticipated to be moderately expansive. Expansive near-surface soil is subject to volume changes during seasonal fluctuations in moisture content. These volume changes can cause movement and cracking of foundations, slabs, and pavements. However, construction would occur pursuant to **Mitigation Measure GEO-1**, which require implementation of the recommendations in the geotechnical study for the project that would reduce the impact related to expansive soils to a less than significant level. **LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

e. *Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?*

No onsite septic tanks or alternative wastewater treatment facilities are proposed as part of the project. **NO IMPACT**

f. *Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

Paleontological resources (fossils) are the remains of prehistoric plant and animal life and do not include of human remains or artifacts. The potential for fossil remains at a location can be predicted based on whether previous fossil finds have been made in the vicinity, and the age of the geologic formations.

The City of Newark is located within a westward sloping alluvial plane and is underlain by Holocene flood basin deposits and Holocene Bay mud, which are considered as too recent to qualify as fossils in a strict sense by many paleontologists.[11] The project site is developed and previously disturbed. Given the lack of paleontological resource discoveries in the City and the age of recent subsurface soils, it is unlikely that the project construction activities would directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. **LESS THAN SIGNIFICANT IMPACT**

[11] General Plan Tune Up Draft Program EIR, City of Newark, August 13, 2013, pg.4-4.5

Climate Change and Greenhouse Gas Emissions

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	■	☐
b. Conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	■	☐

Climate Change and Greenhouse Gas (GHG) Emissions Setting

Climate change is the increase in the average temperature of the Earth's atmosphere and oceans along with other substantial changes in climate (such as wind patterns, precipitation, and storms) over an extended period of time. Changing climatic conditions pose several potentially adverse impacts including sea level rise, increased risk of wildfires, degraded ecological systems, deteriorated public health, and decreased water supplies.

Climate change is the result of numerous, cumulative sources of GHGs, gases that trap heat in the atmosphere, analogous to the way in which a greenhouse retains heat. Common GHGs include water vapor, carbon dioxide (CO_2), methane (CH_4), nitrous oxides (N_2O), fluorinated gases, and ozone. GHGs are generated from natural geological and biological processes and through human activities including the combustion of fossil fuels and industrial and agricultural processes. Four main greenhouse gases that are emitted by human activities at the global scale are as follows:

- *Carbon dioxide (CO_2):* Carbon dioxide enters the atmosphere through burning fossil fuels (coal, natural gas, and oil), solid waste, trees and other biological materials, and also as a result of certain chemical reactions (e.g., manufacture of cement). Carbon dioxide is removed from the atmosphere (or "sequestered") when it is absorbed by plants as part of the biological carbon cycle.
- *Methane (CH_4):* Methane is emitted during the production and transport of coal, natural gas, and oil. Methane emissions also result from livestock and other agricultural practices, land use and by the decay of organic waste in municipal solid waste landfills.
- *Nitrous oxide (N_2O):* Nitrous oxide is emitted during agricultural, land use, industrial activities, combustion of fossil fuels and solid waste, as well as during treatment of wastewater.
- *Fluorinated gases:* Hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and nitrogen trifluoride are synthetic, powerful, fluorinated greenhouse gases that are emitted from a variety of industrial processes. Fluorinated gases are sometimes used as substitutes for stratospheric ozone-depleting substances (e.g., chlorofluorocarbons, hydrochlorofluorocarbons, and halons). These gases are typically emitted in smaller quantities, but because they are potent greenhouse gases, they are sometimes referred to as High Global Warming Potential gases ("High GWP gases"). These gases have greater heat absorption potential that CO_2.

CO_2 is the primary greenhouse gas emitted through human activities. While it is naturally present in the atmosphere as part of the Earth's carbon cycle (the natural circulation of carbon among the atmosphere, oceans, soil, plants, and animals), human activities are altering the carbon cycle both by adding more CO_2 to the atmosphere, and by influencing the ability of natural sinks, like forests and soils, to remove and store CO_2 from the atmosphere.

In 2019, CO_2 accounted for about 80 percent of all greenhouse gas emissions from human activities in the United States. The main sources of CO_2 emissions in the United States are from fossil fuel combustion in transportation, electricity generation, and industrial processes.

Regulatory Setting

Federal

The U.S. EPA has the authority to regulate motor-vehicle greenhouse gas (GHG) emissions under the federal Clean Air Act (CAA), pursuant to the ruling established by the U.S. Supreme Court in *Massachusetts et al. v. Environmental Protection Agency et al.* ([2007] 549 U.S. 05-1120). In October 2012, following the Supreme Court ruling, the U.S. EPA issued a Final Rule for mandatory reporting of GHG emissions. This Final Rule applies to fossil fuel suppliers, industrial gas suppliers, direct GHG emitters, and manufacturers of heavy-duty and off-road vehicles and vehicle engines, and requires annual reporting of emissions.

In 2012, the U.S. EPA issued a Final Rule establishing the GHG permitting thresholds that determine when Clean Air Act permits under the New Source Review Prevention of Significant Deterioration (PSD) and Title V Operating Permit programs are required for new and existing industrial facilities. The U.S. EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD or Title V permit, pursuant to the U.S. Supreme Court in Utility Air Regulatory Group v. EPA (134 S. Ct. 2427 [2014]) ruling. The Court also held that PSD permits that are otherwise required (based on emissions of other pollutants) may continue to require limitations on GHG emissions based on the application of Best Available Control Technology (BACT).

The EPA's Greenhouse Gas Reporting Program (GHGRP) requires reporting of GHG data and other relevant information from large GHG emission sources, fuel and industrial gas suppliers, and CO_2 injection sites in the United States. Approximately 8,000 facilities are required to report their emissions annually, and the reported data are made available to the public in October of each year.

State

Executive Order S-3-05

Executive Order S-3-05 was signed by then-Governor Arnold Schwarzenegger on June 1, 2005, with the goal to reduce California's GHG emissions to: (1) 2000 levels by 2010, (2) 1990 levels by 2020 and (3) 80% below the 1990 levels by the year 2050.

Assembly Bill 32

The California legislature passed the California Global Warming Solutions Act in 2006 (Assembly Bill 32), which created a comprehensive, multi-year program to reduce GHG emissions in California. AB 32 required the California Air Resources Board (CARB) to develop a Scoping Plan that describes the approach California will take to reduce GHGs to achieve the goal of reducing emissions to 1990 levels by 2020.

The Scoping Plan was first approved by the CARB in 2008 and must be updated every five years. The CARB Scoping Plan, 2008, contained California's main strategies to reduce GHGs from business-as-usual emissions projected in 2020 back down to 1990 levels. The First Update to the Climate Change Scoping Plan was approved by the Board on May 22, 2014. This update built upon the 2008 Scoping Plan, identified next steps for climate action in California, and laid the foundation for establishing a broad framework for continued emission reductions beyond 2020, on the path to 80 percent below 1990 levels by 2050.

Senate Bill 32

In 2016, the Legislature passed Senate Bill (SB) 32, which codifies a 2030 GHG emissions reduction target of 40 percent below 1990 levels. With SB 32, the Legislature passed companion legislation in AB 197, which provides additional direction for developing the Scoping Plan.

In November 2017, CARB issued California's 2017 Climate Change Scoping Plan, which is an update to reflect the enacted SB 32 reduction target and identifies how the State can reach the 2030 climate target to reduce greenhouse gas (GHG) emissions by 40 percent from 1990 levels, as set by Executive Order B 30-15 and codified by SB 32. Key features of this Plan are:

- Cap and Trade program places a firm limit on 80 percent of the State's emissions;
- Achieving a 50-percent Renewable Portfolio Standard by 2030;
- Increase energy efficiency in existing buildings;
- Develop fuels with an 18-percent reduction in carbon intensity;
- Develop more high-density, transit-oriented housing;
- Develop walkable and bikeable communities;
- Greatly increase the number of electric vehicles on the road and reduce oil demand in half;
- Increase zero-emissions transit so that 100 percent of new buses are zero emissions;
- Reduce freight-related emissions by transitioning to zero emissions where feasible and near-zero emissions with renewable fuels everywhere else; and
- Reduce "super pollutants" by reducing methane and HFCs by 40 percent.

The 2017 Climate Change Scoping Plan also describes how the State can substantially advance toward the 2050 climate goal to reduce GHG emissions by 80 percent below 1990 levels.

The CARB is currently in the process of developing the 2022 Scoping Plan Update, which will assess progress towards achieving the 2030 goals identified in Senate Bill 32 and will lay a path towards achieve carbon neutrality no later than 2045.

Senate Bill 375

Senate Bill (SB) 375, signed in August 2008, enhances the state's ability to reach AB 32 goals by directing CARB to develop regional GHG emission reduction targets to be achieved from passenger vehicles for 2020 and 2035. In addition, SB 375 directs each of the state's 18 major Metropolitan Planning Organizations (MPO) to prepare a "sustainable communities strategy" (SCS) that contains a growth strategy to meet these emission targets for inclusion in the Regional Transportation Plan (RTP). On September 23, 2010, CARB adopted final regional targets for reducing GHG emissions from 2005 levels by 2020 and 2035 to curb GHGs by reducing urban sprawl and vehicle miles traveled**.**

Regional

BAAQMD 2017 Clean Air Plan

As described under "Regulatory Setting" of the Air Quality Section, the 2017 Clean Air Plan, adopted by the BAAQMD on April 19, 2017, aims to attain State and Federal AAQS, eliminate disparities among Bay Area communities in cancer health risk from toxic air contaminants, and reduce Bay Area greenhouse gas (GHG) emissions to 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050. The CAP contains 85 control measures that have been developed for stationary sources, transportation, energy, buildings, agriculture, natural and working lands, waste management, water, and super-GHG pollutants.

BAAQMD 2017 CEQA Air Quality Guidelines

As described under "Regulatory Setting" of the Air Quality Section, these guidelines contain instructions on how to evaluate, measure, and mitigate air quality impacts generated from land development construction and operation activities. The Guidelines focus on criteria air pollutant, GHG, toxic air contaminant, and odor emissions generated from plans or projects, and are intended to help lead agencies navigate through the CEQA process.

GHG impacts are considered to be exclusively cumulative impacts (BAAQMD, 2017b; CAPCOA, 2008) because vast majority of individual projects do not generate sufficient GHG emissions to directly influence climate change, However, physical changes caused by a project can contribute incrementally to cumulative effects that are significant, even if individual changes resulting from a project are limited. Therefore, assessment of significance is based on a determination of whether the GHG emissions from a project represent a cumulatively considerable[12] contribution to the global atmosphere.

The 2017 CEQA Guidelines include Thresholds of Significance where a project that would generate GHG emissions above the threshold level, would be considered to contribute substantially to a cumulative impact, and would be considered significant. The project level thresholds of significance for GHGs as incorporated in the current version of the CEQA guidelines are as follows:

Table 6: CEQA Thresholds of Significance for Greenhouse Gas Emissions, 2017 CEQA Guidelines

Pollutant	Construction Related	Operational-Related[a]
GHGs – Projects Other Than Stationary Sources	None	Compliance with Qualified GHG Reduction Strategy OR 1,110 MT of CO_2e/yr OR 4.6 MT CO2e/SP/yr (residents+employees)
GHGs – Stationary Sources	None	10,000 MT/yr
The quantitative operational related thresholds are 2020 mass emissions thresholds that must be interpolated and adjusted for 40 percent reduction to meet SB 32 - 2030 horizon year target year based on CARB's California's 2017 Climate Change Scoping Plan.		

Source: BAAQMD, 2017

BAAQMD released its Justification Report CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans (BAAQMD Justification Report) in April 2022. The BAAQMD Justification Report presents updates to the CEQA GHG thresholds from the 2017 CEQA Guidelines, which were not consistent with the statewide GHG target established by SB 32. The GHG thresholds of significance were updated to consider newer state reduction targets and plans for eventual carbon neutrality by 2045. The updated thresholds emphasize: (1) Avoiding wasting electricity and developing fossil fuel infrastructure in new buildings that will be in place for decades and thus conflict with carbon neutrality by 2045, (2) Compliance with CALGreen Tier 2 electric vehicle requirements and per capita VMT reductions consistent with SB 743, and (3) Consistency with a qualified greenhouse reduction strategy (also known as a Climate Action Plan).

BAAQMD's new GHG thresholds of significance replace the 2017 thresholds for use in determining whether a proposed project will have a significant impact on climate change. These thresholds are contained in **Table 7** below.

Table 7: CEQA Thresholds of Significance for Greenhouse Gas Emissions, Adopted April 2022

Thresholds for Land Use Projects (Must Include A or B)
A. Projects must include, at a minimum, the following project design elements: 1. Buildings a. The project will not include natural gas appliances or natural gas plumbing (in both residential and nonresidential development). b. The project will not result in any wasteful, inefficient, or unnecessary energy usage as determined by the analysis required under CEQA Section 21100(b)(3) and Section 15126.2(b) of the State CEQA Guidelines. 2. Transportation a. Achieve a reduction in project-generated vehicle miles traveled (VMT) below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted Senate Bill 743 VMT target, reflecting the recommendations provided in the Governor's Office of Planning and Research's Technical Advisory on Evaluating Transportation Impacts in CEQA: i. Residential projects: 15 percent below the existing VMT per capita ii. Office projects: 15 percent below the existing VMT per employee iii. Retail projects: No net increase in existing VMT b. Achieve compliance with off-street electric vehicle requirements in the most recently adopted version of CALGreen Tier 2.
B. Be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b).

Source: Bay Area Air Quality Management District CEQA Thresholds Justification Report April 2022

BAAQMD has yet to update the CEQA guidelines (May, 2017) for applying these thresholds of significance and is currently in that process. Additionally, there is no proposed construction-related climate impact threshold at this time.

Local

The City of Newark's Climate Action Plan (CAP) helps to identify and evaluate feasible and effective policies to reduce GHG emissions through a combination of public and private sector policies and programs. The CAP is consistent with the goals and policies in the General Plan and reinforces the principle of

sustainability which underlies the General Plan. The City adopted the CAP in January 2010 with guidelines of reaching:

- A 5 % reduction from 2005 Municipal emissions levels by July 2012,
- A 5% reduction in City and Community emissions by July 2015, and
- A community-wide target of a 15% decrease from 2005 levels by 2020, which matches the State's goals.

However, as noted above, the City of Newark CAP sets a regional target for the year 2020. The proposed project buildout would occur after 2020, rendering the CAP inadequate for CEQA tiering because it does not have a planning horizon that extends to the proposed project's buildout date.

A report titled "*Air Quality analysis, Air Quality, Greenhouse Gas and Health Risk Assessment"*, dated September 2022, was prepared by ESA (**Appendix A**) for the project. The discussion below is partially based on the analysis presented in this report. However, the report includes an analysis of the greenhouse gas (GHG) impacts from the project, based on CEQA Thresholds of Significance for Greenhouse Gas Emissions incorporated in the 2017 BAAQMD CEQA Guidelines. Since environmental review on this project commenced after the adoption of the April 2022 CEQA thresholds of significance, those are the thresholds considered for project operations in the following discussion.

Impact Analysis

a. *Would the project generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment?*

GHG emissions associated with development of the proposed project would occur over the long-term during the project's operation as well as over the short term from construction activities, consisting primarily of emissions from equipment exhaust, and worker and vendor automobile trips.

Operational Emissions

As indicated in "Regulatory Setting" BAAQMD adopted CEQA thresholds in September 2022 that are outlined above, the proposed project would meet threshold option A for the following reasons: The proposed project would not include natural gas appliances or plumbing. The project will not result in any wasteful, inefficient, or unnecessary energy usage as discussed under the "Energy" section of this study. The proposed project would include electric vehicle (EV) hookups consistent with CALGreen Tier 2, and the average annual VMT calculated using CalEEMod defaults is 2,319,459. Based on the analysis incorporated in the project's Traffic Impact Assessment (TIA), the project VMT would be 18.1 percent lower than the baseline, that being the average daily VMT for the City of Newark under existing conditions.

Construction Emissions

Neither the City nor BAAQMD have an adopted threshold of significance for construction related GHG emissions. However, BAAQMD recommends quantifying emissions and disclosing that GHG emissions would occur during construction. BAAQMD also encourages the incorporation of best management practices to reduce GHG emissions during construction where feasible and applicable. Many of the air quality-related mitigation measures can also reduce GHG emissions.

The Greenhouse Gas Analysis prepared for the project's construction GHG emissions estimated them over the 3-year construction period using CalEEMod and amortized assuming a 30-year development

life after completion of construction. The amortized emissions were added to the project's operational emissions[13] estimated using CalEEMod for comparison to 2017 CEQA thresholds of significance for GHG emissions. Table 8 below presents these GHG emissions estimates. As shown in the table, the project's GHG emissions do not exceed the BAAQMD GHG efficiency thresholds.

Table 8: Project Greenhouse Gas Emissions

Source	Emissions, metric tons of CO_2e per year
Project construction emissions (amortized)	40.1[1]
Project operations[2]	935.4
Total project GHG emissions (construction and operation)	975.5
Project service population (number of residents)	371
Emissions per service population	2.63
Adjusted BAAQMD GHG efficiency threshold	2.76
Exceeds threshold?	No
NOTES: Total CO2e emissions from construction total 1,201.45 metric tons over the four years of construction. The amortized emissions represent the total divided by 30 years. Project operational emissions do not take into account reduction in electricity usage from the solar panels on Project residences. Actual emissions would be lower.	

Source: 38478 Cedar Boulevard Project. Air Quality & Greenhouse Gas and Health Risk Assessment, September 2022, ESA

Additionally, the best management practices described in **Mitigation Measure AQ-1** in "Air Quality" would serve to reduce GHG emissions during construction. **LESS THAN SIGNIFICANT IMPACT**

b. *Would the project conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?*

The proposed project would not conflict or otherwise interfere with the statewide GHG reduction measures identified in CARB's Scoping Plan, which are enumerated in the "Regulatory Setting" discussion above. The project would not result in the wasteful, inefficient, or unnecessary energy usage. For example, the project would be constructed in conformance with CALGreen and the Title 24 Building Code (which requires high efficiency water fixtures and water-efficient irrigation systems). In addition, air quality mitigation measures require the use of electric equipment for project construction to the maximum extent feasible. Finally, the project would be a walkable community given the proposed pedestrian circulation network and would also be subject to local policies that may affect emissions of greenhouse gases. **LESS THAN SIGNIFICANT IMPACT**

[13] Operational emissions include GHG emissions from motor vehicle trips, grid electricity usage, solid waste, and other sources (including area sources, natural gas combustion, and water/wastewater conveyance

Hazards and Hazardous Materials

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	■	☐
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	■	☐
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	■	☐
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	■	☐	☐
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	☐	☐	☐	■
f. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	■
g. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	☐	☐	☐	■

Hazards and Hazardous Materials Setting

The Phase I Environmental Assessment, dated June 20, 2022, prepared by Ramboll US Consulting, Inc. (**Appendix 5**) identifies the project site historically as an open field reportedly used for livestock grazing until the Freitas Family, the current owners of the subject site, purchased it in 1959. Gradually over the next three decades, the subject site was developed with the current buildings. Various businesses including a paving company, automobile body and mechanical repair companies, and trucking companies have occupied the subject site.

The project site currently contains six warehouses occupied by various businesses, two garage structures used for the maintenance of trucks and construction equipment, and a small, one-story building, which is used as an office. The warehouse structures on the project site are surrounded by asphalt paved driveways while the garage structures are surrounded by asphalt and compacted gravel.

The project's Phase I Environmental Assessment identifies "Recognized Environmental Conditions" (RECs), which are defined in the ASTM Standard as: "The presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment." As noted in the Phase I ESA, RECs do not include de minimis conditions, which are defined as property conditions that do not pose a threat to human health or the environment, and are not subject to enforcement actions by a regulatory agency.

The Phase I ESA analysis is based on a reconnaissance of the project site that included an inspection of the interior and exterior of existing structures, property grounds, and operational areas of the property, review of government databases and previous site investigations, and interviews with the site owner, familiar with current and historical use of the property. The Phase I ESA divides the project site into three areas for the purposes of the investigation, as shown in **Figure 1**, included in **Appendix 5** and reproduced below.

Figure 5: Hazards and Hazardous Waste: Site Layout

Source: Phase I Environmental Assessment, June 20, 2022, Ramboll US Consulting Inc.

Based on the Phase I ESA investigations, two area on the project site warrant discussion as described below:

38288 Cedar Boulevard: This address belongs to the property/building in the northwestern most portion of the project site. In April 1989, Environmental Bio-Systems, Inc. (EBS) removed 2,000-gallon gasoline and 1,000-gallon gasoline underground storage tanks (USTs) from an area south of the garage structure at this address. The USTs were removed under the oversight of the City of Newark Hazardous Materials Bureau. Remediation was conducted on site thereafter. In 2004, Alameda County Water District (ACWD) initiated a Leaking Underground Fuel Tank (LUFT) case, ACWD for this location and requested quarterly reports to investigate and remediate soil and groundwater. Additional subsurface sampling was conducted by Ramboll US Consulting, Inc. (Ramboll) at the site between 2015 and 2021 and Ramboll samples soil vapor wells. This portion of the project site is in the process of obtaining case closure. On June 2, 2022, ACWD issued a letter stating that case closure will be issued once two monitoring wells (MW-8 and MW-9) are destroyed and a final Case Closure Summary documenting the monitoring well

destructions is submitted to the San Francisco Regional Water Quality Control Board (SFRWQCB) for review and approval. As per the applicant, the case closure is expected in November-December of 2022.

38370 Cedar Boulevard: . This address identifies the location immediately adjacent to the southwest of 38288 Cedar Boulevard. In February 1989, EBS removed one 8,000-gallon diesel UST, one 5,000-gallon diesel UST, three 1,000-gallon gasoline USTs, and one 550-gallon gasoline UST from an area west of the garage structure at 38370 Cedar Boulevard. This address identifies the location immediately adjacent to the southeast of 38288 Cedar Boulevard. In 1999, ACWD initiated a LUFT Case for 38370 Cedar Boulevard, requesting quarterly reports to investigate and remediate soil and groundwater contamination. Subsurface investigations and monitoring thereafter confirm that the impacts from the former USTs to groundwater at 38370 Cedar Boulevard is limited primarily to the former UST area and no migration has occurred since groundwater monitoring activities began in 1989. Only the upper shallow aquifer has been impacted and the lateral extent is limited to an approximately 2,500-square feet area, as shown in red on **Figure 5**. Groundwater remediation for this area is currently being implemented.

Regulatory Setting

The California Department of Toxic Substances Control (DTSC) defines a hazardous material as: "a substance or combination of substances that, because of its quantity, concentration or physical, chemical, or infectious characteristics, may either: 1) cause, or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating illness; or 2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed." Regulations governing the use, management, handling, transportation and disposal of hazardous waste and materials are administered by Federal, State and local governmental agencies, as described below

Federal

Federal agencies charged with regulating hazards and hazardous materials include the United States Environmental Protection Agency (USEPA) that is responsible for implementing laws and regulations to ensure safe production, handling, disposal, and transportation of hazardous materials. The Occupational Safety and Health Administration (OSHA) oversees administration of the Occupational Safety and Health Act and the U.S. Department of Transportation (DOT) has regulatory responsibility for transportation of hazardous materials between states as well as to foreign countries.

Resource Conservation and Recovery Act

The 1976 Federal Resource Conservation and Recovery Act (RCRA) and the 1984 RCRA amendments give authority to the EPA to control and regulate the generation, transportation, treatment, storage, and disposal of hazardous wastes. In addition to regulations for hazardous materials, the RCRA also sets forth regulations for the management of non-hazardous solid wastes.

Occupational and Safety Health Act

The Occupational and Safety Health Act of 1970 was adopted to ensure worker and workplace safety by requiring employers to provide to their employees a place free from recognized health hazards, such as exposure to toxic chemicals, excessive noise levels, mechanical dangers, heat or cold stress, and unsanitary conditions. The Occupational Safety and Health Administration (OSHA) is a division of the U.S. Department of Labor that oversees the administration of the act and enforces standards in all 50 states.

Toxic Substances Control Act

The Toxic Substances Control Act (TSCA) of 1976 provides the EPA with authority to require reporting, record-keeping, testing requirements, and restrictions relating to chemical substances and mixtures. The TSCA addresses the production, importation, use, and disposal of specific chemicals, including PCBs, asbestos, radon, and lead-based paint.

Hazardous Materials Transportation Act

The Hazardous Materials Transportation Act (HMTA) of 1975, as amended, is the basic statute regulating hazardous materials transportation in the United States. The purpose of the law is to provide adequate protection against the risks to life and property inherent in transporting hazardous materials in interstate commerce. This law gives the U.S. DOT and other agencies, such as the California Public Utilities Commission and the California Highway Patrol, the authority to issue and enforce rules and regulations governing the safe transportation of hazardous materials.

State

State agencies charged with regulating hazards and hazardous materials in the State of California include the California Environmental Protection Agency (Cal EPA), which is authorized by the USEPA to enforce and implement certain federal hazardous materials laws and regulations The California Division of Occupational Safety and Health (Cal OSHA) is the responsible agency for ensuring workplace safety. The California Department of Transportation (Caltrans) has the primary responsibility for enforcing federal and State regulations and responding to hazardous materials transportation emergencies. California Highway Patrol is responsible for assuring the safe, convenient, and efficient transportation of people and goods on the state highway system. California Public Utilities Commission (CPUC), which is responsible for overseeing railroad and rail crossing safety and the California Department of Forestry and Fire Protection (CAL FIRE), which provides fire protection services for over 31 million acres of California's privately-owned wildlands, also known as State Responsibility Areas (SRAs).

California Code of Regulations

The following section includes a discussion of the various titles under the California Code of Regulations (CCR) pertaining to hazards and hazardous materials.

Title 3 pertains to the application of pesticides and related chemicals. Parties applying regulated substances must continuously evaluate application equipment, weather, treated lands, and all surrounding properties. Title 3 prohibits any application that would:

- Contaminate persons not involved in the application
- Damage non-target crops or animals or any other public or private property
- Contaminate public or private property or create health hazards on said property

Title 8 establishes Cal OSHA requirements for public and worker protection and includes topics related to materials exposure limits, equipment requirements, protective clothing, hazardous materials, and accident prevention. Title 8 also sets forth construction safety and exposure standards for lead and asbestos as well as fire suppression service standards ranging from fire hose size requirements to the design of emergency access roads.

Title 14 establishes minimum standards for solid waste handling and disposal and a variety of regulations related to wildfire preparedness, prevention, and response.

Title 17 establishes regulations for the use and disturbance of materials containing naturally occurring asbestos.

Title 19 establishes a variety of emergency fire response, fire prevention, construction, and construction materials standards.

Title 22 sets forth definitions of hazardous and special waste, identifies hazardous waste criteria, and establishes regulations pertaining to the storage, transport, and disposal of hazardous waste. Title 22 was created to regulate hazardous wastes generated by factories or similar sources, however, contaminated soil excavated during construction may also be regulated under this Title.

Title 26 is a compilation of state regulations pertaining to hazardous materials and waste that are presented in other regulatory sections. Title 26 mandates specific management criteria related to hazardous materials identification, packaging, and disposal. In addition, Title 26 establishes requirements for hazardous materials transport, containment, treatment, and disposal. Staff training standards are also set forth in Title 26.

Title 27 sets forth a variety of regulations relating to the construction, operation, and maintenance of the state's landfills, and establishes a landfill classification system and categories of waste. Each class of landfill is constructed to contain specific types of waste (household, inert, special, and hazardous).

California Health and Safety Code

Division 20, Chapter 6.95 of the California Health and Safety Code sets forth the minimum requirements for business emergency plans and chemical inventory reporting. These regulations establish that businesses must provide any required information adopted by the local agency, a site map, emergency response plans and procedures, training program information, and a hazardous material chemical inventory disclosing hazardous materials stored, used, or handled onsite. This chapter of the Health and Safety Code establishes criteria for businesses subject to the requirements including, but not limited to, businesses using hazardous materials at or above the established thresholds.

California Fire Code

The California Fire Code (CFC) is Part 9 of Title 24, California Code of Regulations, also referred to as the California Building Standards Code. The CFC incorporates the 2018 International Fire Code of the International Code Council with necessary California amendments. The purpose of the CFC is to establish the minimum requirements consistent with nationally recognized best practices to safeguard the public health, safety, and general welfare from the hazards of fire, explosion, or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety and assistance to fire fighters and emergency responders during emergency operations.

Local

The City's General Plan incorporates several policies and actions for the protection of Newark residents and workers from the potential adverse effects of hazardous materials. These policies and actions are incorporated on pg. EH-34 to EH-37 of the General Plan and include Policies EH-4.1 through Eh-4.7 under Goal EH-4 (Protect Newark residents and workers from the potential adverse effects of hazardous

materials). Action EH-4.J related to these policies and goals, requires a Phase I Environmental Site Assessment when a property is changed from an existing use to a more sensitive use (for example, industrial to residential). If potential hazardous materials issues are identified, their investigation and site cleanup is required to regulatory agency standards prior to development.

The City of Newark is also one of the 17 member agencies of StopWaste, a public agency responsible for reducing waste in Alameda County. A representative of each of the 17 member agencies: the Alameda County, all 14 cities in Alameda County and two sanitary districts, serve on the Alameda County Waste Management Authority Board (ACWMA), which is responsible for the preparation of the Alameda County Countywide Integrated Waste Management Plan (CoIWMP) and Alameda County Hazardous Waste Management Plan, prepared to develop and maintain hazardous waste management policies for the management of hazardous waste in Alameda County.

Discussion of the hazards and hazardous materials impacts of the project that follows is based on the information presented in the *Phase I Environmental Site Assessment*, dated June 20, 2022, prepared by Ramboll US Consulting, Inc. for the project.

Impact Analysis

a. *Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?*

   The proposed project involves the development of 118 residential units, comprising of single family residences and duets on the 7.76 acre site upon demolition of the existing commercial/industrial buildings on the site. The operations of the proposed development would not involve the routine transport, use, or disposal of hazardous waste. Households typically have small amounts of cleaning supplies. These materials do not pose an elevated risk to public health and safety.

   Additionally, the City works with StopWaste.org to educate residents about the safe use and storage of household hazardous waste and its rules and regulations for waste disposal. During construction of this building, there would be nominal amounts of hazardous material in the form of fuels and other construction materials, which are routinely used during construction processes. All such material would be handled and disposed of according to all legal requirements. Existing groundwater contamination issues are discussed under section d. **LESS THAN SIGNIFICANT IMPACT**

b. *Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?*

   As stated above, the proposed project involves the development of 118 residential units comprised of single family residences and duets, on the 7.76 acre site upon demolition of the existing commercial/industrial building on the site. The operations of the project would not involve release of hazardous materials into the environment through reasonably foreseeable upset and accident conditions. The demolition on site would need to obtain a demolition permit for the removal of existing building on site, which would ensure that any asbestos, PCBs, lead paint and other potentially hazards associated with the building are disposed of properly. **LESS THAN SIGNIFICANT IMPACT**

c. *Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school?*

The project site is within one-quarter mile of an existing pre-school (King Kids Preschool) located across Cedar Boulevard to the southwest of the site. The nearest school is Birch Grove Primary Elementary School approximately 0.38 mile generally to the south of the project site. The project proposed residential use and its operation will not be a source of hazardous emissions nor handle hazardous or acutely hazardous materials, substances or waste. **LESS THAN SIGNIFICANT IMPACT**

d. *Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*

The provisions in Government Code Section 65962.5 are commonly referred to as the Cortese List. A property is considered on the Cortese List if it appears on one or more lists or databases maintained by state regulatory agencies, including:

- Department of Toxic Substances Control (DTSC) EnviroStor Database (DTSC 2022)
- DTSC List of Hazardous Waste Facilities Subject to Corrective Action (found in Section 25187.5 of the Health and Safety Code)
- State Water Resources Control Board (SWRCB) GeoTracker Database (SWRCB 2022)
- SWRCB List of Solid Waste Disposal Sites (SWRCB 2016)
- SWRCB List of Active Cease and Desist Orders and Cleanup and Abatement Orders.

Portions of the project site i.e. the properties as described in the "Hazards and Hazardous Materials Setting" above are included on these lists of hazardous materials sites as Leaking Underground Storage (LUST) sites. As a result, the project would create a significant hazard to the public or the environment and **Mitigation Measure HAZ-1** is required to reduce this impact to a less than significant level.

Mitigation Measure

HAZ-1 Prior to the issuance of a grading permit, for any lot which overlaps or is within the boundary of the recognized environmental condition (REC) on the site, as validated by the San Francisco Regional Quality Control Board (SFRQCB) and Alameda County Water District (ACWD), the applicant shall provide evidence that demonstrates that the REC has been resolved to the satisfaction of the applicable regulatory agencies for future residential land use.

LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

e. *For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?*

The project site is not located in an airport land use plan nor is it within two miles of a public airport. The nearest airport, Hayward Executive Airport is located approximately 11 miles to the north of the Project site. Other area airports include, Palo Alto Airport, which is located approximately 16 miles southwest of the project site and Norman Y. Mineta San Jose International Airport, which is located further away at approximately 15 miles to the south of the Project site. **NO IMPACT**

f. *Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

The City of Newark has adopted two emergency response plans. The "Emergency Operations Plan" is the City's primary plan which provides operational procedures for responding to a variety of emergency conditions, including earthquakes, flooding, tsunamis, hazardous material incidents, and civil defense conditions. The guidelines included in this plan address the needs of the entire community and identify key responsible agencies and personnel. The "Chemical Emergency Preparedness Supporting Plan" is the City's second response plan, which establishes standard operating procedures for responding to a chemical spill or hazardous materials incidents within the City.

The proposed project entails the development of single family and duplex residential units on a site designated and planned for residential use in the City's General Plan and is not altering the existing road network. Therefore, the project would not impair implementation of or physically interfere with the City's adopted emergency response plan or emergency evacuation plan. Any construction related activity in any public rights of way would require an encroachment permit from the City's Public Works Department, which would ensure that streets would remain open for emergency access. **NO IMPACT**

g. *Would the project expose people or structures to a significant risk of loss, injury or death involving wildland fires?*

The project site is in an urbanized area of the City and is not in a wildland fire hazard area. According to State published Fire Hazard Severity Zone Maps, the project site is not located within any wildfire hazard zone. **NO IMPACT**

Hydrology and Water Quality

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	☐	☐	■	☐
b. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	☐	☐	■	☐
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
i. result in substantial erosion or siltation on- or off-site;	☐	☐	■	☐
ii. substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	☐	☐	■	☐
iii. create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	☐	☐	■	☐
iv. impede or redirect flood flows?	☐	☐	■	☐
d. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to Project inundation?	☐	☐	■	☐
e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	☐	☐	■	☐

Hydrology and Water Quality Setting

The project site encompasses a 337,842 square feet (7.76 acre) area, which is almost entirely paved under existing conditions. The project site is relatively flat with drainage patterns characterized by flows in a general southern direction toward Cedar Boulevard from the north. Under existing conditions, storm water at the project site flows along the surface towards Cedar Boulevard along the site's southwestern boundary where it enters the gutters on Cedar Boulevard that feed into the municipal storm water system.

An engineered flood control channel, owned and operated by the Alameda County Flood Control and Water Conservation District is located adjacent to the southeastern portion of the project site. There are no other water bodies on or in the immediate vicinity of the site. Plummer Creek is located 0.6 mile to the northwest of the subject site. The creek drains to San Francisco Bay, located approximately 4.0 miles southwest of the project site.

The City of Newark and consequently the project site is underlain by the Niles Cone Groundwater Basin, managed by the Alameda County Water District.

Regulatory Setting

Federal

Clean Water Act

The Clean Water Act (CWA) of 1977, as administered by the United States Environmental Protection Agency (USEPA), seeks to restore and maintain the chemical, physical, and biological integrity of the nation's waters. The CWA employs a variety of regulatory and non-regulatory tools to reduce direct pollutant discharges into waterways, finance municipal wastewater treatment facilities, and manage polluted runoff. The CWA authorizes the USEPA to implement water-quality regulations. The National Pollutant Discharge Elimination System (NPDES) permit program under Section 402(p) of the CWA controls water pollution by regulating soil erosion and stormwater discharges into the waters of the United States. Under the NPDES program, all facilities that discharge pollutants into waters of the United States are required to obtain a NPDES permit. Requirements for stormwater discharges are also regulated under this program.

Federal Emergency Management Act

The Federal Emergency Management Agency (FEMA) administers the National Flood Insurance Program (NFIP), in which participating agencies must satisfy certain mandated floodplain management criteria. The National Flood Insurance Act of 1968 established a standard that development should be protected from floodwater damage caused by the Intermediate Regional Flood (IRF). The IRF is defined as a flood that has an average frequency of occurrence once every 100 years. The 1968 Act made federally subsidized flood insurance available to property owners if their communities participate in the NFIP. A community establishes its eligibility to participate by:

- Adopting and enforcing floodplain management measures to regulate new construction; and
- Ensuring that substantial improvements within Special Flood Hazard Areas (SFHA) are designed to eliminate or minimize future flood damage.

A SFHA is an area within a floodplain having a one percent or greater chance of flood occurrence within any given year. SFHAs are delineated on Flood Insurance Rate Maps (FIRMs) issued by FEMA. The Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994 make flood insurance mandatory for most properties in SFHAs.

State

Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Control Act (Water Code Sections 13000 et seq.), enacted in 1969, provides the legal basis for water quality regulation within California. Any discharge of waste (liquid, solid, or gaseous) to land or surface waters that may impair beneficial uses for surface and/or groundwater of the State requires a "Report of Waste Discharge". The Act predates the CWA and regulates discharges to waters of the State. Discharges of "waste" are prohibited and are defined more broadly than the CWA.

Discharges under the Porter-Cologne Act are permitted by waste discharge requirements and may be required even when the discharge is permitted or exempt under the CWA.

State Water Resources Control Board

California has an approved State NPDES program, and the California EPA has delegated authority to issue NPDES permits to the State Water Resource Control Board (SWRCB), in accordance with the Porter-Cologne Water Quality Act. The SWRCB, through its nine Regional Water Quality Control Boards, carries out the regulation, protection, and administration of water quality in each region.

In 1992, the SWRCB adopted the General Construction Activity Storm Water Permit (GCASWP) which is required for all construction activities where clearing, grading, and excavation will disturb one acre or more of land. The GCASWP requires all dischargers to:

- Eliminate or reduce non-stormwater discharges to storm sewer systems and other waters of the nation;
- Develop and implement a Stormwater Pollution Prevention Plan (SWPPP); and
- Perform inspections of stormwater pollution prevention measures (control practices).

The GCASWP authorizes the discharge of stormwater associated with activities from construction sites and prohibits discharge of materials which contain hazardous substances in excess of reportable quantities established at Title 40, Sections 117.3 or 302.4 of the Code of Federal Regulations unless a separate NPDES permit has been issued to regulate those discharges.

The GCASWP requires development and implementation of a Stormwater Pollution Prevention Program (SWPPP), emphasizing Best Management Practices (BMPs), which is defined as "schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States." The SWPPP has two major objectives:

- To help identify the sources of sediment and other pollutants that affect the quality of stormwater discharges; and
- To describe and ensure the implementation of practices to reduce sediment and other pollutants in stormwater discharges.

In addition, dischargers are required to conduct inspections before and after storm events and to annually certify that they comply with the General Permit.

Sustainable Groundwater Management Act

The Sustainable Groundwater Management Act (SGMA) of 2014 is intended to provide for sustainable management of groundwater basins and to locally manage groundwater basins while minimizing state intervention to only when necessary. Alameda County Water District (ACWD) is identified within SGMA as an agency created by statute to manage groundwater and deemed to be the exclusive local agency within its statutory boundaries, which include the City of Newark, to comply with SGMA.

Regional

San Francisco Bay Regional Water Quality Control Board

Regional Water Quality Control Boards (RWQCBs) are responsible for protecting beneficial uses of water resources within their regional jurisdiction using planning, permitting, and enforcement authorities. The City of Newark lies within the jurisdiction of San Francisco Bay RWQCB (Region 2) and is subject to the waste discharge requirements of the Municipal Regional Stormwater Permit (MRP; Order No. R2-2015-0049) and NPDES Permit No. CAS612008, which was issued on November 19, 2015, and became effective as of January 1, 2016, as a permittee. Under Provision C.3 of the MRP, the City uses its planning authorities to include appropriate source control, site design, and stormwater treatment measures in new development and redevelopment projects.

Alameda County Water District

The Alameda County Water District (ACWD), the water service provider in Alameda County and Newark, has a ground water management policy for the Niles Cone Groundwater Basin with programs as outlined in **Table 9** below.

Table 9: Summary of ACWD Groundwater Management Programs

Groundwater Program	Description
Water Supply Management	Planning, managing, and optimizing ACW D's sources of supply: watershed runoff, SWP water for recharge, SWP water for treatment, SFPUC water for blending, and water banking.
Groundwater Replenishment	Operation of ACW D groundwater recharge facilities to optimize 1) capture of local runoff, 2) replacement of water extracted from production and ARP wells, and 3) maintenance of groundwater levels to prevent saltwater intrusion.
Watershed Protection and Monitoring	Assisting in the protection and monitoring of the watershed to optimize the quality of runoff water available for ACW D water supply.
Basin Monitoring	Sampling and measuring wells to assess and evaluate 1) groundwater quality, 2) water pressures within the basin, and 3) the direction of groundwater flow.
Wellhead Protection Program	Identify sensitive recharge and groundwater areas, maintain an inventory of potential threats within these areas, assess the vulnerability of source water, and develop management strategies to minimize the potential for groundwater quality impacts.
Aquifer Reclamation Program	Pump brackish water from degraded aquifers in order to 1) increase useable basin storage, 2) improve overall water quality, 3) prevent movement of brackish water toward ACW D production wells, and 4) provide (future) supply augmentation through treatment to potable water standards.
Groundwater Protection Program	Maintain an active role in 1) assisting with the identification of potential groundwater contamination, 2) implementing monitoring systems at hazardous materials storage sites, and 3) providing technical oversight for investigations and cleanups at hazardous materials spill sites.
Well Ordinance Administration	As enforcing agency for municipal ordinances governing construction, repair, or destruction of wells, ACW D provides inspection services, collects fees, and performs field searches for abandoned wells which could act as a conduit for contamination of groundwater.

Source: Alameda County Water District Groundwater Management Policy, Adopted January 26, 1989, Amended March 22, 2001

Local

The Engineering Division of the Newark Public Works Department is responsible for carrying out the City's stormwater quality initiatives. This includes stormwater control requirements for businesses and new development in accordance with the provisions of NMC Chapter 8.36, Stormwater Management and Discharge Control regulations, among other functions.

Impact Analysis

a. *Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?*

Both project construction and operation could potentially impact water quality. Grading and other construction activities associated with the project would have the potential to cause soil erosion and increase sediment loads in stormwater runoff due to exposed or disturbed soil. Spills, leakage, or improper handling and storage of substances such as oils, fuels, chemicals, metals, and other substances used during various construction phases may also be collected in stormwater runoff and impact water quality of receiving water bodies. Upon construction, the project would include 223,885 square feet (5.14 acres) of impervious surface consisting of buildings and paving.

Project construction activity would disturb more than one acre of land and would therefore require the development and implementation of a Stormwater Pollution Prevention Program (SWPPP), emphasizing Best Management Practices (BMPs). As such, the project would be required provide stormwater treatment and obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity. In addition, ground disturbing activities at the project site will be carried out in accordance with the City of Newark "Grading and Excavation" regulations (NMC Chapter 15.50) and erosion control provisions which would minimize impacts to surface or groundwater quality. Therefore, the construction of the proposed project would not substantially degrade surface or water quality.

The proposed project also proposes more than 10,000 square feet of impervious surface area and would thus be subject to the NPDES C.3 requirements of the Municipal Regional Stormwater Permit. This permit includes provision for new development and redevelopment projects. Provision C.3 requires source control, site design, and stormwater treatment measures to address stormwater pollutants and to and ensure that runoff does not exceed the rate and duration that of existing runoff. Source control and site design features must treat stormwater runoff from all on-site impervious surfaces on site before it is discharged into the public storm drain system. In compliance with MRP C.3, the proposed runoff will be directed to stormwater treatment measures (bio retention areas) prior to discharging to the public storm drain system.

Additionally, the proposed project would be subject to the provisions of NMC Chapter 8.36, Stormwater Management and Discharge Control regulations. The provisions of this chapter implement the Alameda County Urban Water Runoff Clean Water Program and contain regulations intended to control and eliminate non-stormwater discharges to the City storm sewer and reduce pollutants in stormwater discharges. The proposed Project has been reviewed and approved by the City's Public Works Staff to ensure compliance with these regulations and thus would not violate any water quality standards or waste discharge requirements. **LESS THAN SIGNIFICANT IMPACT**

b. *Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?*

Development of the project site would not involve any groundwater extraction. The proposed project would include 10,887 square feet of landscape area including bioretention that would result in some groundwater recharge. Therefore, the proposed project would not impact groundwater supplies or recharge adversely and, thus, would not impede sustainable groundwater management of the Niles Cones basin. **LESS THAN SIGNIFICANT IMPACT**

c. *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:*

   i. Result in substantial erosion or siltation on- or off-site;

   ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;

   iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or

   iv. Impede or redirect flood flows?

   The project would not substantially alter existing drainage patterns. Drainage from the project would be directed into bioretention areas and ultimately discharged into the existing public storm drain system. The project does not propose any alterations to the engineered flood control channel located adjacent to the southeastern portion of the subject site.

   As discussed above, grading and ground disturbance for demolition and construction on site could potentially cause erosion. However, ground disturbing activities of the proposed project will be carried out in accordance with the City of Newark "Grading and Excavation" regulations (NMC Chapter 15.50) and the erosion control provisions herein. As indicated above, the proposed project would also be required to comply with the C.3 requirements of the Municipal Regional Stormwater Permit to ensure that runoff does not exceed the rate and duration that of existing runoff. Flood Hazard exists at the southeastern edge of the property where the engineered flood control channel is designated Zone AE (1 percent annual chance flood hazard contained in channel) on the Flood Insurance Rate Map (FIRM)[14]. However, the proposed project development would not interfere with this channel and would, thus not redirect or impeded flood flow. **LESS THAN SIGNIFICANT IMPACT**

d. *Would the project, in flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?*

   While the engineered flood control channel located adjacent to the southeastern edge of the site is in Flood Insurance Rate Map (FIRM) Zone AE, the project site is located in Zone X (zone of minimal flood hazard). The site is located inland and there are no large water bodies in its vicinity that would put it at risk from a tsunami or seiche (large waves generated in enclosed bodies of water in response to winds, changes in atmospheric pressure, underwater earthquakes, tsunamis, or landslides into the water body). The proposed project would not pose a risk of release of pollutants due to project inundation because of flood, tsunami, or seiche. **LESS THAN SIGNIFICANT IMPACT**

e. *Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?*

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14 https://msc.fema.gov/portal/search?AddressQuery=38478%20Cedar%20Blvd%20Newrak%2C%20Ca#searchresultsanchor, accessed August 2022

As discussed in Sections a. and b. above, the development of the proposed project would not entail groundwater extraction. The proposed project does not propose any wells on site, and would not involve the storage of hazardous waste on site. The project would be required to comply with the applicable water quality control plan. Although part of the water supplies of the ACWD are attributable to the Niles Cone Groundwater Basin, these supplies would not be substantially affected by the project, as discussed in section a. under "Utilities and Service Systems". The proposed project would not adversely impact ground water supplies or recharge such as to conflict with or obstruct implementation of the applicable groundwater management plan. **LESS THAN SIGNIFICANT IMPACT**

Land Use and Planning

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the Project:				
a. Physically divide an established community?	☐	☐	☐	■
b. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	■	☐

Land Use and Planning Setting

The project site is located in the northeastern quadrant of the City of Newark, bordered to the northeast by I-880. The land uses surrounding the project site comprise of a public storage facility, located to the northwest of the site, industrial buildings to the southeast, single-family residential development, two church buildings (Cedars Church) and a pre-school (King Kids Preschool), located across Cedar Boulevard to the southwest of the site. The City's current General Plan, adopted in 2013, designated parcels immediately to the northwest and southeast of the project site as medium density residential with land across Cedar Boulevard to the southwest of the project site designated low density residential. The project site is a part of the Cedar Boulevard Industrial to Residential Conversion area identified as Site "G" in the City of Newark Housing Element Update 2015 as part of the Regional Housing Needs Assessment (RHNA).

Regulatory Setting

State

California General Plan Law

California Government Code Section 65300 requires all counties and cities in the State to prepare and maintain a General Plan addressing long-term growth, development, and management of resources and land within the jurisdiction's planning area. Development regulations such as zoning and subdivision standards are required to be consistent with the adopted General Plan. Mandatory General Plan topics include circulation, conservation, environmental justice, housing, land use, noise, open space, and safety. In addition to mandatory elements, jurisdictions may elect to include optional elements.

Regional

Plan Bay Area 2050

Plan Bay Area 2050 is a 30 year, long-range, integrated transportation, land-use, and housing strategic plan for the San Francisco Bay Area. The Plan Bay Area 2050 is the successor to the Plan Bay Area 2040 regional plan, which was the region's first long-range plan to meet the requirements of Senate Bill 375, which requires each metropolitan area to develop a sustainable community strategy (SCS) to accommodate future population growth and reduce greenhouse gas emissions.

Plan Bay Area 2050, jointly adopted by the Metropolitan Transportation Commission (MTC) and the Bay Area Association of Governments in October 2021, connects the elements of housing, the economy, transportation and the environment through 35 strategies and includes an implementation plan. The implementation plan identifies specific action of MTC, ABAG, and partner organization to take over the next five years to accomplish identified strategies.

Local

City of Newark General Plan, 2013

The City's General Plan contains land use policies, and actions for the purpose of avoiding or mitigating an environmental effect, which are more specifically as follows:

Policy LU-1.4 Coordinating Land Use and Transportation Decisions. Coordinate land use and development decisions with the capacity of the transportation system and plans for future transportation improvements.

Policy LU-1.17 Sustainable Development Emphasis. Ensure that new development incorporates green building and sustainable design principles and encourage renovation of existing development to use water and energy more efficiently[…]

Policy LU-2.4 Buffering from Transportation Facilities. Ensure that the design of new residential development near rail lines, truck routes, freeways, or major thoroughfares includes setbacks, landscape screening, and other provisions to minimize exposure to negative impacts such as noise and air pollution.

Action LU-1.B Environmental Review. Use established environmental review processes and programs to minimize the potential impacts of any new development to levels that are determined acceptable.

Action LU-1.D Minimum Densities. Set minimum residential densities in all areas designated on the General Plan Diagram for medium- to high-density residential use, and for mixed-use development. The minimum densities will ensure that this land supply is used as efficiently as possible and will help ensure that the city meets its adopted housing objectives.

Impact Analysis

a. *Would the project physically divide an established community?*

   As discussed above, the project site is located adjacent to I-880, at the northeastern edge of the City. The site is bordered by Cedar Boulevard to the southwest with predominantly single family residential development across the street. Development to the northwest and southeast of the site is currently commercial/industrial, although these properties are designated medium density residential and could potentially be redeveloped for such purposes. The project site is contained between I-880 and Cedar Boulevard and the proposed development would not disrupt the established physical layout of the community as the proposed residential use is compatible with existing and envisioned uses in the area. The proposed project also does not involve installation of features such as new roads, aboveground infrastructure or any easement running through the existing community. As such, the project site would not divide an established community. **NO IMPACT**

b. *Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?*

The proposed project would be generally consistent with the General Plan and land use regulations established by the City of Newark, and with the zoning upon approval of the zoning amendment from Residential Medium Density (RM) to Residential Medium Density (RM) with Planned Development (PD) overlay.

The City certified an Environmental Impact Report (EIR) (State Clearinghouse No. 2013012052, December 2013) for the currently applicable General Plan Update in 2013. The EIR incorporating environmental impact review for the City's current General Plan found that implementation of the General Plan would not conflict with an applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. The proposed project would implement the General Plan in that it would be developed at a density allowed for this site by the General Plan. It would be consistent with the policies cited in "Regulatory Setting" above as described in Section 6, Energy and Section 17, Transportation.

Additionally, consistent with Action LU-1.B, this initial study is prepared to identify the potential environmental impacts of the project with mitigation measures specified to reduce environmental impact where they are significant to a less than significant level, in accordance with California Environmental Quality Act (CEQA).

Furthermore, the review and approval by the City of the proposed rezoning from Residential Medium Density (RM) to Residential Medium Density- planned Development (RM-PD), design of the project would ensure consistency with the purpose and intent of the Planned Development Overlay and rezoning.

As such, the project would not conflict with land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect and would not cause a significant environmental impact for that reason. **LESS THAN SIGNIFICANT IMPACT**

Mineral Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Result in the loss of availability of a known mineral resource that would be a value to the region and the residents of the state?	☐	☐	■	☐
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	■

Mineral Resources Setting

According to the Newark General Plan Tune Up Draft EIR, August 2013, the State Board of Mining and Geology has identified mineral resource zones (MRZ) containing sand, gravel, and stone deposits used for concrete aggregate underlying almost all of Newark. These include land classified as MRZ-2 (areas where significant mineral deposits are present or likely present) and MRZ-3 (areas containing mineral deposits, the significance of which cannot be evaluated from available data). There are no mineral extraction sites in Newark.

Regulatory Setting

The California Surface Mining and Reclamation Act of 1975 (SMARA) identifies mineral resources within California. These maps identify and classify mineral resources as to their relative value for extraction.

Impact Analysis

a. *Would the project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?*

The study area for the analysis of mineral resources encompasses the area of ground disturbance. The subject site is developed and is in an urban area of the City. Given the urban setting of the project site and existing development on it, it is unlikely that the project site has potential for mineral extraction. **LESS THAN SIGNIFICANT IMPACT**

b. *Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?*

As indicated above, there are no mineral recovery sites in Newark. **NO IMPACT**

Noise

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project result in:				
a. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	■	☐
b. Generation of excessive groundborne vibration or ground-borne noise levels?	☐	☐	■	☐
c. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise level?	☐	☐	☐	■

Noise Setting

Noise

Noise is unwanted sound that disturbs human activity. Environmental noise levels typically fluctuate over time, and different types of noise descriptors are used to account for this variability. Noise level measurements include intensity, frequency, and duration, as well as time of occurrence. Noise level (or volume) is generally measured in decibels (dB) using the A-weighted sound pressure level (dBA). The A-weighting scale is an adjustment to the actual sound power levels to be consistent with that of human hearing response, which is most sensitive to frequencies around 4,000 Hertz (about the highest note on a piano) and less sensitive to low frequencies (below 100 Hertz).

Because of the logarithmic scale of the decibel unit, sound levels cannot be added or subtracted arithmetically. If the physical intensity of a sound is doubled, the sound level increases by 3 dBA, regardless of the initial sound level. For example, 60 dBA plus 60 dBA equals 63 dBA. Where ambient noise levels are high in comparison to a new noise source, the change in noise level would be less than 3 dBA. For example, when 70 dBA ambient noise levels are combined with a 60 dBA noise source the resulting noise level equals 70.4 dBA.

Noise that is experienced at any receptor can be attenuated by distance or the presence of noise barriers or intervening terrain. Sound from a single source (i.e., a point source) radiates uniformly outward as it travels away from the source in a spherical pattern. The sound level attenuates (or drops off) at a rate of 6 dBA for each doubling of distance. For acoustically absorptive, or soft, sites (i.e., sites with an absorptive ground surface, such as soft dirt, grass, or scattered bushes and trees), ground attenuation of about 1.5 dBA per doubling of distance normally occurs. A large object or barrier in the path between a noise source and a receiver can substantially attenuate noise levels at the receiver. The amount of attenuation provided by this shielding depends on the size of the object, proximity to the noise source and receiver, surface weight, solidity, and the frequency content of the noise source. Natural terrain features (such as

hills and dense woods) and human-made features (such as buildings and walls) can substantially reduce noise levels. Walls are often constructed between a source and a receiver specifically to reduce noise. A barrier that breaks the line of sight between a source and a receiver will typically result in at least 5 dBA of noise reduction.

Vibration

Vibration is a unique form of noise because its energy is carried through buildings, structures, and the ground, whereas noise is simply carried through the air. Thus, vibration is generally felt rather than heard. Some vibration effects can be caused by noise (e.g., the rattling of windows from passing trucks). This phenomenon is caused by the coupling of the acoustic energy at frequencies that are close to the resonant frequency of the material being vibrated. Typically, ground-borne vibration generated by manmade activities attenuates rapidly as distance from the source of the vibration increases. The ground motion caused by vibration is measured as particle velocity in inches per second and is referenced as vibration decibels (VdB) in the U.S.

The vibration velocity level threshold of perception for humans is approximately 65 VdB. A vibration velocity of 75 VdB is the approximate dividing line between barely perceptible and distinctly perceptible levels for many people. Most perceptible indoor vibration is caused by sources within buildings such as operation of mechanical equipment, movement of people, or the slamming of doors. Typical outdoor sources of perceptible ground-borne vibration are construction equipment, steel wheeled trains, and traffic on rough roads.

Project Site Noise Environment

The on-site noise environment is controlled predominantly by vehicular traffic on I-880, which is adjacent to the northeast. Some noise is also generated by traffic on Cedar Boulevard. However, CEQA does not require evaluation of land use compatibility for exposure from noise sources other than aircraft. Impacts on the project from noise environment are presented under "NON CEQA IMPACTS" for informational purposes, later in this section of this initial study. A discussion of potential noise impacts for the proposed project is included below.

Regulatory Setting

Federal

Environmental Protection Agency

The Environmental Protection Agency (EPA) has determined that over a 24-hour period, an equivalent noise level (Leq) of 70 dBA will result in some hearing loss. Interference with activity and annoyance will not occur if exterior noise levels remain at or below a 55 dBA Leq and interior levels at or below 45 dBA. Although these levels are relevant for planning and design and useful for informational purposes, they are not land use planning criteria because they do not consider economic cost, technical feasibility, or the needs of the community.

The EPA has set 55 dBA Ldn as the basic goal for residential environments. However, other federal agencies, in consideration of their own program requirements and goals, as well as acknowledgement of the difficulty of achieving a goal of 55 dBA Ldn, have generally agreed on 65 dBA Ldn as appropriate for residential uses as activity interference is kept to a minimum, and annoyance levels are still relatively low.

State

California Government Code

California Government Code Section 65302(f) requires all General Plans to include a Noise Element to address noise in the community. The State Office of Planning and Research (OPR) has established guidelines for the content of the Noise Element, noting that the noise element shall identify and appraise noise problems in the community. The noise element shall also recognize the guidelines established by the Office of Noise Control, and analyze and quantify, to the extent practicable, current and projected noise levels for the following sources:

- Highways and freeways
- Primary arterials and major local streets
- Passenger and freight on-line railroad operations and ground rapid transit systems
- Commercial, general aviation, heliport, and military airport operations, aircraft flyovers, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation
- Local industrial plants, including, but not limited to, railroad classification yards
- Other stationary ground noise sources identified by local agencies as contributing to the community noise environment

State of California Code of Regulations

The State of California's noise insulation standards are codified in the California Code of Regulations (CCR), Title 24, Building Standards Administrative Code, Part 2, California Building Code (CBC). These noise standards are applied to new construction in California for interior noise compatibility from exterior noise sources. The regulations specify that acoustical studies must be prepared when noise-sensitive structures, such as residential buildings, schools, or hospitals, are located near major transportation noise sources, and where such noise sources create an exterior noise level of 65 dBA CNEL or higher. Acoustical studies that accompany building plans must demonstrate that the structure has been designed to limit interior noise in habitable rooms to acceptable noise levels. For new residential buildings, schools, and hospitals, the acceptable interior noise limit for new construction is 45 dBA CNEL.

California Noise Land Use Compatibility Matrix

The State Department of Health Services, Office of Noise Control establishes compatibility of land uses relative to existing and future ambient noise levels. Appendix D of the State of California General Plan Guidelines, prepared by the Governor's Office of Planning and Research, identifies noise level acceptability for each land use type from 'normally acceptable', to 'clearly unacceptable'. Normally acceptable indicates new standard construction can occur with no special noise reduction requirements.

Local

The Noise Element of the City of Newark General Plan has policies and actions in place to address both construction and operational noise from developments. Additionally, NMC Section 17.24.100 contains noise regulations. These policies, actions and regulations are outlined in the "*Environmental Noise Assessment*", dated July 1, 2022, and "*Environmental Noise Assessment – Additional Comments", dated*

September 16, 2022, prepared by Salter (**Appendix 6**). The following discussion is partially based on the analysis presented in this report.

Impact Analysis

a. *Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?*

***Construction**:*

Construction of the proposed project would include the demolition of the existing buildings, grading/site preparation work, construction of the new residential units and landscaping. Construction noise impacts would be temporary and constructions hours would be required to comply with the City's limits on construction hours. Based on the analysis presented in the noise report, typical construction equipment would likely exceed the City's noise standard for equipment of 83 dBA at 25 feet. However, there are no noise-sensitive residential receivers located at this distance. The closest residential receptors are located approximately 120-ft outside the property plane across Cedar Boulevard and would not be affected by the project related construction noise.

Operation:

Operational noise increases would be attributable to the project generated traffic. Additionally, the project's mechanical equipment would be a source of noise. However, the low noise levels from outdoor mechanical equipment would be discernable only by future residents of the project.

Mechanical Equipment Noise:

The proposed building would have mechanical equipment generally associated with building ventilation. This could include outdoor condensing/heat pump units for the residences, ventilation fans, and possibly equipment such as emergency generators.

NMC Section17.24.100.(A)(2) sets limits on noise from mechanical equipment noise at 70 dBA between the hours of 7 a.m. and 9 p.m., and 60 dBA between the hours of 9 p.m. and 7 a.m. Mechanical equipment associated with the proposed project would need to comply with this requirement.

Additionally, the project's noise study indicates that typical condensing/heat pump units have a sound power rating of approximately 75 dBA, which corresponds to a noise level of approximately 62 dBA at 5 feet and the individual pieces of equipment would be expected to meet the City of Newark Noise Ordinance for nighttime operation (60 dBA) at a distance of 7-ft from the equipment.

Traffic Noise

The Traffic Impact Assessment prepared for the project indicates that the project is estimated to generate 819 new daily trips. The analysis included in the project's noise study indicates that noise levels as a result of the project traffic would increase less than 1dBA and the cumulative increase in noise levels would be less than 3dBA, which are not considered to be substantial. **LESS THAN SIGNIFICANT IMPACT**

b. *Would the project result in generation of excessive groundborne vibration or ground-borne noise levels?*

Grading and other project activity related to construction would create perceptible groundborne vibration. Use of heavy equipment for demolition and grading and other activities through completion of buildings and landscaping would generate groundborne vibrations during construction. Primary vibration producing construction activities are likely to occur during demolition and site preparation with the use of dozers and possibly hydraulic breakers to clear the site and prepare the foundation of the buildings. Pile driving is not expected, however, pier drilling is expected. The proposed project is not anticipated to create ground-borne vibrations during operations of the residences.

CEQA does not specify acceptable vibration levels from construction activities. The City's General Plan Action EH-7.D references the Federal Transit Administration's vibration annoyance criterion as thresholds for "vibration-intensive" construction affecting vibration sensitive receivers. These thresholds are 80 VdB for residences and 83 VdB for institutions and offices with primarily daytime use. The vibration threshold in the NMC Section 17.24.120 does not apply since the temporary construction vibration is exempted. However, the Municipal Code exemption does not affect the applicability of the General Plan policy.

Sensitive receptors in the surrounding area are located across Cedar Boulevard in several blocks of single family homes to the south and west, with a church that also houses the Kings Kids preschool directly across Cedar Boulevard approximately 165 feet from the project site's southwestern boundary. The project site is separated from residences to the north, northeast by I-880. The closest residential receptors are located across Cedar Boulevard, an arterial street, approximately 120 feet from the project site boundary to the south. Birch Grove Elementary school is also a sensitive receptor in the project vicinity that is located approximately 1700 feet to the southwest of the project site.

The noise report evaluates potential structural damage to industrial buildings immediately adjacent to the project as well as human annoyance at the sensitive receptors across Cedar Boulevard from construction vibration and concluded that construction vibration levels and consequently groundborne vibrations as a result of the project construction would not exceed the 78 VdB threshold for human annoyance at the nearest sensitive receptors location, or the 0.2 in/sec PPV threshold for damage to adjacent industrial (category III) buildings. Therefore, the level of generation of excessive groundborne vibration or ground-borne noise due to the project would result in less than significant impact. **LESS THAN SIGNIFICANT IMPACT**

c. *For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise level?*

The project site is not located within the vicinity of a private airstrip, an airport land-use plan or within two miles of a public airport or public-use airport. The nearest airport, Hayward Executive Airport is located approximately 11 miles to the north of the project site. Therefore, it would not expose people residing in the project area to excessive noise levels because of its distance from the nearest airport. **NO IMPACT**

NON CEQA IMPACT:

Exposure of Project Residents to Existing Noise

Interior Noise

The City of Newark and the State of California require that interior noise levels in new residential units to meet an interior noise level of L_{dn} of 45 dBA or less. Based on the project design in terms of size and location of windows and noise measurement on site, the project's Environmental Noise Study (**Appendix 6.A**) assesses the Sound Transmission Class (STC) ratings for windows and exterior doors that would be required to achieve the required reduction in interior noise levels. The minimum code-required STC rating for windows and exterior doors by the buildings' floor are depicted in Figures 1 through 6 in **Appendix 6.A**.

Exterior Noise at Outdoor Spaces

The City has an L_{dn} of 60 dB standard for the residential outdoor living areas. According to General Plan Policy EH-7.4, where this level is exceeded due to freeways, the construction of berms, walls, buffer zones, and other noise-reduction measures to reduce noise to the greatest extent feasible would be required.

Based on the analysis presented in the project's Environmental Noise Study (**Appendix 6.A**), the noise exposure at open spaces proposed in the central area of the development would be up to an L_{dn} of 65 dB due to noise from I-880, based on the calculated noise reduction from the proposed 18-ft barrier at the northeastern boundary adjacent to I-880. A noise level of 65 dB L_{dn} is within the normally acceptable range for neighborhood parks and playgrounds per the Noise Compatibility Guidelines of the City. It could potentially be acceptable for centralized open spaces in the proposed development or the City may consider a higher barrier, subject to a detailed analysis of the noise reduction achieved by such a measure to meet the 60 dB L_{dn} standard.

Population and Housing

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the Project:				
a. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	■	☐
b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	■

Population and Housing Setting

The study area for the analysis of population and housing resources encompasses the City of Newark. Background information about population and housing for the proposed project was obtained from the United States Census as well as the City's General Plan EIR. The United States Census data for 2021 estimates the population of Newark to be 47,434 persons, which represents a decrease of 1.1 percent from 2020, based on a population estimate for the City on April 1, 2020. The Census data for 2021 estimates a household size of 3.34 persons in Newark[15]. The project proposes development of 118 residential units, which represents an addition of approximately 394 persons to the City's population, based on a household size of 3.34 persons.

Regulatory Setting

State

State Housing Element Statutes

State housing element statutes (Government Code Sections 65580-65589.9) mandate that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. The law recognizes that for the private market to adequately address housing needs and demand, local governments must adopt land use plans and regulatory systems that provide opportunities for, and do not unduly constrain, housing development. As a result, State housing policy rests largely upon the effective implementation of local general plans and in particular, housing elements. Additionally, Government Code Section 65588 dictates that housing elements must be updated at least once every eight years.

California Relocation Law, Public Resources Code Section 7260 et seq.

The California Relocation Law requires the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a public entity. The law requires agencies to prepare a relocation plan, provide relocation payments, and identify substitute housing opportunities for any resident that is to be displaced by a public project.

[15] https://www.census.gov/quickfacts/newarkcitycalifornia, last accessed August, 2022

Regional

Regional Housing Needs Plan

A Regional Housing Needs Plan is required under California Government Code Section 65584 to enable regions to address housing issues and meet housing needs based on future growth projections for the area. The State determines the number of total housing units needed for each region. The Association of Bay Area Governments (ABAG) allocates housing needs among cities and counties in the nine-county ABAG region for each jurisdiction to use in drafting its housing element.

ABAG is the official comprehensive planning agency for the San Francisco Bay region, comprising of the nine counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma. The nine-county ABAG region contains 101 cities. The allocation is based on projection modeling that is based on current general plan policies, land use designations, and zoning. "Smart growth" assumptions in the modeling and allocation aim to shift development patterns from historical trends (suburban sprawl) toward a better jobs/housing balance, increased preservation of open space, and development of mixed-use, transit-accessible areas.

Regional Housing Needs Allocation

Housing statues requires local jurisdictions to allow the construction of a share of the region's projected housing needs. This share is called the Regional Housing Needs Allocation (RHNA). The Regional Housing Needs Allocation (RHNA) is based on an analysis of the available housing stock and vacancy rate in each community, any existing unmet needs for housing, the projected growth in the number of households (population growth and household formation rate), the local and regional distribution of income, and the need for housing generated by local job growth.

The specific RHNA number for a jurisdiction is important because state law mandates that each jurisdiction provide sufficient land to accommodate a variety of housing opportunities for all economic segments of the community to meet or exceed this number of housing units. ABAG, as the regional planning agency, calculates the RHNA for individual jurisdictions including Newark.

Local

City of Newark Housing Element

Newark's 2015 Housing Element Update provides the City's Housing Plan for the 2015-2022 period. The 2015 Housing element contains a description of Newark's population trends, housing characteristics, and employment trends, an analysis of the City's housing needs in relation to RHNA, an overview of sites available for housing, an analysis of potential constraints to housing development, evaluation of the previous housing element, and housing goals and policies. The goals, objectives, and programs of the 2015 Housing Element promote the development of housing of all types, attempt to remove any constraints to housing development, and focus on meeting the needs of special need populations.[16] Newark's RHNA for the 2015-2022 planning cycle is 1,078 units comprising 497 very-low and low-income level units, 158 moderate income units and 423 above moderate income units.[17]T

[16] City of Newark Housing Element Update, 2015, pg. H-93

[17] City of Newark Housing Element Update, 2015, pg. H-33

Bay Area jurisdictions, including Newark, must adopt an updated Housing Element by January 2023 to plan for the housing needs for the next eight-year Housing Element Planning Period (2023-2031). The City of Newark is in the process of updating its Housing Element. The City's Draft RHNA, January 2021 for planning for the 2023-2031 planning cycle housing allocations comprise of 1,874 units with 732 units allocation for very-low and low-income levels, 318 units for moderate income level, and 824 units for above moderate income level.[18]

City of Newark Affordable Housing Program

NMC Chapter 17.18, Affordable Housing Program establishes the City's affordable housing program to provide safe and stable housing for households at all income levels. NMC Chapter 17.18 imposes a residential and non-residential development housing impact fee to provide a means whereby developers of residential and non-residential development projects contribute to the supply of housing for households with very low, low, and moderate incomes. As an alternative to paying the housing impact fee, a developer of residential property may provide on-site affordable rental or for-sale residential units or an alternative housing program, subject to the requirements of NMC Chapter 17.18.

Impact Analysis

a. *Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*

The project is designated Medium Density Residential in the City's General Plan, which allows for a density of 14 to 30 residential units per net acre. The project proposes 118 units on a 5.62 net acre site[19], thereby proposing development of the site at a density of 21 units per acre, which is well within the allowable density for the subject site in the City's General Plan.

Additionally, the City of Newark Housing Element Update, 2015, identifies the project site as a housing opportunity site, as part of the Cedar Boulevard Industrial to Residential Conversion area. The project site is identified as Site "G" in the City's Housing Element Update 2015 and is included on the Regional Housing Needs Assessment (RHNA) list.

The Newark General Plan anticipates the population to reach 60,510 persons at General Plan build out in 2035. As described in the "Population and Housing Setting" section above the project would add approximately 394 persons to the population in the City, which is well within the population planned for in the General Plan.

The project proposes upsizing of stormwater lines, near the southwestern and southeastern corner of the project site, through removal of portions of existing 18 inch main stormwater drainpipes in Cedar Boulevard installation of upsized 24 inch stormwater mains in their location to serve the project. These improvements are not likely to induce additional growth along Cedar Boulevard as no new roads or substantial new infrastructure are proposed as part of the project.

Based on the discussion above, the project would not induce substantial unplanned population growth in an area, either directly or indirectly. **LESS THAN SIGNIFICANT IMPACT**

[18] City of Newark, https://newarkhousingupdate.org/, accessed August, 2022

[19] Per City of Newark Municipal Code, density for Planned Development is calculated as total number of units/net acres (site area- excluding areas devoted to public and private streets)

b. *Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?*

The project proposes development of 118 residential units upon demolition of industrial/ commercial buildings on site, which currently contains no residences and residents. In effect, the proposed project would create additional housing in the City and not displace existing housing or people, necessitating the construction of replacement housing elsewhere. **NO IMPACT**

Public Services

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project				
a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:				
i. Fire protection?	☐	☐	■	☐
ii. Police protection?	☐	☐	■	☐
iii. Schools?	☐	☐	■	☐
iv. Parks?	☐	☐	■	☐
v. Other public facilities?	☐	☐	■	☐

Public Services Setting

Newark is served by established public services as follows:

Fire Protection Services

Fire protection services in Newark are provided under contract with the Alameda County Fire Department (ACFD). AFCD provides all-risk emergency services to the unincorporated areas of Alameda County (excluding Fairview), the cities of San Leandro, Dublin, Newark, Union City and Emeryville, the Lawrence Berkeley National Laboratory and the Lawrence Livermore National Laboratory. Services for Newark residents in a 13 square mile area are provided through three fire stations.

Fire Station #27 at 39039 Cherry Street, the former Newark Fire Station #3, was built in 1981 and is home to a crew of three firefighters that staff one fire engine. Station #28 at 7550 Thornton Avenue, formerly Newark Fire Station #1, opened in 2005 and is approximately 13,500 square feet. This station is maintained by a crew of three firefighters that staff a Quint (a piece of fire apparatus that combines the features of a ladder truck and a fire engine) and one Battalion Chief. Station #29 at 35775 Ruschin Drive, the former Newark Fire Station #2, was built in 1962 and is staffed by a crew of three firefighters and one fire engine.

Police Protection

Police protection is provided by the City of Newark Police Department. The Field Operations Division is the largest component of the police department and is responsible for responding to both emergency and

non-emergency calls for services from the public. In addition, this division handles special assignments, self-initiated activities, and addresses community concerns. Animal Control personnel and Reserve Officers are integral components of the division and community as well. Patrol Officers are responsible for partnering with the community to protect life and property and to maintain peace, order and safety and perform ancillary functions.

Schools

The City is served by the Newark Unified School District. The district operates six elementary schools (Grade Level K-6), one intermediate school (Grade Level 3-6), one junior high (Grade Level 6-8) and two high schools (Grade Level 9-12). Additionally, the school district offers independent study program and adult and career education.

Parks

The City of Newark maintains approximately 131 acres of land in parks and sports fields spread over 13 facilities including eight neighborhood parks, three community parks, and three special use parks, which include 6 acres in currently unimproved or largely unimproved land. Of the total acreage, 121 acres are owned by the City and 10 acres are leased from the Newark Unified School District. Additionally, there are parks and trails maintained by other agencies such as the East Bay Regional Parks and San Francisco Bay Trail that the City residents have access to.

Other Public Facilities

Other public facilities in Newark include a community center located at 35501 Cedar Boulevard in the 17-acre Newark Park, George M. Silliman Activity Center located at 6800 Mowry Avenue, which includes an aquatic center, a senior center located at 7401 Enterprise Drive as well as a library. The City of Newark also has a newly constructed Civic Center, which houses a new City Hall, Police Department building, and enlarged library, and is located within 2 miles of the project site.

Regulatory Setting

State

California Office of Emergency Services

The California Office of Emergency Services (OES) provides the basis for local emergency preparedness under the authority of the California Emergency Services Act of 1970. The Office of Emergency Services is responsible for preparing the California State Emergency Plan, last published in October 2017, and for coordinating and supporting emergency services conducted by local governments. The responsibility for immediate response to an emergency, such as fires, landslides, earthquakes or riots, rests with local government agencies and segments of the private sector, with support services provided by other jurisdictions and/or state and federal agencies. In accordance with their normal operating procedures, the initial response to an emergency will be made by local Fire, Law Enforcement, Medical or Maintenance (Public Works) districts or departments.

California Building Code

The 2019 California Building Standards Code (Cal. Code Regs., Title 24) was published on July 1, 2019, with an effective date of January 1, 2020. This Code establishes the minimum requirements, including but not

limited to, safeguards for safety for life and property from fire and other hazards attributed to the built environment.[20] Commercial and residential buildings are plan-checked by the City building officials for compliance with the California Building Code.

California Fire Code

The California Fire Code (Title 24, Part 9 of the California Code of Regulations) establishes regulations to safeguard against hazards of fire, explosion, or dangerous conditions in new and existing buildings, structures, and premises. The provisions of the Fire Code apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure throughout the State of California.

The Fire Code includes regulations regarding fire-resistance- rated construction, fire protection systems such as alarm and sprinkler systems, fire services features such as fire apparatus access roads, means of egress, fire safety during construction and demolition, and wildland-urban interface areas.

California Health and Safety Code

State fire and fire protection regulations are set forth in Sections 13000 et seq. of the California Code, Health and Safety Code: Fires and Fire Protection. This includes, but is not limited to, regulations for building standards (as also set forth in the California Building Code), fire protection and notification systems, fire protection devices such as extinguishers and smoke alarms, high-rise structure and childcare facility standards, and fire suppression training.

California Code of Regulations

The California Code of Regulations, Title 5: Education Code, governs all aspects of education within the state. These standards include, but are not limited to, teachers' retirement system and compensation, California community colleges, and all standards governing the California Department of Education.

California State Assembly Bill 2926 - School Facilities Act of 1986

In 1986, AB 2926, entitled the School Facilities Act of 1986, which was enacted by the State of California and added to the California Code, Government Code, Section 65995. It authorizes school districts to collect development fees, based on demonstrated need, and generate revenue for school districts for capital acquisitions and improvements. It also established that the maximum fees, adjustable for inflation, which may be collected under this legislation and any other school fee authorization, are $1.50 per square foot ($1.50/sf) of residential development and $0.25/sf of commercial and industrial space.

AB 2926 was expanded and revised in 1987 through the passage of AB 1600, which added Section 66000 et seq. of the California Code, Government Code. Under this statute, payment of statutory fees by developers serves as total mitigation under CEQA to satisfy the impact of development on school facilities. Subsequent legislative actions have expanded and contracted the provisions and limits placed on school fees by AB 2926.

California Senate Bill 50 (SB 50)

Further refinement of the legislation enacted under AB 2926 took place in the passage of SB 50 in 1998, which defined the Needs Analysis process in California Code, Government Code Sections 65995.5–65998.

[20] ICC Digital Codes, https://codes.iccsafe.org/content, last accessed July 22, 2021

Under the provisions of SB 50, school districts may collect fees to offset the costs associated with increasing school capacity as a result of development.

Level One fees are assessed based upon the proposed square footage of residential, commercial, industrial, and/or parking structure land uses. Level Two fees require the developer to provide one-half of the costs of accommodating students in new schools, while the state would provide the other half. Level Three fees require the developer to pay the full cost of accommodating the students in new schools and would be implemented at the time the funds available from Proposition 1A (approved by California voters in 1998) are expended.

School districts must demonstrate to the state their long-term facilities' needs and costs based on long-term population growth to qualify for this source of funding. However, voter approval of Proposition 55 on March 2, 2004, precludes the imposition of the Level Three fees for the foreseeable future. Therefore, once qualified, districts may impose only Level Two fees, as calculated according to SB 50.

Local

City of Newark General Plan, 2013

The Newark General Plan includes several relevant policies and action programs, under the rubric of Public Safety, Educational Facilities, Open Space, and Parks Management, that seek to reduce or avoid impacts to public services. These include Public Safety Policies CSF-4.1, 4.2, 4.4, 4.5 and 4.6 and Actions CSF-4, 4.D, 4.H, 4.G and 4.5 on pg. CSF-25; Educational Facilities Policies CSF-2.1 and 2.2 on pg. CSF-22; Open Space Policy PR-1.2 and Action PR-1.B on pgs. PR-17 and PR 18, respectively; and Park Management Policies PR-3.1, 3.2 and 3.8 on pgs. PR-20 and PR-21.

Fire Prevention Code

The City has adopted the 2019 California Fire Code by reference and amended through NMC Chapter 15.17. NMC Section 15.17.020 requires automatic fire sprinklers under certain conditions, including but not limited to, new buildings that have a total floor area of 1,000 square feet or more. New construction or improvements are subject to the Newark Fire Department's plan review and approval.

Newark Capital Facilities Fees

As set forth in NMC Chapter 3.24, Development Impact Fees, all new development projects are required to pay Capital Facilities Fees, unless exempt by the provisions of NMC Section3.24.070. Capital Facilities Fees, where payable, consist of three types of fees: public safety, community service and facilities, and transportation impact fees. Capital Facilities fees on multi-unit residential development is payable for the total development when the first unit in the development receives its Certificate of Occupancy.

Impact Analysis

a. *Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:*
    i. Fire Protection

    The ACFD maintains three fire stations in Newark: Station #27 at 39039 Cherry Street located 1.3 miles to the southeast, Station #28 at 7550 Thornton Avenue located approximately 2.5 to the southwest,

and Station #29 at 35775 Ruschin Drive approximately 2.5 miles to the east of the project site. The proposed project involving construction of 118 residential units would result in an incremental increase in the need for fire protection services. However, the development of the project site at the proposed density is planned for in the General Plan and the project is not likely to require new, altered, or expanded fire protection facilities. **LESS THAN SIGNIFICANT IMPACT**

ii. Police Protection

The City of Newark Police Department would provide police protection to the proposed development. The project would introduce new residential buildings and residents to the project site. This would result in an incremental increase in demand for police protection services. However, the development of the project site at the proposed density is planned for in the General Plan and the project. Therefore, the project is not anticipated to require or result in any additional construction of new or physically altered police facilities. **LESS THAN SIGNIFICANT IMPACT**

iii. Schools

The proposed project would result in the development of 118 residential units including single family residences and duplexes. It is likely that the residents of the development would include school aged children that would create a direct demand for school services. General Plan Policy CSF-2.2 requires mitigation of school impacts to the full extent permitted by law and collaboration by the City with the Newark Unified School Districts to ensure that appropriate fees are collected and other appropriate mitigation measures are taken. Therefore, the developer of the project would be required to pay appropriate school impact fees, which serves as total mitigation under CEQA to satisfy the impact of development on school facilities per California Assembly Bill (AB) 2926 described above. Therefore, the environmental impact of the project as it relates to schools would not be significant. **LESS THAN SIGNIFICANT IMPACT**

iv. Parks

The City of Newark has adopted a 3.0-acre per 1,000 resident standard for planning purposes and its Quimby Act[21] fee is based on this ratio. The City's General Plan buildout predicted a population of 60,510 persons in Newark by 2035. At the current park ratio, the City would experience a shortfall of 49 acres of parkland at buildout.

The City has already planned to add at least 21 acres through new neighborhood parks in the Dumbarton TOD and Southwest Newark Residential and Recreational Focus Areas through the specific plans that apply to those locations[22], which leaves a shortfall of 28 acres of parkland at buildout population of 60,510 residents. The increase of 394 persons[23] attributable to the project is planned for in the General Plan given that the development would occur within the allowable density for the subject site. It would, thus, not add to the 28 acre shortfall and would not contribute to the need for parks beyond that identified in the General Plan. The General Plan EIR identified a less than significant

[21] 1975 Quimby Act (California Government Code §66477), authorizes cities and counties to pass ordinances requiring that developers set aside land, donate conservation easements or pay fees for park improvements.

[22] General Plan Tune Up Draft EIR, City of Newark, August 13, 2013, pg. 4.12-20

[23] Per 2021 Census, the average household size in the City of Newark is estimated to be 3.34 persons, which would yield 394 residents for the proposed development of 118 residential units.

impact to park facilities as a result of the development planned for in the General Plan.[24] Therefore the project's impact as it relates to park facilities would be less than significant. **LESS THAN SIGNIFICANT IMPACT**

v. Other Public Facilities

The project includes the construction of a residential development comprised of 118 dwelling units. As indicated in Section 14, Population and Housing, the proposed project will not induce substantial population growth in the area, either directly or indirectly. Therefore, impacts to other public facilities would be less than significant. **LESS THAN SIGNIFICANT IMPACT**

[24] General Plan Tune Up EIR, 2013, pg. 4.12-22

Recreation

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a.	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	■	☐
b.	Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	■	☐

Recreation Setting

The City of Newark maintains 131 acres of land in parks and sportsfields spread over 13 parks including eight neighborhood parks, three community parks, and two special use parks. Additionally, there are parks and trails maintained by other agencies such as the East Bay Regional Parks and San Francisco Bay Trail. Public land used for resource conversation such as the Don Edwards San Francisco Bay National Wildlife Refuge is also located in the vicinity of Newark. The Byington Park (neighborhood park) and Birch Grove Park (community park) are located within one mile of the proposed development. The City also operates other recreational facilities including a community center, a community activity center, which includes an aquatic center, and a senior center.

Regulatory Setting

State

Quimby Act

The Quimby Act, passed in 1975, authorizes cities and counties in California to pass ordinances requiring that developers set aside land, donate conservation easements, or pay fees for park improvements. The Quimby Act allows cities and counties to require the dedication of land, payment of in-lieu fees, or a combination of both. Parkland dedication/fee for neighborhood and community parks is limited to a maximum of three acres of parkland per 1,000 residents of a new subdivision. If the amount of existing neighborhood and community park area exceeds that limit, the city or county may require parkland matching the existing provision, up to 5 acres per 1,000 residents.

In 2013, Assembly Bill 1359 allowed cities and counties to use Quimby Act fees to provide parks in neighborhoods other than the one in which a developer's subdivision is located and allows cities and counties to enter into a joint or shared use agreement with public districts to provide additional park and recreational access. Revenues generated through the Quimby Act are for parkland acquisition and cannot be used for the operation and maintenance of park facilities.

Local

The City of Newark Park Standards

The City of Newark applies two types of standards in park planning. The first standard is the City's adopted planning requirement of 3 acres of parkland per 1,000 residents in the application of the Quimby Act, which establishes a standard for land set aside by current and future developers. The second standard of park planning is the creation and enforcement of service area standards, categorized as neighborhood parks, community parks, and special use parks in the City of Newark. The City defines neighborhood parks as resident-serving recreation spaces ranging from 5 to 10 acres and accessible to users within a 0.5-mile radius. These parks typically host lawn, play areas, and small recreation facilities such as basketball courts. Community parks may be 15 to 20-acres in size and are designed to serve residents within a 1 to 2-mile radius. These parks typically include off-street parking, larger recreation facilities that draw users from a greater service area and are accessible by public transit.[25]

The Citywide Parks Master Plan

Newark's Citywide Parks Master Plan was updated in July 2017 and provides a framework for the provision of future parks in the City. The Parks Master Plan sets out protecting and supporting the existing network, accommodating demands in service, enhancing community identity and fostering connectivity as its overarching goals.

Impact Analysis

a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The City of Newark General Plan Tune Up EIR, August 2013, analyzed the impact on the City's recreational facilities at built out in 2035 in accordance with the City's General Plan and made a finding of less than significant impact given the applicable policies of the General Plan and City regulations[26].

The existing General Plan designates the project site Medium Density Residential allowing the development of 14 to 30 residential units. The project proposes 118 units at a density of 21 units/acre commensurate with the densities allowable per the General Plan designation of Medium Density Residential.

The nearest parks to the proposed development are Byington Park (neighborhood park) and Birch Grove Park (community park). The City has established service area standards for neighborhood parks and community parks. As indicated in the City's Parks Master Plan, 2017, neighborhood parks are designed to serve residents living within a 0.5-mile radius and are typically 5 to 10 acres in size. Community parks are designed to serve residents living within a 1 to 2-mile radius and may be 15 to 20 acres in size .

As indicated above under "Recreation Setting", Byington Park and Birch Grove Park are the nearest parks to the project site. Both are located at a distance of 0.8 miles from the project site. Given the distance of Byington Park from the project site, it would not be regarded as a neighborhood park serving the proposed development. Birch Grove Park, which is approximately 15 acres in size would be serving the residents of the proposed development as the community park in the area. Increased use of this parks by the residents of the development could cause or accelerate the park's physical deterioration.

[25] Citywide Parks Master Plan, 2017, pg. 19

[26] General Plan Tune Up Draft EIR, City of Newark, August 13, 2013, pg. 4.12-21

As a planned development, however, the project would provide 44,990 square foot (approximately one acre) of open space in the development. This is 27 percent more than the 35,400 square feet of open space that would be required for the proposed development by standards applicable in the base Medium Residential (RM) district per NMC Section 17.07.030. This recreational open space has the potential to reduce the demand for recreational amenities at City parks. Additionally, the project would be subject to payment of park impact fees. This factor along with the policy of prioritization of park maintenance in the City's Parks Master Plan, 2017 would result in less than significant impacts to parks facilities serving the residents of the proposed development. **LESS THAN SIGNIFICANT IMPACT**

b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

As stated above, the project would include 44,990 square foot (approximately one acre) of open space in the proposed development comprising of 33,283 square feet (approximately 0.76 acres) in common open space and 0.27 acres in private open space associated with each of the 118 units in the proposed development. The provision of the open space in the proposed development would be part of the planned construction of the project and is not anticipated to have an adverse physical effect on the environment.

The development of the project would yield an increase in the use of recreational facilities and community services by the future residents of the development but the increase is negligible and is not anticipated to require unplanned construction or expansion of recreational facilities as a result of the project. **LESS THAN SIGNIFICANT IMPACT**

Transportation

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	☐	☐	■	☐
b. Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	☐	☐	■	☐
c. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	■	☐
d. Result in inadequate emergency access?	☐	☐	■	☐

Transportation Setting

Road Network

The existing circulation network within the City of Newark is comprised of I-880, SR-84, and a network of arterials, collector streets, and local streets. I-880 is an eight-lane north/south freeway, with three mixed-flow lanes and one high-occupancy vehicle (HOV) lane in each direction. I-880 primarily provides regional access from East Bay cities to San Jose, where it becomes SR 17. SR 84 is a six-lane east/west freeway, which extends from Highway 1 to the west through the Tri-Valley area to the east and defines the northwestern boundary of the City.

Local access to the site is provided on Mowry Avenue, Central Avenue, Thornton Avenue, and Cedar Boulevard. The project site is located on Cedar Boulevard, approximately 2,515 feet (approximately 0.5 miles) southeast of the intersection of Cedar Boulevard and Central Avenue, both of which are arterial roads. Smith Avenue meets Cedar Boulevard across the site near the site's northwestern corner. Smith Avenue is a collector street. Collector streets carry relatively low volumes of cars and should be designed to emphasize walking, bicycling, and safe access to abutting parcels.

Transit

Existing local and regional transit service in Newark are provided by Alameda-Contra Costa Transit (AC Transit), Bay Area Rapid Transit (BART), Amtrak's Capital Corridor, and the Altamont Commuter Express (ACE). Newark is served directly by eleven AC Transit bus routes, and indirectly by nearby BART, commuter rail, and regional rail stations located in Fremont. The project site is served by AC Transit. Existing AC Transit bus stops are present along the project frontage. The closest bus stop is located at the intersection of Cedar Boulevard and Smith Avenue, near the northwest corner of the project site. Additionally, there are bus stops just south of the intersection of Cedar Boulevard and Moores Avenue.

AC Transit Routes 200 and 232 run along Cedar Boulevard in the project vicinity. Line 200 operates between the Union City and Fremont BART stations, with stops at the Lido Fair Shopping Center, Silliman

Center, and NewPark Mall. It operates from 7:30 a.m. to 1:15 a.m. on weekdays and weekends with 30-minute headways. Line 232 operates between the Fremont BART station and NewPark Mall. It operates from 7:30 a.m. to 8:15 p.m. on weekdays and weekends with 60-minute headways.

Bicycle Facilities

Existing bicycle facilities in the project vicinity consist of a Class II bike lane along Cedar Boulevard. The bike lanes along Cedar Boulevard provide a connection to the project site from transit facilities and other points of interest in the area. A Class II bike lane is also located along Central Avenue, which connects the project site to central Newark and Fremont.

Pedestrian Facilities

Pedestrian facilities consist of sidewalks, crosswalks, and pedestrian signals at signalized intersections. In the vicinity of the project site, sidewalks exist along both sides of Cedar Boulevard with the exception of a missing segment in front of the public storage facility adjacent to the project site to its northwest.

Crosswalks with pedestrian signal heads and push buttons are provided on the south and west approaches of the Cedar Boulevard/Moores Avenue intersection. Crosswalks are provided along the north and west approaches of the unsignalized intersection of Cedar Boulevard and Smith Avenue. Additionally, crosswalks with pedestrian signal heads and push buttons are provided along all approaches of the Cedar Boulevard/Mowry Avenue and Cedar Boulevard/Central Avenue intersections.

Regulatory Setting

State

Assembly Bill 1358

On September 30, 2008, Governor Schwarzenegger signed Assembly Bill (AB) 1358, the California Complete Streets Act of 2008, into law. As of January 2011, AB 1358 requires any substantive revision of the circulation element of a city or county's general plan to identify how the circulation of all roadway users including pedestrians, bicyclists, children, seniors, individuals with disabilities, and transit riders, as well as motorists will be safely accommodated.

Senate Bill 375

Senate Bill (SB) 375 was adopted to enhance the GHG reduction goals outlined in AB 32 by establishing GHG reduction targets from passenger vehicles. Among other measures, SB 375 requires preparation and adoption of a Sustainable Communities Strategy (SCS) that contains a growth strategy to meet emission targets for inclusion in the Regional Transportation Plan (RTP). The SCS and RTP must be consistent with one other, including action items and financing decisions. MPOs must use transportation and air emissions modeling techniques that are consistent with guidelines prepared by the California Transportation Commission. The current RTP is the Plan Bay Area 2050, which is further described below.

Senate Bill 743

Senate Bill 743 (Steinberg, 2013) required changes to the guidelines implementing CEQA regarding the analysis of transportation impacts. Pursuant to Public Resource Code Section 21099, the criteria for determining the significance of transportation impacts must "promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses."

To that end, the State of California Governor's Office of Planning and Research (OPR) adopted changes to the CEQA Guidelines in December 2018 specifying vehicle miles traveled (VMT) as the most appropriate metric to evaluate a project's transportation impacts. The California Natural Resources Agency subsequently certified adoption of the changes to the CEQA Guidelines, and automobile delay, as measured by "level of service" (LOS) and other similar metrics, generally no longer constitute a significant environmental effect under CEQA. (Pub. Resources Code, Section 21099 (b)(2)).

SB 743 did not authorize OPR to set specific VMT impact thresholds, but it did direct OPR to develop guidelines for jurisdictions to utilize. CEQA Guidelines Section 15064.3(b)(1) describes factors that might indicate whether a development project's VMT may be significant, or not. Notably, based recommended thresholds for residential, office and retail projects incorporated in the OPR guidelines, a proposed project exceeding a level of 15 percent below existing VMT per capita may indicate a significant transportation impact. Existing VMT per capita may be measured as regional VMT per capita or as city VMT per capita. Conversely, projects under a level of 15 percent below existing VMT per capita would indicate a less than significant transportation impact. Furthermore, per the OPR guidelines, proposed development referencing a threshold based on city VMT per capita (rather than regional VMT per capita) should not cumulatively exceed the number of units specified in the SCS for that city and should be consistent with the SCS's Transportation (VMT) impacts.

Regional

Regional Transportation Plan (Plan Bay Area, 2050)

On October 21, 2021, the Metropolitan Transportation Commission (MTC) and the Executive Board of the Association of Bay Area Governments (ABAG) adopted Plan Bay Area 2050 and certified the associated Final EIR. As indicated under the "Land Use and Planning" chapter of this study, Plan Bay Area 2050 builds upon the previously adopted Plan Bay Area 2040.

Plan Bay Area 2050 serves as both the region's SCS and the RTP. It is an integrated long-range transportation and land-use/housing plan intended to support a growing economy, provide more housing and transportation choices, and reduce transportation-related pollution in the Bay Area. The Plan identifies 35 strategies across four elements (housing, economy, transportation, and the environment). Transportation strategies are categorized into three themes: maintain and optimize the existing transportation system, create health and safe streets, and build a next-generation transit network.

Local

City of Newark General Plan, 2013

The City of Newark General Plan, adopted in 2013, includes several transportation policies and actions crafted to serve goals related to complete streets, bicycle and pedestrian circulation, transit, vehicle miles traveled, vehicular circulation and parking. The Policies and Actions are enumerated in the (General Plan pg. T-40 through T-58), Additionally Land Use Policies such as Policy LU-1.4 aim for coordinated land use and development decisions with the capacity of the transportation system and plans for future transportation improvements.

Pedestrian and Bicycle Master Plan

The City's Pedestrian and Bicycle Master Plan, adopted in 2017, seeks to implement the goals and policies of the City's General Plan Transportation element. The plan provides further purpose, goals and objectives

towards evaluating the existing conditions, understanding the community's needs and proposing new and enhanced citywide pedestrian and bicycle facilities for the future.

The City of Newark's Complete Streets Policy

The City of Newark has an adopted Complete Streets policy requiring that transportation improvements in Newark be planned, funded, designed, constructed, operated, and maintained to provide safe mobility for all users appropriate to the function and context of the facility. The Complete Street policy establishes a principle, among others, that "all projects and project phases, with appropriate limited exceptions, account for and respond to complete streets policies and requirements."[27]

A Traffic Study, titled "38478 Cedar Boulevard Transportation Impact Analysis", dated July 5, 2022, and a Memo, dated October 3, 2022, including traffic queuing analysis for the project, were prepared by Hexagon Transportation Consultants, Inc. (**Appendix 7**) for the project. The following analysis is partially based on these studies.

Impact Analysis

a. Would the project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

Transportation planning in Newark is guided by the Alameda County Transportation Commission's (ACTC) Congestion Management Program (CMP) and the Transportation policies of the City of Newark General Plan. The CMP describes performance measures related to the circulation system and emphasizes multi-modal accessibility and transportation/land use integration. It also provides specific measurement tools to assess the performance of roadways, transit service, bicycling, and walking. The CMP recommends a detailed transportation impact analysis (TIA) for projects generating 100 vehicle-trips or more during the weekday PM peak hour.

The Transportation Impact Analysis (TIA) estimated that the project would generate 819 daily trips 72 AM peak hour, and 88 PM peak hour net new automobile trips. Since the project is expected to generate fewer than 100 net PM peak hour trips, a CMP roadway segment analysis was not required. The TIA includes an analysis of AM and PM peak hour traffic conditions for three (3) signalized intersections, Cedar Boulevard and Central Avenue, Cedar Boulevard and Moores Avenue, and Cedar Boulevard and Mowry Avenue, as well as one (1) unsignalized intersection, Cedar Boulevard and Smith Avenue. The TIA reports the estimated Vehicle Miles Traveled (VMT) per capita and compared them to the regional average, evaluates potential impacts to pedestrians, bicycles, and transit, and site access and circulation.

Based on the analysis, the TIA recommended that the applicant coordinate with the City to determine whether a signal should be installed at the intersection of Cedar Boulevard and Smith Avenue, extend the left turn pocket at the Cedar Boulevard and Mowry Avenue intersections, install a left turn median refuge along Cedar Boulevard from the project driveway, and provide signage stating "No Outlet" at dead end aisles proposed as part of the development.

These recommendations are proposed as part of the improvements associated with the project. The TIA also concludes that the exiting drivers would have adequate sight distance at project driveways, that the proposed parking meets the requirements per NMC, that the project would not remove any

[27] General Plan Tune Up Draft EIR, City of Newark, August 13, 2013, pg. 4.13-6

existing pedestrian sidewalks and bicycle facilities. Additionally, the project provides for a sidewalk in front of the Private Storage business to the northwest, and includes a new bus stop/shelter to serve the two bus routes which operate along Cedar Boulevard. Further, the project would be required to provide bicycle parking in conformance with NMC Section 17.23.070.

Based on the discussion above, the project would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities. **LESS THAN SIGNIFICANT IMPACT**

b. Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b) (Vehicles Miles Travelled)?

Pursuant to SB 743, the CEQA Guidelines Section 15064.3, subdivision (b) states that vehicle miles travelled (VMT) will be the metric in analyzing transportation impacts for land use projects for CEQA purposes. The City of Newark has not established standards regarding VMT. As stated in the "Regulatory Settings" above, the OPR Technical Advisory on Evaluating Transportation Impacts in CEQA (December 2018), recommends that a threshold that is 15 percent below the baseline (existing) conditions can be considered to yield less than significant VMT impacts. Based on the analysis presented in the TIA, the project VMT would be 18.1 percent lower than the baseline, that being the average daily VMT for the City of Newark under existing conditions. Therefore the VMT of the proposed project would not have a significant impact. **LESS THAN SIGNIFICANT IMPACT**

c. Would the project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

The proposed project provides access to the site via two, two-way driveways, which would create unsignalized intersections with Cedar Boulevard. No entry control devises are proposed. The project's TIA and Memo indicate that queuing for inbound traffic would not disrupt traffic along Cedar Boulevard. The queuing analysis has been reviewed and approved by the City's Department of Public Works. Minor on-site vehicle queuing for exiting vehicles may occur due to the random occurrence of gaps in traffic along Cedar Boulevard but would not disrupt traffic along Cedar Boulevard as it will be onsite. **LESS THAN SIGNIFICANT IMPACT**

d. Would the project result in inadequate emergency access?

The project's circulation plan has been reviewed and meets all requirements of the City of Newark's Public Works Department and Alameda County Fire Department. Site circulation was determined to be adequate by the City's Public Works Department. The minimal increase of construction vehicles traveling to and from the project site on a temporary basis would not result in inadequate emergency access because construction activity in the public rights of way would require an encroachment permit from the Public Works Department to ensure that any obstructions due to construction traffic are adequately mitigated. Therefore, emergency vehicle access is adequate and potential impacts would be less than significant. **LESS THAN SIGNIFICANT IMPACT**

Tribal Cultural Resources

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:	☐	■	☐	☐
i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	☐	☐	☐	■
ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	☐	■	☐	☐

Tribal Cultural Resources Setting

Newark is in the San Francisco Bay area, which was occupied by scores of small independent tribal territories known as 'tribelets.' Each tribal territory, ranging from 8 to 12 miles wide, contained a number of intermarried families that comprised a small, autonomous political organization of 200 to 400 people. Native Americans of the Tuibun tribelet, a sub-tribe of the Coastanoans, inhabited what is now Newark prior to European arrival.[28]

Newark is located in Alameda County where native American habitation is often marked by the presence of middens, which are piles of organic debris marking village refuse areas, typically containing marine shells and animal bones. Native American activity areas are also distinguished by scatters of "flakes" of chipped material that resulted from the handcrafting of stone tools and seed or acorn milling stations, which consist of depressions consistent with a mortar and pestle. Native American cultural resources in western Alameda County, which is where Newark is located, are typically found near the Bay shore and adjacent to other seasonal and perennial watercourses.[29] The project site is inland, further away from the Bay shore, and is neither adjacent to nor contains any seasonal or perennial watercourses.

[28] General Plan Tune Up Draft EIR, City of Newark, August 13, 2013, pg. 4.4-4

[29] General Plan Tune Up Draft Program EIR, City of Newark, August 13, 2013, pg. 4.4-6

Regulatory Setting

State

Native American Historic Resource Protection Act - Assembly Bill No. 52 (AB 52)

On September 25, 2014, then-Governor Brown signed Assembly Bill No. 52, which created a new category of environmental resources, Tribal Cultural Resources, that must be considered under the California Environmental Quality Act. AB 52 requires lead agencies to provide notice to tribes that are traditionally and culturally affiliated with the geographic area of a proposed project prior to the release of a negative declaration or environmental impact report for public review if they have requested notice of projects proposed within that area. If one of the contacted tribes requests consultation within 30 days of the notice, the lead agency must consult with the tribe. Consultation may include discussing the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project's impacts on the tribal cultural resources, and alternatives and mitigation measures recommended by the tribe.

Public Resources Code

Public Resources Code (PRC) Section 21084.2 considers a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource, a project that may have a significant effect on the environment. In accordance with Public Resources Code (PRC) Section 21084.2, lead agencies are required to consider tribal cultural resources, as defined in PRC Section 21074, in environmental review. PRC Section 21074 defines tribal cultural resources as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe.

Health and Safety Code

Section 7052 of the Health and Safety Code identifies the disturbance of Native American cemeteries as a felony. Under Section 7050.5 of the Health and Safety Code, if human remains are discovered during construction activities, work within the vicinity of must be halted until the County Coroner can determine whether the remains are those of a Native American. If remains are determined to be of Native American origin, the County Coroner must contact the California NAHC within 24 hours of this identification. A representative of the NAHC will identify a Native American Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. In addition, CEQA Guidelines Section 15064.5 specifies the procedures to be followed in case of the discovery of human remains on non-federal land. The disposition of Native American burials falls within the jurisdiction of the NAHC.

Archaeological Resources and Human Remains

As enumerated in the "Cultural Resources" section of this initial study, archaeological, paleontological, and historical sites are protected by state policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 1427), and California Health and Safety Code. California Public Resources Code Section 5097.95097.991 require notification of discoveries of Native American remains and provides for the treatment and disposition of human remains and associated grave goods.

State Law requires that the County Coroner be notified if cultural remains are found on a site. If the Coroner determines the remains are those of Native Americans, the Native American Heritage Commission and a "most likely descendant" must also be notified.

Local

City of Newark General Plan

The City's General Plan incorporates policies to identify, preserve, and maintain historic structures and sites to enhance Newark's sense of place and create living reminders of the City's heritage. These policies include Policy LU-5.5 addressing Native American heritage resources. This policy states "*Coordinate with local tribal representatives and the Native American Heritage Commission to ensure the protection of Newark's Native American resources and to follow appropriate mitigation, preservation, and recovery procedures in the event that important resources are identified during development*."

Impact Analysis

a. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

The project site is developed with industrial/commercial buildings and is almost entirely paved. It is not identified in the Native American Heritage Commission (NAHC) Sacred Lands File (SLF), based on a record search of the SLF. Given, that it is highly unlikely that the project would cause a substantial adverse change in the significance of a tribal cultural resource, as defined in Public Resources Code Section 21074. Additionally, the project would be required to implement **Mitigation Measure CUL-1** for l for the protection of cultural resources, including tribal cultural resources, during construction. This mitigation measure is enumerated in the "Cultural Resources" section of this study. **LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED**

i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k).

As stated above, a search of the Sacred Lands file was conducted that did not indicate the presence of a Native American Sacred Site on the Project site. Therefore, the proposed project would have no impact on a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k). **NO IMPACT**

ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision(c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

The City notified 10 tribes on April 7, 2022, regarding the project. One response was received from the Confederated Villages of Lisjan Tribe. The representative of this tribe in correspondence with the City indicated that they had no further information to supply about the site at this time and wished to be notified if there were any findings. California Public Resources Code Section 5097.9-5097.991 and **Mitigation Measure CUL-1** outlined in the "Cultural Resources" section of this initial study apply,

in the event of cultural resources and/or burial finds. **Mitigation Measures TC-1** below will reduce any potential impact to tribal cultural resources, in the event they are accidentally encountered.

Mitigation Measure

TC-1. Cultural resource representatives for the Confederated Villages of Lisjan Tribe shall be notified within 24 hours in the event of an unanticipated discovery of potential tribal cultural resources or if human remains are found during construction and **Mitigation Measure CUL-1** pertaining to cultural resources shall apply as follows:

"During project construction, if historic, archaeological or Native American materials or artifacts are identified, work within 50 foot radius of such find shall cease and the City shall retain the services of a qualified archeologist and/or paleontologist to assess the significance of the find. If such find is determined to be significant by the archeologist and/or paleontologist, a resource protection plan conforming to CEQA Section 15064.5 shall be prepared by the archeologist and/or paleontologist and approved by the Community Development Director. The plan may include, but would not be limited to, removal of resources and similar actions. Project work may be resumed in compliance with such plan. If human remains are encountered, all ground disturbing activities near or in any area potentially overlying adjacent human remains shall cease, the County Coroner shall be contacted immediately, and the provisions of State law carried out."

LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED

Utilities and Service Systems

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
Would the project:				
a. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	☐	☐	■	☐
b. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	☐	☐	■	☐
c. Result in a determination by the waste water treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	■	☐
d. Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	☐	☐	■	☐
e. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	☐	☐	■	☐

Utilities and Service Systems Setting

The proposed project is located within an urbanized environment within the City where utility infrastructure is in place. The project site and vicinity are served by the following service providers:

Water Supply and Distribution: Alameda County Water District (ACWD)

Water for the project would be supplied by the Alameda County Water District (ACWD). ACWD's primary water sources include the State Water Project (SWP), San Francisco Regional Water System (RWS), and local sources. The SWP and SF supplies are imported into the District service area through the South Bay Aqueduct and Hetch-Hetchy Aqueduct, respectively. Local supplies include fresh groundwater from the Niles Cone Groundwater Basin (underlying the District service area), desalinated brackish groundwater from portions of the groundwater basin previously impacted by seawater intrusion, and surface water from the Del Valle Reservoir. The ACWD provides retail water services in the cities of Fremont, Union City, and Newark with a total population of 345,000 people[30] including a population of 47,229 (per January 2022 California Department of Finance Demographics) over a 13.8 square mile area in Newark.

[30] ACWD Fact Sheet, https://www.acwd.org/93/Fact-Sheet, accessed August 2022

Wastewater Collection and Treatment: Union Sanitary District (USD)/ East Bay Dischargers Authority (EBDA).

The Union Sanitary District (USD) is an independent special district that provides collection, treatment, and disposal services for the cities of Newark, Fremont, and Union City. The USD is a member of East Bay Dischargers Authority (EBDA). The EBDA is a Joint Powers Agency, which consists of five local agencies: the USD, the City of Hayward, the City of San Leandro, the Oro Loma Sanitary District, and the Castro Valley Sanitary District. The EBDA was formed to collectively manage the wastewater treatment and disposal from these agencies.[31]

The USD owns and maintains 839 miles of underground pipelines, and wastewater is transported to the 33-acre Alvarado Wastewater Treatment Plant (AWWTP) in Union City. The AWTP has undergone several upgrades and expansions, operates 24 hours a day every day of the year and currently has the capacity to treat 33 million gallons/day. Currently, wastewater treatment is provided for an average daily flow of 25 million gallons/day by the USD[32].

USD has developed the Enhanced Treatment and Site Upgrade (ETSU) program to serve as a roadmap for the treatment plant's infrastructure over the next 40 years. The program considers impending regulatory requirements such as nutrient restrictions, site layout possibilities, and capacity needed to meet the General Plans of the cities served, and USD has several current construction projects to improve the AWWTP.

Storm Drainage: City of Newark

In the City of Newark, the storm drainage system conveys runoff from impervious surfaces such as streets, sidewalks, and buildings to drains that release untreated storm water into local creeks and/or San Francisco Bay. The City of Newark has a stormwater program embodied in NMC Chapter 8.36, Stormwater Management and Discharge Control. The activities of the stormwater program are managed in accordance with the National Pollution Discharge Elimination System (NPDES) Permit requirements enforced by the San Francisco Regional Water Quality Control Board (SFRWQCB).

The City of Newark also has a Green Stormwater Infrastructure (GSI) Plan, dated September 12, 2019. The GSI has been developed in accordance with the Municipal Regional Stormwater Permit (MRP), Order No. R2-2015-0049, adopted by the San Francisco Bay Regional Water Quality Control Board on November 15, 2015. The GSI aims to improve stormwater runoff quality prior to discharging it to local creeks and San Francisco with the added benefit of reducing localized flooding, and flows that may cause downstream erosion, and promoting recharge of groundwater through GSI.

GSI is engineered or man-made infrastructure that is based on natural processes to manage stormwater runoff, such as bioretention areas, flow-through planters, trees and nonproprietary tree-well filters, and pervious/permeable pavement. These methods of GSI may be implemented at different scales. At the project level involving development of a parcel, stormwater impacts could be mitigated by reducing

[31] General Plan Tune Up Draft Program EIR, City of Newark, August 13, 2013, pg. 4.14-17

[32] Union Sanitary District, https://www.unionsanitary.com/about-us/alvarado-treatment-plant#:~:text=It%20has%20undergone%20several%20upgrades,33%20million%20gallons%20per%20day, accessed August 2022

stormwater runoff through capture and reuse and/or by infiltrating and treating stormwater on-site before it enters the storm drain system.[33]

Solid Waste Service: Republic Services of Alameda County

Republic Services provides non-hazardous solid waste disposal services to the City of Newark residents. Solid waste is transported to the Fremont Recycling and Transfer Station, which is located at 41149 Boyce Road in Fremont. Solid Waste collected in Newark is consolidated at the Fremont Recycling and Transfer Station for ultimate disposal at the Altamont Landfill located at 10840 Altamont Pass Road in Livermore. As per information on the Altamont Landfill web page, the landfill site is able to accept unlimited tons for disposal from Alameda and San Francisco counties at this time.[34]

Electrical and Natural Gas Power: Pacific Gas and Electric Company

Electrical and gas utility services in Newark are provided by the Pacific Gas and Electric Company (PG&E). PG&E has jurisdiction over service connections between their main lines and the individual house meters.

Telecommunications Facilities

Telecommunication services include fixed-network services (data retail, Internet retail, voice retail and wholesale) and mobile services. Telecommunication services in Newark are available from many providers including, Xfinity, AT&T, Earthlink, among others.

Regulatory Setting

Federal

Clean Water Act

As described in Section 4.10, Hydrology and Water Quality, the Clean Water Act (CWA) authorizes the United States Environmental Protection Agency (USEPA) to implement water quality regulations. Through Section 402 of the CWA, the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating soil erosion and stormwater discharges into waters of the United States. NPDES permitting authority is administered by the California State Water Resources Control Board (SWRCB) and its nine Regional Water Quality Control Boards.

Safe Drinking Water Act

The Safe Drinking Water Act (SDWA) authorizes the USEPA to set national standards for drinking water through the National Primary Drinking Water Regulations to protect against both naturally occurring and man-made contaminants. These standards set enforceable maximum contaminant levels in drinking water and require all water providers in the United States to treat water to remove contaminants, except for private wells serving fewer than 25 people. In California, the State Department of Health Services is responsible for ensuring water systems test for contaminants, review plans for water system improvements, conduct on-site inspections and sanitary surveys, provide training and technical assistance, and take enforcement actions against water systems not meeting standards. Under the SDWA,

[33] City of Newark, Green Stormwater Infrastructure (GSI) Plan, dated September 12, 2019, pg. 6

[34] Altamont Landfill, https://altamontlandfill.wm.com/index.jsp, last accessed July 2, 2021

states are required to certify water system operators to ensure technical, financial, and managerial capacity is in place to ensure safe drinking water is provided to system users.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA) gives the USEPA authority to regulate solid waste hazards and non-hazardous wastes. Regulations addressing solid waste are contained in Title 40 of the Code of Federal Regulations including requirements that states implement their own permitting programs incorporating Federal landfill criteria. In California, the California Department of Resources Recycling and Recovery (CalRecycle) provides oversight for all of California's state-managed non-hazardous waste handling and recycling programs.

State

California Water Code

The California Water Code establishes regulations for the protection of water quality and beneficial uses of water including ground and surface water. In California, the State Water Resources Control Board is the primary authority for controlling water quality and use.

Urban Water Management Planning Act

The Urban Water Management Planning Act serves as a framework for the management of all urban water demands and the efficient use of urban water. Under its provisions, every urban water supplier is required to prepare and adopt an urban water management plan. An "urban water supplier" is a public or private water supplier that provides water for municipal purposes either directly or indirectly to more than 3,000 connections or supplying more than 3,000 acre-feet of water annually.

The urban water management plan must identify and quantify the existing and planned sources of water available to the supplier, quantify the projected water use for a period of 20 years, and describe the supplier's water demand management measures. The urban water supplier should make every effort to ensure the appropriate level of reliability in its water service sufficient to meet the needs of its various categories of customers during normal, dry, and multiple dry years. The Alameda County Water District (ACWD) provides water to residential, commercial, and governmental customers in the City of Newark. The On May 13, 2021, the ACWD Board of Directors adopted ACWD's 2020-2025 Plan, ACWD's Water Shortage Contingency Plan, and ACWD's Addendum to the 2015-2020 Plan in compliance with the Urban Water Management Planning Act.

General Waste Discharge Requirement

On May 2, 2006, the SWRCB adopted a General Waste Discharge Requirement (Order No. 2006-0003) for all publicly owned sanitary sewer collection systems in California with more than one mile of sewer pipe. The order provides a consistent statewide approach to reducing sanitary sewer overflows (SSOs) by requiring public sewer system operators to take all feasible steps to control the volume of waste discharged into the system, to prevent sanitary sewer waste from entering the storm sewer system, and to develop a Sewer System Management Plan (SSMP). The General Waste Discharge Requirement also requires that storm sewer overflows be reported to the SWRCB using an online reporting system. The SWRCB has delegated authority to nine Regional Water Quality Control Boards to enforce these requirements within their region. The City of Newark is within the jurisdiction of the San Francisco Regional Water Quality Control Board (SFRWQCB).

California Integrated Waste Management Act

The California Integrated Waste Management Act of 1989, or AB 939, mandated that all jurisdictions in the state divert at least 50 percent of their solid waste by 2000 through source reduction, composting, and recycling activities. The California Integrated Waste Management Act also mandates that each jurisdiction adopt a Source Reduction and Recycling Element (SRRE), which specifies how the community will meet the 50 percent goals set forth in the Act. Each community is also required to take measures to reduce solid waste generation and to provide for the safe disposal of special and hazardous wastes. In 2009, AB 737 amended the Integrated Waste Management Act to require CalRecycle to adopt programs to increase statewide diversion to 75 percent by 2020.

Solid Waste Disposal Measurement System Act

The Solid Waste Disposal Measurement System Act, also known as SB 1016, amends the California Integrated Waste Management Act compliance requirements for measuring and reporting fifty percent solid waste diversion requirements. Beginning in 2009, the Act requires that diversion rates be measured in terms of per-capita disposal expressed as pounds per person per day. Every year CalRecycle calculates each jurisdiction's per capita (per resident and per employee) disposal rates and reviews jurisdiction compliance on a case-by-case basis. Jurisdictions are not compared to other jurisdictions or the statewide average but compared to their own fifty percent per capita disposal target.

Senate Bill 1383

SB 1383, signed in September 2016, aims to reduce emissions of short-lived climate pollutants. As it pertains to CalRecycle, SB 1383 establishes targets to achieve a fifty percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a seventy-five percent reduction by 2025. The law grants CalRecycle the regulatory authority required to achieve the organic waste disposal reduction targets and establishes an additional target that not less than twenty percent of currently disposed edible food is recovered for human consumption by 2025. SB 1383 further supports California's efforts to achieve the statewide seventy-five percent recycling goal by 2020 established in AB 341.

CalGreen Code

CalGreen established planning and design standards for sustainable site development, including water conservation and requires new buildings to reduce water consumption by twenty percent. The mandatory provisions of the California Green Building Code Standards became effective January 1, 2011. The building efficiency standards are enforced through the local building permit process.

The 2019 CalGreen code contains construction waste management requirements for certain new construction and additions, as well as demolition of nonresidential (i.e., State-owned buildings and commercial, industrial, and medical facilities) and residential buildings. Newly constructed multi-family housing with more than five units are required to have accessible areas that serve the entire building and are identified for the depositing, storage, and collection of recycling.

The 2022 CALGreen code goes into effect January 1, 2023, and focuses on battery storage system controls, demand management, heat pump space and water heating, and building electrification.

Regional

In addition to the state requirements, Measure D, approved in 1990 in Alameda County, established the Alameda County Source Reduction and Recycling Board ("Recycling Board") and mandated that the Recycling Board create and periodically update a plan for a comprehensive source reduction and recycling program. Measure D had established Alameda County-mandated 75 percent recycling goal as part of the County Integrated Waste Management Plan. In 2010, the Recycling Board targeted the end of calendar year 2020 for achievement of the 75% goal. However, progress toward this goal plateaued, demonstrating that the approach of relying primarily on collection and processing isn't enough to meet the 75% target. Therefore, the Recycling Board's new plan, Beyond 75% Diversion: A Vision for Landfill Obsolescence, December 2020, sets a new goal for landfill obsolescence by the year 2045.

Pursuant to SB 1383, the Organics Reductions and Recycling Ordinance was adopted by Alameda County to keep food and other compostable material out of landfills to reduce emissions that contribute to climate change. The City of Newark adopted Ordinance No. 533 on November 18. 2021 to comply with this ordinance through NMC Chapter 8.40.

Local

The City's Green Building and Construction and Demolition Recycling Ordinance, codified in NMC Chapter 15.44 requires all "covered projects" to divert 100 percent of all portland cement concrete and asphalt concrete and an average of no less than 50 percent of all remaining construction and/or demolition debris. Covered projects include all city or privately-owned construction projects whose total costs are greater than $100,000 , or structure demolition projects whose total costs are greater than $20,000, or pavement demolition Projects involving over 1,000 square feet of removed pavement.

Impact Analysis

a. Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Water

The necessity for new or expanded water infrastructure due to the proposed project would only arise if the water supply capacity of the ACWD was exceeded because of it. The ACWD has developed and is implementing a 25-year Capital Improvements Program (CIP) spanning FY 2011/12 to FY 2035/36 to provide reliable water supply to its customers in the tri-city area.

Table 10 below outlines the past ACWD past and current water use through to the year 2020, as incorporated in the ACWD's Final Urban Water Management Plan (UWMP), 2020-2025. As shown in this table the water use for single family residences has reduced since 2011 and has stayed the same for multi-family residences.

Table 10: ACWD Past and Current Water Use (Acre-Feet)

Water Use Category	*Fiscal Year*									
	10-11	*11-12*	*12-13*	*13-14*	*14-15*	*15-16*	*16-17*	*17-18*	*18-19*	*19-20*
Distribution System										
Single-Family Residential	21,800	21,700	23,200	21,600	16,600	14,400	17,400	17,200	17,100	17,700
Multi-Family Residential	7,500	7,600	8,200	8,100	7,100	6,900	7,100	7,300	7,200	7,500
Commercial	4,700	3,800	5,000	5,000	4,600	4,400	4,700	4,900	4,800	4,700
Industrial	2,500	2,600	2,500	2,300	2,200	2,100	2,200	2,300	2,300	2,300
Institutional	1,700	1,900	2,000	1,800	1,300	1,000	1,300	1,400	1,400	1,300
Landscape	4,900	6,400	5,700	5,200	3,600	2,800	3,500	4,600	4,500	5,100
Other	200	100	200	200	200	200	200	200	200	100
Total Consumption	43,300	44,100	46,800	44,200	35,600	31,800	36,400	37,900	37,500	38,700
Non-Revenue Water	4,100	4,200	2,000	2,400	2,800	4,500	2,600	3,600	4,000	4,700
Distribution System Total	**47,400**	**48,300**	**48,800**	**46,600**	**38,400**	**36,300**	**39,000**	**41,500**	**41,500**	**43,400**
Groundwater System										
Private Groundwater	2,000	2,600	1,900	2,000	2,000	2,000	1,600	1,800	1,500	1,700
Groundwater Reclamation										
-ARP Pumping	11,300	12,000	11,000	11,400	11,200	11,900	11,500	10,900	10,700	12,100
-Saline Outflow	6,100	4,700	3,600	300	2,200	4,900	8,500	7,400	7,700	6,300
Groundwater System Total	**19,400**	**19,300**	**16,500**	**13,700**	**15,400**	**18,800**	**21,600**	**20,100**	**19,900**	**20,100**
Grand Total	***66,800***	***67,600***	***65,300***	***60,300***	***53,800***	***55,100***	***60,600***	***61,600***	***61,400***	***63,500***

Source: Alameda County Water District, Urban Water Management Plan 2020-2025

The ACWD conducts detailed demand forecasts, which for the City of Newark is consistent with the City's General Plan through 2035. The demand forecast is substantially reduced in the 2020 UWMP as opposed to previous years because of more efficient plumbing code standards, lower per unit consumption, and a permanent post-drought water use efficiency ethic apparent in the consumption data after the most recent statewide drought 2012-2016.[35]

[35] Alameda County Water District, Addendum to 2015-2020 Urban Water Management Plan, https://www.acwd.org/DocumentCenter/View/3818/Final-2015-2020-UWMP-Addendum-Reduced-Delta-Reliance-Reporting, accessed August 2022

However, because approximately 35% of the ACWD's demand comes from landscape irrigation, dry periods tend to increase demands as low rainfall and higher temperatures result in increased evapotranspiration requirements for landscaping. In extreme dry periods, the ACWD may set either a voluntary or even mandatory water use reduction target under the ACWD's Water Shortage Contingency Plan as well as requiring customers to implement permanent demand reductions during the drought that extend beyond the end of the drought and have lasting effects on water demands, as demonstrated during past droughts.

Therefore, reconstruction or relocation of water infrastructure is not anticipated as a result of the project even though the project would add a total of 118 units and approximately 394 persons. Additionally, the applicant shall be required to provide a "Will Serve" letter from the provider, prior to issuance of a building permit. **LESS THAN SIGNIFICANT IMPACT**

Wastewater Treatment

According to the analysis presented in the General Plan Tune Up EIR (2013), the additional wastewater flows from the development envisioned in the City's General Plan would have a less than significant impact on wastewater infrastructure. This is because the Alvarado Wastewater Treatment Plant (AWWTP) would still be operating at 74 percent of its capacity with the additional flows from the development envisioned in the General Plan.

As indicated above, currently, the AWWTP has the capacity to treat 33 million gallons/day, and the USD treats approximately 25 million gallons of wastewater/day. The proposed project would not exceed the population anticipated in the General Plan and given the remaining capacity for treating wastewater flows at AWWTP, the proposed project would not create the need for relocated or new infrastructure for wastewater. **LESS THAN SIGNIFICANT IMPACT**

Stormwater

The impervious area of the proposed development would be less than the existing condition. The project proposes on-site bioretention and silva cells for storm water management and will need to comply with the NPDES stormwater controls. The stormwater management plan has been reviewed by the City's Engineering Division of the Public Works Department. The proposed project would require upsizing of two stormwater pipelines in Cedar Boulevard, as described in the Project Description. These pipelines would connect to an existing main in the street, and their installation would not create significant environmental effects as it would be located within an existing street. **LESS THAN SIGNIFICANT IMPACT**

Electric Power and Natural Gas

It is anticipated that the proposed project would be served by the Pacific Gas and Electric Company through the service connections between their main lines and the individual house meters. **LESS THAN SIGNIFICANT IMPACT**

Telecommunication Facilities

It is anticipated that the telecommunications service providers in Newark would provide services to the proposed project, once constructed. **LESS THAN SIGNIFICANT IMPACT**

b. Would the project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Based on the assessment in the 2010-2015 UWMP, Newark's General Plan Tune Up EIR (2013) found the cumulative impacts on water supply to be less than significant for the planned development envisioned in the General Plan at built out in 2035.[36] The proposed project represents an increment in the population of the City planned for and analyzed in the General Plan and EIR, respectively.

Additionally, the 2020-2025 UWMP prepared for such time assesses approximately 5 million gallons per day [mgd] of passive water use efficiency savings in its 25-year planning horizon of the 2020 UWMP compared to only approximately 1.8 mgd previously estimated in the 25-year planning horizon of the 2015 UWMP.37 Given that, a population increment planned for in the General Plan Update in 2013 would not create significant water supply impacts. Further, the proposed project would be required to obtain a "will serve" letter from the ACWD. **LESS THAN SIGNIFICANT IMPACT**

c. Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

As discussed above under section a., the proposed project would not result in the need for expanded capacity for wastewater infrastructure. The USD would, therefore, have adequate capacity to serve the project. **LESS THAN SIGNIFICANT IMPACT**

d. Would the project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Newark generates a small percent (2%) of the total amount of yearly waste disposed in the Altamont landfill and there would be a relatively small increase in the amount of waste generated within the City of Newark for the projected population by the year 2035, due to recycling ordinances and diversion of plant debris for composting.[38]

The proposed project would result in an addition of approximately 394 persons to the population of the City that is planned for in the City's General Plan and analyzed in the Plan's EIR. Additionally, given that the Altamont Landfill is able to accept unlimited solid waste from Alameda County at this time, the solid waste generated from the project would be within the capacity of the local infrastructure for disposal.

The project would be required to comply with applicable state, ACWMA, and City of Newark laws and regulations. Compliance with these would ensure that the state or local standards for solid waste or solid waste reduction goals are met by the proposed project. **LESS THAN SIGNIFICANT IMPACT**

e. Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

The federal, state and local statutes and regulations related to solid waste are detailed in the "Regulatory Setting" above. The project would be required to meet the solid waste management and

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[36] General Plan Tune Up Draft Program EIR, City of Newark, August 13, 2013, pg. 4.14-13, 4.14-14

[37] Alameda County Water District, Addendum to 2015-2020 Urban Water Management Plan, https://www.acwd.org/DocumentCenter/View/3818/Final-2015-2020-UWMP-Addendum-Reduced-Delta-Reliance-Reporting, accessed August 2022

[38] General Plan Tune Up Draft Program EIR, City of Newark, August 13, 2013, pg. 4.14-36

reduction goals in accordance with the applicable ACWMA regulations ensuring the project's compliance with applicable statutes and regulations. **LESS THAN SIGNIFICANT IMPACT**

Wildfire

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a. Substantially impair an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	■
b. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	☐	☐	☐	■
c. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	☐	☐	☐	■
d. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	☐	☐	☐	■

Wildfire Setting

Wildland fires typically start in undeveloped areas such as a forest or grassland, which typically cause more damage than urban fires. In California, most wildfire damage occurs in WUI areas, or areas where homes abut undeveloped forests or grasslands. The project site is surrounded by urban development and does not abut undeveloped forests or grassland.

The California Department of Forestry and Fire Protection (CAL FIRE) maps areas of significant wildfire hazards based on weather, terrain, and fuel types and are designated as either a State Responsibility Area (SRA) or Local Responsibility Area (LRA), based on population density, land use, and land ownership. CAL FIRE identifies Fire Hazard Severity Zones within SRAs. In addition, CAL FIRE must recommend Very High Fire Hazard Severity Zones (VHFHSZ) identified within any LRA. The project site is not located in or near a SRA and is not on land classified as a Very High Fire Hazard Severity Zone (VHFHSZ) in the LRA[39].

Regulatory Setting

Federal

Federal Emergency Management Act (FEMA)

FEMA's mission is to lead the effort to prepare the nation for all hazards and effectively manage federal response and recovery efforts following any national incident. FEMA also initiates proactive mitigation activities, trains first responders, and manages the U.S. Fire Administration. The City of Newark is under the jurisdiction of FEMA Region 9, which covers Arizona, California, Hawaii, Nevada, Guam, American Samoa, Commonwealth of Northern Mariana Islands, Republic of Marshall Islands, Federated State of

[39] Office of the State Fire Marshal, Fire Hazard Severity Zone Viewer, https://egis.fire.ca.gov/FHSZ/, last accessed July, 2022.

Micronesia, and more than 150 sovereign tribal entities. FEMA Region 9 specifically plans to respond to local hazards, including wildfires.

State

California Department of Forestry and Fire Protection (CAL FIRE)

CAL FIRE protects people and safeguards property from wildland fires in California. Prevention is a key component of CAL FIRE's mission including pre-fire engineering, vegetation management, fire planning, education, law enforcement. It provides statewide direction for fire prevention in wildland areas and reviews regulations and building standards. CAL FIRE maps Fire Hazard Severity Zones (FHSZs) sitewide based on fuel, slope, and weather. It also designates land as either Federal, State, or Local Responsibility Area (FRA, SRA, or LRA).

California Fire Code

The California Fire Code (CFC) is Part 9 of Title 24, California Code of Regulations, also referred to as the California Building Standards Code. The CFC incorporates the 2018 International Fire Code of the International Code Council with necessary California amendments. The purpose of the CFC is to establish the minimum requirements consistent with nationally recognized best practices to safeguard the public health, safety, and general welfare from the hazards of fire, explosion, or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety and assistance to fire fighters and emergency responders during emergency operations.

California Building Code

Chapter 7A of the California Building Code (CBC) establishes specific requirements for construction of new buildings located within areas designated as Wildland Urban Interface (WUI). This chapter of the CBC is intended to increase fire resistance of buildings and structures located within the WUI and includes regulations related to vegetation management, non-combustible materials, and the location of vents, among other requirements.

AB 747 and Public Resources Code 4291

AB 747 requires cities and counties to address evacuation routes related to identified fire and geologic hazards in the safety element of general plans. The Public Resources Code 4291 includes regulations related to defensible vegetation clearing around structures located within a State Responsibility Area.

Local

The City of Newark Municipal Code

The City of Newark is neither in a State High Fire Severity Area within the SRA, nor a Local Very High Severity Area within the LRA and, as such, is considered to be at low risk for wildfire. Not unlike other urbanized areas, the city does face the risk of urban structure fires. Preventative measures in the City's Fire Code (NMC Chapter 15.17) and Building Code (NMC Chapter 15.08) reduce the risk of fire and ensure the ability to detect and respond to fires when they occur. These measures address evacuation, alarm systems, emergency response, water availability and pressure, road design, and building access.

Impact Analysis

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

a. *Would the project substantially impair an adopted emergency response plan or emergency evacuation plan?*
b. *Would the project due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or uncontrolled spread of a wildfire?*
c. *Would the project require the installation of or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?*
d. *Would the project expose people or structure to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.*

The project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones. Therefore, it would not result in any of the wildfire impacts identified above.

NO IMPACT

Mandatory Findings of Significance

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
a. Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	■	☐
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	☐	☐	■	☐
c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	■	☐

a. *Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*

Based on the discussion provided in this initial study, the proposed project would not substantially degrade the quality of the environment. The project site is located in an urbanized area, is developed and does not contain fish or wildlife habitat with the exception of some trees. As such, the project would not substantially reduce fish and wildlife habitat or populations to below sustainable levels cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or substantially reduce the number or restrict the range of a rare or endangered plant or animal, with the implementation of **Mitigation Measure BIO-1** (See, "Biological Resources").

The project site is located in an urban environment with no bodies of water on or near the site. The proposed project would also not eliminate important examples of the major periods of California history or prehistory with the implementation of **Mitigation Measure CUL-1** identified in this document in the "Cultural Resources" section, and **Mitigation Measure TC-1** described in "Tribal Cultural Resources" section. As such, the project's potential impacts would be reduced to levels below significance. Thus, the overall impacts of the project due to degradation of the quality of the environment would be less than significant. **LESS THAN SIGNIFICANT IMPACT**

b. *Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when*

viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

The CEQA Guidelines defines cumulative impacts as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. The individual effects may be changes resulting from a single project or increase in environmental impacts. The cumulative impact from several projects is the change in the environment which results from the incremental impact of the proposed project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time" (CEQA Guidelines, Section 15355(a),(b)).

The analysis of cumulative impacts for each environmental factor can employ one of two methods to establish the effects of other past, current, and probable future projects. A lead agency may select a list of projects, including those outside the control of the agency, or, alternatively, a summary of projections. These projections may be from an adopted general plan or related planning document, or from a prior environmental document that has been adopted or certified, and these documents may describe or evaluate the regional or area-wide conditions contributing to the cumulative impact.

The City General Plan EIR, 2013, analyzed cumulative impacts on environmental resource areas for the City General Plan, 2013. This EIR indicates that with the exception of the environmental effects related to Aesthetics, Air Quality, Cultural Resources, Greenhouse Gas Emissions, Noise and Traffic, the level of environmental impacts in other resource areas would be less than significant with application of the General Plan Policies and mitigation measures.

As analyzed in this Initial Study, environmental impacts, pursuant to CEQA, of the proposed project in these areas would be less than significant or would be less than significant with mitigation measures incorporated. Further, the project does not have individual impacts that would result in cumulatively considerable impacts.

- The City implements Design Review to evaluate project aesthetics. Additionally, **Mitigation Measure CUL-1** and a standard condition of approval would address impacts to cultural resources for this project and would also be imposed on future development projects, as necessary that will ensure that future developments in combination with the project would not result in significant cumulative impacts.
- The project meets the operational significance threshold developed by state agencies, which is an indication that the project would not contribute incrementally to cumulative effects that are significant with respect to Air Quality and Greenhouse Gases, subject to mitigation measures as outlined in this study with respect to "Air Quality" and "Greenhouse Gas Emissions". Construction impacts are temporary. An entitlement application to develop the adjacent site to the east of the project site is expected in the near future. In the event, the project on the adjacent site may be developed at the same time as the project, it would need to comply with the Construction Best Management Practices as well as obtain an encroachment permit for any work within the public right of way from the City's Public Works Department thus ensuring that the Air Quality and Green House Gas Emission as well as Transportation impacts are addressed.

- The project site is identified as Opportunity Site "G" in the City's Housing Element Update 2015, and is included on the Regional Housing Needs Assessment (RHNA) list and would be developed within the range of densities proposed and planned for in the City's General Plan. It is consistent with the Housing and Transportation strategies identified in Plan Bay Area 2050, which serves both as the region's Sustainable Communities Strategy and the Regional Transportation Plan. Therefore, the project would not have cumulatively considerable transportation impacts.40
- All future projects in the city will be assessed regarding potential environmental effects, pursuant to CEQA. If necessary, mitigation measures would be required to ensure that impacts from other future Projects remain at less-than-significant levels. All future projects are also required to demonstrate compliance with established regulations and standards.

Therefore, the development of the project, in combination with future development of the same type in the area is not expected to result in significant long-term cumulative impacts. **LESS THAN SIGNIFICANT IMPACT**

c. *Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*

As discussed in this initial study, the project's potential impacts would be reduced below levels of significance with respect to air quality and greenhouse gas emission with the implementation of **Mitigation Measures AQ-1 and AQ-2** described in the "Air Quality" section, **Mitigation Measure TC-1** described in the "Tribal Cultural Resources" section. The project would also be safely constructed as discussed in the "Geology and Soils" section with implementation of **Mitigation Measure GEO-1**. Further, as discussed in this Initial Study, the noise and traffic impacts due to the proposed project would be less than significant. As such, the project would not have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly. "**LESS THAN SIGNIFICANT IMPACT**

40 Per OPR guidelines proposed development referencing a threshold based on city VMT per capita, as is the case with this project (rather than regional VMT per capita) should not cumulatively exceed the number of units specified in the SCS for that city, and should be consistent with the SCS's Transportation (VMT) impacts.

References

TECHNICAL APPENDICES

1. Air Quality, Greenhouse Gas, and Health Risk Assessment, September 2022, ESA
2. Tree Inventory and Assessment, June 21, 2022, Monarch Consulting Arborists
3. Historic Resource Assessment, June 17, 2022, TreanorHL
4. Geotechnical Study, September 8, 2021, Geo-Logic Associates
5. Phase 1 Environmental Site Assessment, June 20, 2022, Ramboll
6. Environmental Noise Assessment, July 1, 2022 & Environmental Noise Assessment – Additional Comments, September 16, 2022, Salter

6.A Environmental Noise Study, May 5, 2021, Salter

7. Transportation Impact Analysis, July 5, 2022, Hexagon Transportation Consultants, Inc.

OTHER DOCUMENTS REFERENCED

1. Newark California General Plan, adopted December 12, 2013
2. General Plan Draft Tune Up EIR for the City of Newark, August 13, 2013
3. Citywide Parks Master Plan, June 2017
4. Pedestrian and Bicycle Mater Plan, February 23, 2017
5. City of Newark, Green Stormwater Infrastructure (GSI) Plan, September 12, 2019
6. Alameda County Water District, Addendum to the 2015-2020 Urban Water Management Plan, May 2022

List of Preparers

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