III. COMMENTS AND RESPONSES

Written responses to all written and verbal comments on the Draft EIR are provided in this chapter. Letters received on the Draft EIR are provided in their entirety. Each letter and public hearing comment is immediately followed by responses keyed to the specific comments. The comments are grouped by the affiliation of the commenter as follows: State, regional and local agencies (A); organizations and individuals (B); and public hearing comments (C).

Please note that text within individual letters that has not been numbered does not raise environmental issues or relate to the adequacy of the information or analysis within the Draft EIR, and therefore no comment is enumerated or response required, per *CEQA Guidelines* Section 15132.

A. STATE, REGIONAL AND LOCAL AGENCIES

Letter
A1

DEPARTMENT OF TRANSPORTATION
111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 622-5491
FAX (510) 286-5559
TTY 711

Flex your power!
Be energy efficient!

RECEIVED
OCT 05 2009
STATE CLEARING HOUSE

October 5, 2009

ALA123028
ALA-123-4.22
SCH#2008042004

Ms. Amber Curl
City of Albany
Community Development Department
1000 San Pablo Avenue
Albany, CA 94706

Dear Ms Curl:

University Village at San Pablo – Draft Environmental Impact Report

Thank you for including the California Department of Transportation (Department) in the environmental review process for the University Village at San Pablo project. We reviewed the Draft Environmental Impact Report and have the following comments:

As lead agency, the City of Albany is responsible for all project mitigation, including any needed improvements to State highways. There are numerous impacts deemed as 'Significant and Unavoidable' because approval for projects to mitigate the impacts is required from the Department. The Department would like to coordinate with the City to review and implement these mitigation measures and further discuss the project's fair share contribution, financing, scheduling, and implementation responsibilities. In addition, the project's traffic mitigation fees should have been specifically identified in the environmental document. For impacts that cannot be mitigated, the City is encouraged to develop additional Transportation Demand Management measures (i.e., bike lockers, subsidized employee transit passes, etc.) to reduce vehicle miles traveled on local and state roadways. 1

Please be advised that any required roadway improvements should be completed prior to issuance of project occupancy permits. An encroachment permit is required when the project involves work in the State's right of way (ROW). The Department will not issue an encroachment permit until our concerns are adequately addressed. Therefore, we strongly recommend that the lead agency ensure resolution of the Department's California Environmental Quality Act (CEQA) concerns prior to submittal of the encroachment permit application; see the end of this letter for more information regarding the encroachment permit process. 2

Mitigation Monitoring and Reporting Program
The CEQA, Public Resources Code Section 21081.6 and 21081.7, requires the Department to establish mitigation monitoring submittal guidelines for public agencies. The guidelines affect 3

Letter
A1
cont.

agencies that have approved development projects and are required under CEQA to provide the Department reports on transportation related mitigation monitoring measures. Please see the Department's *"Guidelines for Submitting Transportation Information from a Reporting or Monitoring Program to the Department of Transportation"* at the following website for more information: http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa.html

The Mitigation Monitoring Submittal Guidelines discuss the scope, purpose and legal requirements for mitigation monitoring reporting and submittal, specify the generic content for reports, and explain procedures for timing, certification and submittal of reports. Please complete and sign a Certification Checklist form for each approved development project that includes transportation related mitigation measures and return it to this office once the mitigation measures are approved, and again when they are completed. **3 cont.**

Please send signed Certification Checklist forms and supporting attachments to the address at the top of this letterhead, marked ATTN: Yatman Kwan, Mail Stop #10D. For supporting attachments, the CEQA lead agency, at its discretion, may also submit the entire mitigation monitoring program report for each project with the required transportation information highlighted. When the District has approved the submittal and signed the Certification Checklist form, a copy of the form will be supplied to your agency.

Encroachment Permit

Any work or traffic control within the State ROW requires an encroachment permit that is issued by the Department. Traffic-related mitigation measures will be incorporated into the construction plans during the encroachment permit process. See the following website link for more information: http://www.dot.ca.gov/hq/traffops/developserv/permits/ **4**

To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans which clearly indicate State ROW to the address at the top of this letterhead, marked ATTN: Michael Condie, Mail Stop #5E.

Should you have any questions regarding this letter, please call Yatman Kwan of my staff at (510) 622-1670.

Sincerely,

for Jean Ch Finney

LISA CARBONI
District Branch Chief
IGR/CEQA

c: State Clearinghouse

COMMENTER A1
State of California, Department of Transportation
Lisa Carboni, District Branch Chief
October 5, 2009

Response A1-1: The City of Albany is committed to the kind of coordination suggested by the commenter and anticipates further discussions with staff of Caltrans on these matters if the proposed project is approved and moves forward. The issue is one of the implementation of the recommended mitigation measures and not one of effectiveness at reducing the specified impacts. However, attempting to calculate the specific fees that would satisfy the applicant's fair share contribution would be premature at this point. See Response to Comment A3-3 for a detailed discussion of the use of TDM measures with a project of this type.

Response A1-2: This comment states that an encroachment permit will be required for any work within the State's right of way (ROW). The City of Albany takes note of the information provided regarding encroachment permits.

Response A1-3: This comment does not relate to the EIR and therefore no response is required. The City of Albany takes note of the information provided regarding mitigation monitoring and reporting.

Response A1-4: See Response to Comment A1-2. This comment does not relate to the EIR and therefore no response is required. The City of Albany will apply for the necessary encroachment permits for work within the State's ROW, as required.

Letter
A2

California Regional Water Quality Control Board
San Francisco Bay Region

Linda S. Adams
Secretary for Environmental Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
http://www.waterboards.ca.gov/sanfranciscobay

Arnold Schwarzenegger
Governor

August 13, 2009
CIWQS Place ID No. 741891

Sent via electronic mail: No hardcopy to follow

City of Albany
Community Development Department
979 San Pablo Avenue
Albany, CA 94706

Attn: Amber Curl (acurl@albanyca.org)

Re: Comments on the Draft Environmental Impact Report for the University Village at San Pablo Project
SCH No.: 2008042004

Dear Ms. Curl:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff appreciate the opportunity to review the July 2009 *Draft Environmental Impact Report for the University Village at San Pablo Avenue Project* (DEIR). The DEIR assesses anticipated environmental impacts resulting from the development of two lots located west of San Pablo Street, between Codornices Creek on the south and Village Creek on the north. The project would develop two lots and make various street improvements within the University Village development. Block A would include development of a 55,000 square foot retail structure, pedestrian/bike paths, stormwater drainage facilities, and a parking lot. Block B would include a 175 unit senior housing facility and 28,000 square feet of retail space fronting on San Pablo Avenue and Monroe Street. Other Improvements associated with the project would include changes to 10th Street and Monroe Street, a pedestrian/bike crossing of San Pablo Avenue, installation of drainage swales, and installation of a path along Codornices Creek between San Pablo Avenue and 10th Street. Water Board staff have the following comments on aspects of the Project, as presented in the DEIR, which may impact waters of the State.

Comment 1.
General Comment
Water Board staff appreciate the creekside setbacks and landscape-based stormwater treatment measures that are proposed for the project. The following comments are intended to guide the finalization of the project's plans to provide the greatest protection to aquatic resources and the Beneficial Uses of waters of the State. 1

Letter
A2
cont.

Comment 2.
E. Biological Resources, 1. Setting, b. Regulatory Context, (6) California Water Quality and Waterbody Regulatory Programs (Page 193).
This section should be expanded to include a discussion of the Porter-Cologne Water Quality Control Act, which authorizes the State and Regional Water Boards. The following text should be added to this section of the DEIR.

> The Water Board has regulatory authority over wetlands and waterways under both the federal Clean Water Act (CWA) and the State of California's Porter-Cologne Water Quality Control Act (California Water Code, Division 7). Under the CWA, the Water Board has regulatory authority over actions in waters of the United States, through the issuance of water quality certifications (certifications) under Section 401 of the CWA, which are issued in combination with permits issued by the Army Corps of Engineers (ACOE), under Section 404 of the CWA. When the Water Board issues Section 401 certifications, it simultaneously issues general Waste Discharge Requirements (WDRs) for the project, under the Porter-Cologne Water Quality Control Act. Activities in areas that are outside of the jurisdiction of the ACOE (e.g., isolated wetlands, vernal pools, or stream banks above the ordinary high water mark) are regulated by the Water Board, under the authority of the Porter-Cologne Water Quality Control Act. Activities that lie outside of ACOE jurisdiction may require the issuance of either individual or general WDRs from the Water Board.

2

Comment 3.
E. Biological Resources, 1. Setting, c. Existing Environmental Setting, (1) Habitat and Vegetation, Creeks (Page 197).
The second paragraph from the bottom of page 197 includes the following text.

> Construction of the proposed pedestrian/bike path is aligned with the goals of the creek restoration, since it will improve public access to the creek and provide opportunities for educating the public regarding the sensitivity of the habitat and presence of steelhead trout.

The text in the DEIR appears to overstate the value of the creekside trail to the health of Codornices Creek. Because of the urbanized character of the surrounding neighborhood and the presence of multiple creek crossings within the reach of the creek covered by the restoration project, the creek does not suffer from a deficit of opportunities for public access. If anything, the creek has more opportunities for public access than is ideal for the healthy functioning of the creek. Creek habitat value could be improved by planting the top of bank with riparian trees and pulling the trail further away from the top of bank. Trees at the top of bank provide shade that helps to maintain the low stream temperatures that are necessary for a healthy population of steelhead in the creek. In addition to the trees that provide direct shading of the creek, trees that provide a wider vegetated buffer along the riparian corridor help to sustain a cooler micro-climate along the creek. Wider buffers of trees provide more consistent and effective cooling of creek temperatures.

3

Letter
A2
cont.

A wider buffer of riparian trees, with the pedestrian/bike path on the outside of the buffer, would provide an even better opportunity for educating the public about the needs of viable steelhead populations and the factors that benefit riparian habitats in urbanized environments. The educational value of the trail could be further improved by relocating some of the proposed stormwater biotreatment swales between the riparian buffer and the trail. This would provide an opportunity to educate the public about the importance of removing pollutants from urban runoff before the runoff enters aquatic habitats. 3 cont.

Comment 4.
E. Biological Resources, 1. Setting, c. Existing Environmental Setting, (4) Species of Special Concern, Animals, (2) Other Animals (Page 205).
Text in the third paragraph under "Other Animals" refers to the potential removal of trees within the top of bank of Village Creek, and identifies these trees as subject to California Department of Fish and Game (CDFG) jurisdiction. The DEIR should be revised to indicate that these trees are also likely to subject to the jurisdiction of the Water Board. 4

Text in this paragraph also states that, because the trees that may be removed at Village Creek are not native to the area, CDFG may not require mitigation for the removal of these trees. Even non-native trees provide some functions to the habitat of the creek (e.g., shade cover). In our experience, CDFG usually requires mitigation for the removal of non-native riparian trees. In addition, as noted in the previous paragraph, these trees are also likely to be subject to the jurisdiction of the Water Board, and the Water Board will require mitigation for their removal. Raising the very slight possibility that some agencies may not require mitigation for the removal of non-native trees from the riparian corridor does not appear to provide useful information to the project proponent. 5

Failure to replace non-native trees may also have a negative impact on Village Creek. At present, the shade provided by these trees prevents the growth of cattails in the channel. If shade is removed, cattails will develop in the channel. The combination of the mass of the cattails and the sediment that will be trapped within the cattails, will reduce the capacity of the Village Creek channel. This could result in flooding at the project site. 6

The final sentence of this paragraph notes that some trees in the wooded area beyond the top of bank may be removed to accommodate the project. If the wooded area beyond the top of bank is contiguous with the wooded area along the creek, CDFG may consider this wooded area to be a component of the riparian vegetation. If CDFG does consider this wooded area to be a part of the riparian corridor, than it is likely that CDFG will require mitigation for the removal of these trees. This also applies to the area beyond the top-of-bank along Codornices Creek. Construction of a trail along the top of bank may require authorization from CDFG. 7

Comment 5.
E. Biological Resources, 2. Impacts and Mitigation Measures, b. Less-Than-Significant Biological Resource Impacts, (2) Other Animals (Page 205).
Text in the fourth paragraph discusses permits that may be required for the proposed outfalls to Codornices Creek and Village Creek and the portion of the creekside trail is proposed to be 8

Letter
A2
cont.

located within the top of bank of Village Creek. For any work that occurs below the top of bank, CDFG permits will be required. For any work below the ordinary high water mark (OHW) of the creeks, a Clean Water Act (CWA) Section 404 permit will be required from the ACOE and a CWA Section 401 certification will be required from the Water Board. For any work that occurs below the top of bank but above OHW (e.g., portions of the Village Creek trail below the top of bank), WDRS may be required from the Water Board. **8 cont.**

Water Board staff encourage the project proponent to redesign the project to avoid any trail construction below the top of bank. Such work will require mitigation and the project proponent should not assume that the Water Board will issue a permit allowing trail construction below the top of bank. In general, CEQA documents should not assume that all proposed impacts will be authorized by the resource agencies if sufficient mitigation is proposed. When reviewing applications, Water Board staff first review projects to verify that all available opportunities for avoiding impacts have been explored, and that all un-avoidable impacts with been minimized to the maximum extent practicable. It is possible that the Water Board will not allow any trail construction within the banks of Village Creek.

Comment 6.
E. Biological Resources, 2. Impacts and Mitigation Measures, c. Significant Biological Resource Impacts and Mitigation Measures, (1) Central Coast Steelhead (Page 206).
The last sentence in the second paragraph under "Central Coast Steelhead" states that, "[C]onstruction of this path will not involve removal of riparian vegetation since it will be located beyond the top of bank." This statement is not correct. Any tree that contributes shading to the creek is to be considered riparian vegetation. Therefore, the trail will impact riparian vegetation and mitigation should be provided in the revised in EIR for this impact to riparian vegetation. **9**

As is noted above in Comment 3, trees beyond the top of bank enhance the riparian micro-climate; these trees may also be subject to the jurisdiction of CDFG. Water Board staff encourage the project proponent to redesign the trail to provide a more effective buffer between riparian habitat and the pedestrian/bike trail.

Comment 7.
E. Biological Resources, 2. Impacts and Mitigation Measures, c. Significant Biological Resource Impacts and Mitigation Measures, (1) Central Coast Steelhead, Impact BIO-1 (Page 207).
Text in the first paragraph of page 207 notes that any dewatering plan for Codornices Creek will require approval from NOAA Fisheries. The EIR should be revised to note that any dewatering of the creek will also require approval from CDFG and the Water Board. **10**

Comment 8.
E. Biological Resources, 2. Impacts and Mitigation Measures, c. Significant Biological Resource Impacts and Mitigation Measures.
Text in this section does not discuss the need for the project to provide mitigation for the construction of new outfalls to the creek. Where native vegetation is removed, replacement **11**

Letter
A2
cont.

vegetation must be provided at an approximate ratio of 3:1. It is very likely that the area below the top of the creek banks will not be large enough to accommodate all of the required mitigation plantings (note that mitigation planting densities must not be so dense as to result in excessive competition for space between mitigation plantings). If this is the case, mitigation plantings should be planted in the area immediately beyond the top of bank. Pulling the pedestrian/bike trails further away from the top of bank may be necessary to accommodate the required amounts of mitigation plantings at the project site. Please note that the amount of required mitigation increases as the distance between the site of the impact and the site of the mitigation increases. **11 cont.**

Comment 9.
F. Hydrology and Water Quality, 2. Impacts and Mitigation Measures, c. Significant Hydrology and Water Quality Impacts and Mitigation Measures, (3) Project Implementation, Mitigation Measure HYDRO-3 (pages 223 and 224).
Text in this section notes that the project applicant and the City of Albany are required to ensure that the proposed drainage design meets all of the requirements for post-construction stormwater treatment in the current Countywide NPDES Permit (NPDES Permit No. CAS0029831).

At sites that require CWA Section 401 Water Quality Certification and/or Waste Discharge Requirements from the Water Board, the Water Board has authority to approve post-construction stormwater management plans. Therefore, the post-construction stormwater treatment measures must be approved by the Water Board, as well as by the City of Albany. Water Board staff encourage the project proponent to provide designs and supporting calculations for the treatment swales and bioretention areas as early in the design process as possible, so that Water Board staff can confirm that the proposed treatment measures are appropriately sized. Also, please note that at sites that will be substantially redeveloped, such as the project site, it is very rare for the Water Board to accept the use of mechanical filtration devices. **12**

If you have any questions, please contact me at (510) 622-5680, or via e-mail at bwines@waterboards.ca.gov.

Sincerely,

Brian K. Wines

Brian Wines
Water Resources Control Engineer
South and East Bay Watershed Section

cc: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (by fax: 916-323-3018)
CDFG, Central Coast Region, Attn: Marcia Grefsrud, P.O. Box 47, Yountville CA 94599 (mgrefsrud@dfg.ca.gov)

COMMENTER A2
California Regional Water Quality Control Board
Brian Wines, Water Resources Control Engineer
August 13, 2009

Response A2-1: The comment summarizes the project scope. No response to this introductory comment is necessary.

Response A2-2: The following text revision is hereby made to page 193 of the Draft EIR as a new third paragraph in the subsection titled (6) California Water Quality and Waterbody Regulatory Programs:

> The Water Board has regulatory authority over wetlands and waterways under both the federal Clean Water Act (CWA) and the State of California's Porter-Cologne Water Quality Control Act (California Water Code, Division 7). Under the CWA, the Water Board has regulatory authority over actions in water of the United States, through the issuance of water quality certifications (certifications) under Section 401 of the CWA, which are issued in combination with permits issued by the Army Corps of Engineers (ACOE), under Section 404 of the CWA. When the Water Board issues Section 401 certifications, it simultaneously issues general Waste Discharge Requirements (WDRs) for the project, under the Porter-Cologne Water Quality Control Act. Activities in areas that are outside of the jurisdiction of the ACOE (e.g., isolated wetlands, vernal pools or stream banks above the ordinary high water mark) are regulated by the Water Board, under the authority of the Porter-Cologne Water Quality Control Act. Activities that lie outside of ACOE jurisdiction may require the issuance of either individual or general WDRs from the Water Board.

Response A2-3: The proposed pedestrian/bike path will be located well above the top of bank of Codornices Creek, entirely in an area of the site previously occupied by residential housing that has since been demolished. Construction of the path in this location will not require disturbance of the existing riparian corridor, allowing for the protection and maintenance of the existing shading/cooling benefits provided by the existing riparian trees. Additionally, the proposed project's buildings will be located farther back from Codornices Creek than were the demolished UC housing that formally occupied the site (see and compare Draft EIR, Figure III-2 [an aerial photograph taken before the UC housing was demolished] and Figure III-3, Conceptual Site Plan for the proposed project). This additional setback of structures should reduce the potential for human disturbance of the creek corridor.

The Water Board's suggestions on additional measures to improve the interpretive and educational value of the pedestrian/bike path are noted. However these measures would require relocation of the path northward from the top of bank. Such relocation is not practicable due to physical site constraints which do not allow further shifting of the path in this direction. Furthermore, there are no adverse impacts forecast in the Draft EIR that would justify such measures. As discussed below in Response to Comment A2-7, as proposed, the path will not require removal of any riparian vegetation subject to CDFG jurisdiction.

Response A2-4: The following text revisions are hereby made to page 205, in the 4th paragraph of the Draft EIR, as follows:

> Tree removal could also be required along Village Creek for installation of at least two outfalls there. Additionally, the arborist report[13] for the project (included in Appendix F) recommends that five trees within the top of bank (CDFG <u>and, likely, Water Board</u> jurisdiction) of Village Creek be removed. These trees are recommended for removal because they pose a hazard due to instability and/or poor health. These trees (blue gum Eucalyptus, Monterey Cypress, and deodar cedar) are not native to the area; therefore, CDFG may not require mitigation. Several additional non-native trees in the wooded area beyond the top of bank of Village Creek will be removed to accommodate the proposed creekside retail space, pedestrian path, and adjacent parking area.

Response A2-5: The trees to be removed along Village Creek consist of four Monterey cypress, two Tasmanian blue gum eucalyptuses and one deodar cedar, none of which are native trees in the Bay Area. The eucalyptuses are rated by the California Invasive Plant Council as moderately invasive in riparian areas; the species displaces native wildlife habitat, reduces understory diversity, and increases the risk of destructive wildfires.[1] Although native to the Monterey area, Monterey cypress are rated as locally invasive in riparian areas elsewhere in the state, including the Bay Area, and are also associated with degraded riparian habitats and a loss of understory vegetation. The removal of non-native trees, such as these from riparian areas, constitutes an ecological enhancement that is often recommended and endorsed as a mitigation action by environmental regulatory agencies. Therefore, the Draft EIR's statement that such removal may not require mitigation is accurate. Nevertheless, the following text revisions are hereby made to page 205 of the Draft EIR, following the bullet point at the bottom of the page:

- <u>If required by the Water Board or CDFG under their respective permitting process, native riparian trees shall be planted to com-</u>

[1] California Invasive Plant Council (IPC). 2006. California Invasive Plant Inventory http://www.cal-ipc.org/ip/inventory/pdf/inventory2006.pdf.

pensate for the removal of non-native trees along the Village Creek riparian corridor. The specifications and locations of all such compensatory plantings shall be determined in consultation with and subject to the approval of the Water Board and CDFG.

Response A2-6: Of the seven trees to be removed along Village Creek, six have been found by the project arborist to be in poor health and/or are unstable.[2] The arborist report recommends removal of these trees because they constitute a public hazard. The trees have a high risk of failure, and are likely to topple or lose major limbs, thereby posing a safety risk to humans, and increasing the risk of flooding from trees or limbs falling into the creek channel.

Riparian canopy shading of the Village Creek channel is provided by a total of at least 27 trees that occur along the channel reach that extends though the project site. Although the removal of the 7 trees will likely result in a reduction in canopy shading, it is difficult to estimate the extent of this reduction given the presence of many other canopy trees. For the same reason, it is difficult to ascertain if the increased light penetration would be sufficient to affect growth of emergent vegetation in the channel. In any event, the planting of replacement trees would not effectively replace the lost canopy for many years since even large planted saplings would likely take 15-20 years or longer to provide appreciable canopy shade. The natural lateral expansion of canopy from existing adjacent trees may more rapidly fill in the canopy gaps left by the removed trees than planted saplings

In this location, Village Creek is managed by the property owner (University of California), which is responsible for ensuring that adequate storm flow capacity is maintained in the channel. This maintenance responsibility includes controlling emergent vegetation growth and removing accrued sediments as necessary. Removal of the six trees that were found by the project arborist to be in poor health and/or unstable would be consistent with good management practices.

Response A2-7: This comment refers to a group of 30 trees beyond the top of bank of Village Creek, adjacent to San Pablo Avenue. With the exception of 1 coast live oak (which the arborist report recommends be transplanted), these trees consist entirely of ornamental non-native trees that were planted on the site. They are not a part of the riparian habitat and should not be subject to the jurisdiction of CDFG.

The comment also incorrectly states that the proposed pedestrian/bike path near Codornices Creek may require the authorization of CDFG. The path will be located above the top of the creek bank within the site's former developed

[2] Tree Management Experts, 2009. *Arborist Report - University Village at San Pablo, CA.* Prepared for the LaLanne Group, Inc., Pier 38, The Embarcadero, San Francisco, CA 94107. June 4, 2009.

area and will not require removal of any riparian vegetation subject to CDFG jurisdiction.

Response A2-8: Based on conceptual site plans shown in the Draft EIR, it would appear that approximately 110 linear feet of the proposed path in the vicinity of Village Creek may be located below the top of the creek bank, which would require obtaining a Section 1602 permit from CDFG and possibly a Waste Discharge Requirements (WDR) permit from the Water Board. The project proponent would be required to comply with all CDFG and Board requirements under these permits, including demonstrating to the satisfaction of both agencies that the impacts from upper creek bank disturbance are unavoidable and mitigating unavoidable impacts to native vegetation, as necessary. Subsequent discussions with the project site planners suggest that it would be possible to remain outside of this area and that such a design would be achieved.

Response A2-9: Construction of the pedestrian/bike path will not require removal of any riparian vegetation or other trees that provide shading of Codornices Creek. There is no need to redesign the trail or provide mitigation to protect riparian habitat as suggested by the comment.

In order to emphasize this point, the Draft EIR is hereby revised as follows in Chapter III, Project Description, D. Proposed Project, 5. Landscaping:

> **5. Landscaping**
>
> Many of the existing trees on site would need to be removed to accommodate building, circulation and utility facilities of the proposed project. Additionally, removal of some trees is recommended due to their poor health or risk of collapse. While the landscape plan has not been finalized, currently the applicant is proposing to preserve approximately 20 trees on site; transplant approximately 3 trees; and remove approximately 64 trees. Approximately 5 trees within the Village Creek creekbank would be removed. <u>No trees or other riparian vegetation along the bank of Codornices Creek would be removed</u>. An arborist's report, provided by the applicant, has been included in Appendix F.

Response A2-10: The comment is correct in stating that any temporary creek dewatering would require approval of CDFG and the Water Board. The following text revisions are hereby made to the first paragraph of Mitigation Measure BIO-1a (pp. 19 and 206-207) of the Draft EIR:

> <u>Mitigation Measure BIO-1a</u>: All construction activities in or adjacent to Codornices Creek shall be completed between June 15 and October 15 (i.e., outside the steelhead migration period). Should the project proponent demonstrate a need to conduct activities outside this time period, the Corps may authorize such activities after obtaining approval from NOAA Fisheries<u>, CDFG and the Water Board</u>.

> During temporary de-watering of the stream (if required), pre-construction surveys by a qualified biologist shall be conducted. Subject to the approval of the NOAA Fisheries, CDFG and the Water Board, any steelhead that are found in the stream section that would be de-watered shall be captured and relocated to a suitable site upstream or downstream from the construction area. Prior to the initiation of construction activities for the outfalls, NOAA Fisheries, CDFG and the Water Board shall approve a permit for the biologists to conduct such relocation work. The following additional steps will be implemented to further reduce direct and indirect impacts to steelhead and their habitat: [*Mitigation measure continues with bulleted list*.]

Response A2-11: The comment reiterates the position of CDFG and the Water Board that removal of native vegetation for the construction of new outfalls along Codornices Creek would require mitigation plantings at a 3:1 replacement ratio. However the comment is incorrect in stating that the area below the top of creek is likely to be inadequate to accommodate replacement plantings at this ratio. In fact, the understory vegetation below the top of bank consists largely of non-native invasive plant species (Himalaya blackberry, English ivy, nasturtium) (see Draft EIR, p. 197, paragraph 1). If outfall construction were to affect native vegetation, the creek corridor below the top of bank would offer ample locations within which undesirable non-native vegetation could be removed and replaced with suitable native riparian species. Ideally, this planting work would be conducted in a manner consistent with the City of Albany *Codornices Creek Improvements Plan* which envisions restoring native riparian habitat along the creek corridor in this vicinity.

Response A2-12: CWA Section 401 requirements are discussed in the Draft EIR, Chapter IV.E Biological Resources (page 193) which includes a description of the regulatory environment. Later in that section (page 205) a discussion of required permits and approvals, including Water Board review and certification of plans under CWA 401 regulations is provided. The Draft EIR is hereby revised on page 223 to add supplemental language (underlined) at three points:

> Mitigation Measure HYDRO-3: The project applicant and City of Albany shall ensure that the proposed project drainage design meets all the requirements of the current Countywide NPDES Permit (NPDES Permit No. CAS0029831), as amended. In addition, for projects that require 401 Water Quality Certification and/or are subject to Waste Discharge Requirements from the Water Board, the Water Board has authority to approve post-construction stormwater management or drainage plans. This project would require a Clean Water Act (CWA) section 404 U.S. Corp of Engineers permit for dredge and fill discharges into waters of the United States. Section 404 permit operations require a Section 401 Certification from the Water Board, and the Water Board would have approval authority

for post-construction stormwater treatment measures. The drainage plan shall include features and operational Best Management Practices to reduce potential impacts to surface water quality associated with operation of the project. Stormwater discharges shall not cause an increase in the erosion potential of the receiving stream over the pre-project (existing) conditions. Increases in runoff flow and volume shall be managed so that post-project runoff shall not exceed estimated pre-project rates and durations, where such increased flow and/or volume is likely to cause increased potential for erosion of creek beds and banks, silt pollutant generation, or other adverse impacts to beneficial uses due to increased erosive force. Such management shall be through implementation of the hydromodification requirements of Provision C.3.F of Order No. 2003-0021 as amended. These features shall be included in the project drainage plan and final development drawings. Specifically, the final design shall include measures designed to mitigate potential water quality degradation of runoff from all applicable portions of the completed development. In general, "passive," low-maintenance BMPs (e.g., stormwater planters, rain gardens, grassy swales, pervious pavements) are preferred over active filtering or mechanical treatment systems.

An operations and maintenance plan shall be developed and implemented to inspect and maintain BMPs in perpetuity. If paved surfaces within garages and covered parking areas are washed with water, this water shall not be directed to the storm drainage system. This wash water effluent shall either be directed to the sanitary sewer or contained and transported off-site for proper disposal.

The final design team for the project shall review and incorporate as many concepts as practicable from *Start at the Source, Design Guidance Manual for Storm Water Quality Protection* and the California Storm water Quality Association's *Storm Water Best Management Practice Handbook, Development and Redevelopment*, and the Alameda County Clean Water Program (ACCWP) technical guidelines.

The City Public Works Department shall review and approve the drainage plan prior to approval of the grading plan. In addition, the Water Board has authority under the 401 Certification process to review and approve post-construction stormwater treatment measures; the post-construction treatment measures shall be submitted to the Water Board for review and approval. (LTS)

Letter
A3

ALAMEDA COUNTY
CONGESTION MANAGEMENT AGENCY

1333 BROADWAY, SUITE 220 • OAKLAND, CA 94612 • PHONE: (510) 836-2560 • FAX: (510) 836-2185
E-MAIL: mail@accma.ca.gov • WEB SITE: accma.ca.gov

AC Transit
Director
Greg Harper

Alameda County
Supervisors
Nate Miley
Scott Haggerty

City of Alameda
Mayor
Beverly Johnson
Vice Chair

City of Albany
Councilmember
Farid Javandel

BART
Director
Thomas Blalock

City of Berkeley
Councilmember
Kriss Worthington

City of Dublin
Mayor
Tim Sbranti

City of Emeryville
Vice-Mayor
Ruth Atkin

City of Fremont
Councilmember
Robert Wieckowski

City of Hayward
Councilmember
Olden Henson

City of Livermore
Mayor
Marshall Kamena

City of Newark
Councilmember
Luis Freitas

City of Oakland
Councilmember
Larry Reid

City of Piedmont
Councilmember
John Chiang

City of Pleasanton
Mayor
Jennifer Hosterman

City of San Leandro
Councilmember
Joyce R. Starosciak

City of Union City
Mayor
Mark Green
Chair

Executive Director
Dennis R. Fay

October 5, 2009

Ms. Amber Curl
Associate Planner
City of Albany
979 San Pablo Avenue, 2nd floor
Albany, CA 94706-2295
acurl@albanyca.org

SUBJECT: Comments on the Draft Environmental Impact Report (EIR) for the University Village at San Pablo Project in the City of Albany

Dear Ms. Curl:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (EIR) for the University Village at San Pablo Project in the City of Albany. The approximately 5.3 acre project is located within the University Village development in the City of Albany and is generally bounded by San Pablo Avenue Codornices Creek, 10th Street and Village Creek. The project includes:

- Block A: the construction of a 55,000 square foot Whole Foods Market, the 2,000 square foot Creekside Retail building, and parking area.
- Block B: 28,000 square foot retail space and senior housing for 100 senior residential units and 75 assisted living units.
- Infrastructure Improvements: Roadway improvements surrounding the project site, pedestrian/bike improvements, and site drainage facilities.

We respectfully submit the following comments:

Unavoidable Adverse Transportation Impacts, p. 106,

Impact and Mitigation Measure TRANS-11. The DEIR states that the mitigation of impacts to four segments of the MTS designated roadway system to less than significant levels would be dependent on approval and implementation by the City of Berkeley and Caltrans, which is outside the jurisdiction of the City of Albany. It is recommended that the mitigation measure be changed to reflect that the City of Albany consider requiring that the developer contribute their fair share of such improvements to a fund held in escrow while the City of Albany works with the City of Berkeley and Caltrans to schedule and construct the improvements. The fund can be held for an appropriate period of time. If the funds are not used by that time, they shall be returned to the developer. 1

Letter
A3
cont.

Please explain why the criteria for a significant impact includes both lowering LOS from E to F *and* increase in volume-to-capacity ratio of more than five percent. It appears that the Impact identified in Table IV.A-16, p. 107, on the segment of San Pablo Avenue between Solano and Marin would create a significant impact in the year 2015 because it would shift from an LOS of E to LOS F. For Congestion Management Program (CMP) purposes, a decrease in LOS from E to F is considered significant. A Deficiency Plan will be required by the appropriate jurisdiction at the time when our bi-annual LOS Monitoring Report shows that any segment in the MTS degrades to a LOS F. If no physical improvement is possible to mitigate the impact, system and non-capital mitigation methods to relieve congestion should be considered. Examples of these mitigation methods include improved public transit service and facilities, improved non-motorized transportation facilities, parking cash out programs, and other transportation control measures. **2**

p. 124, 9, Consistency with local and regional policies and programs supporting alternative transportation – Please add a discussion describing *how* the project is consistent with applicable policies and plans in addition to the included discussion of impacts to pedestrians, bicycles and transit. Specifically, please include a discussion of how the project would encourage its new employees and residents to use alternative modes of transportation, such as a Transportation Demand Management (TDM) program. Ways to fund such a program should also be discussed and possibly include language requiring developer fees. **3**

p. 123, AC Transit Bus Operations. Please explain how the project would have unavoidable adverse impacts at four segments, while not impacting the flow of bus traffic on San Pablo Avenue. If there are impacts to the timing of AC Transit bus service, the project should provide a mechanism for collecting a fair share of the funding for bus improvements from the developer and coordinating with AC Transit to maintain reliable flow of bus traffic along San Pablo Avenue. Should bus travel times be delayed significantly if it is infeasible to mitigate traffic impacts, as indicated in Mitigation Measure TRANS-11, the funding may be used for improvements such as queue jumps or restriping at Buchanan, Solano and Marin, removing parking and replacing it with a lane for buses and right turns only. Another option to improve bus travel time would be moving the northbound bus stop at San Pablo and Solano, which is on the nearside of the intersection to the farside, to reduce delay. **4**

Letter
A3
cont.

P. 121, Bicycle and Pedestrian -Mitigation Measure TRANS 12 – states all four mitigation measure options to address bicycle and pedestrian impacts would involve eliminating parking on San Pablo Avenue. However, p. 125, under Parking Demand states that "on-street parking spaces could accommodate the estimated on –site parking deficit." Please explain this discrepancy. **5**

Thank you, again for the opportunity to comment on the DEIR.

If you have any questions, please call me at 510-836-2560.

Sincerely,

Diane Stark
Sr. Transportation Planner

cc: Beth Walukas, Manager of Planning
File: Environmental responses 2009

COMMENTER A3
Alameda County Congestion Management Agency
Dian Stark, Senior Transportation Planner
October 5, 2009

Response A3-1: The City of Albany will work with Caltrans and the Alameda County Congestion Management Agency (ACCMA) to establish a mutually-acceptable means of financing all mitigation measures set forth in the EIR that require the applicant to contribute its fair share of the funding for such improvements. The mitigation measures represent an enforceable commitment that would be implemented by way of the Mitigation Monitoring and Reporting Program (MMRP) for the project.

Response A3-2: The comment letter by Alameda County Congestion Management Agency (ACCMA) staff on the Notice of Preparation (NOP) for the project dated April 29, 2008 states that the ACCMA does not have a policy that establishes thresholds of significance for Metropolitan Transportation System (MTS) roadways. Since the ACCMA does not have established significance criteria, local jurisdictions can determine the appropriate criteria for each project. The significance criteria for MTS roadways used in this EIR are consistent with other recent EIRs prepared in the cities of Albany and Berkeley. The two-pronged threshold (degradation of LOS and consequential size of impact) is used by the City of Albany so as to appropriately focus on projects that are large enough (i.e., lead to a more than 5 percent change in the v/c ratio) to result in a measurable impact and valuable fair-share contribution.

Response A3-3: Consistency with local and regional policies and programs supporting alternative transportation is discussed on page 124 of the Draft EIR. The applicable plans and policies on which that analysis is based are summarized on pages 84 through 86.

The proposed project would be located in an urban area adjacent to frequent transit service and would provide bicycle and pedestrian connections to nearby residential neighborhoods. As a result, the project would experience a higher share of pedestrian, bicycle, and transit mode share than typical suburban developments. In addition, the proposed project would include a number of elements, such as bicycle parking and showers, that encourage the use of non-automobile travel modes. However, neither the proposed project nor the mitigation measures presented in the Draft EIR include a formal Transportation Demand Management (TDM) program. In general, a TDM program is not as effective for predominately retail developments as other types of development. Typically, TDM programs are most effective for developments, such as office buildings, where most trips are daily weekday peak period commute trips. Many retail employees may not work every day and

may work irregular work hours. Most retail employees typically start and end their work shift outside the peak commute periods and as a result may not have access to convenient transit. In addition, their trips would also not affect peak hour traffic operations. Most customers would not travel to the site daily and may make large purchases which may not be convenient to transport by walking, bicycling, or transit. In addition, the senior housing component of the project would generate few trips and would be occupied by a population that already uses transit and non-motorized travel modes to a much greater extent than other population groups. A potential TDM program would not be effective in reducing peak hour automobile trips generated by the project and would most likely not reduce the identified significant impacts to a less-than-significant level. Therefore, the mitigation measures for the project do not include a TDM program.

Response A3-4: Table IV.A-23 on page 123 of the Draft EIR summarizes travel times along San Pablo Avenue with and without the proposed project. As shown in the table, the proposed project would increase bus travel times by less than one minute along San Pablo Avenue between Gilman Street and Solano Avenue. Thus, while no explicit quantitative threshold has been established to measure transit delays, the less-than-one-minute delay forecast to result from the proposed project would not constitute an excessive delay to bus travel times.

Response A3-5: As stated in the comment, the implementation of any of the four options in Mitigation Measure TRANS-12 would result in loss of one or two on-street parking spaces on San Pablo Avenue. As shown on Figure IV.A-6, about 40 on-street parking spaces are currently provided on San Pablo Avenue along the project frontage. Considering that these spaces are currently about 20 percent occupied (Draft EIR page 67), the on-street parking supply would meet the estimated parking demand after the potential loss of one or two parking spaces.

It should also be noted that recent revisions to the *CEQA Guidelines* (December 30, 2009) and the State's suggested Environmental Checklist have deleted the previously long-standing question about whether a proposed project would "Result in inadequate parking capacity". Thus, a simple mismatch between vehicular parking demand and supply is no longer likely to be found a significant adverse impact under CEQA. However, this concern was evaluated as a potential adverse impact when the Draft EIR was under preparation.

Letter
A4

EAST BAY
MUNICIPAL UTILITY DISTRICT

July 31, 2009

CITY OF ALBANY
AUG 05 2009
COMMUNITY DEVELOPMENT
DEPARTMENT

Amber Curl, Associate Planner
City of Albany
Community Development Department
979 San Pablo Avenue, 2nd Floor
Albany, CA 94706

Re: Notice of Availability of a Draft Environmental Impact Report – University Village at San Pablo Avenue Project, Albany

Dear Ms. Curl:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the University Village at San Pablo Avenue Project in the City of Albany. EBMUD provided a written response to the Notice of Preparation on April 29, 2008 (enclosed) and those comments still apply. In addition, EBMUD has the following comments.

WASTEWATER PLANNING

EBMUD's previous comments on the Notice of Preparation was included in Item XVI, Section (e) on page 46 of Appendix A. Since that time, EBMUD has been issued a Stipulated Order for Preliminary Relief associated with operation of its Wet Weather Treatment Facilities. The following revised language should be included in the Draft EIR.

EBMUD's Main Wastewater Treatment Plant (MWWTP) and interceptor system are anticipated to have adequate dry weather capacity to treat the proposed wastewater flows from this project, provided that the wastewater meets the requirements of the current EBMUD Wastewater Control Ordinance. However, wet weather flows are a concern. EBMUD has historically operated three Wet Weather Facilities (WWFs) to provide treatment for high wet weather flows that exceed the treatment capacity of the MWWTP. On January 14, 2009, due to the Environmental Protection Agency (EPA) and the State Water Resources Control Board's re-interpretation of applicable law, the RWQCB issued an order prohibiting further discharges from EBMUD's WWFs. Additionally, on July 22, 2009 a Stipulated Order for Preliminary Relief issued by the EPA, State Water Regional Control Board (SWRCB), and RWQCB became effective. This order requires EBMUD to begin work that will identify problem inflow and infiltration (I/I) areas, begin to reduce I/I through private sewer lateral improvements, and lay the groundwork for future efforts to eliminate discharges from the WWFs. 1

375 ELEVENTH STREET • OAKLAND • CA 94607-4240 • TOLL FREE 1-866-40 -EBMUD

Letter
A4
cont.

Currently, there is insufficient information to forecast how these changes will impact allowable wet weather flows in the individual collection system subbasins contributing to the EBMUD wastewater system, including the subbasin in which the proposed project is located. As required by the Stipulated Order, EBMUD is conducting extensive flow monitoring and hydraulic modeling to determine the level of flow reductions that will be needed in order to comply with the new zero-discharge requirement at the WWFs. It is reasonable to assume that a new regional wet weather flow allocation process may occur in the East Bay, but the schedule for implementation of any new flow allocations has not yet been determined.

1 cont.

In the mean time, the lead agency should require the project applicant to incorporate the following measures into the proposed project: (1) replace or rehabilitate any existing sanitary sewer collection systems to reduce I/, and (2) ensure any new wastewater collection systems for the project are constructed to prevent I/I to the maximum extent feasible.

If you have any questions, please contact David J. Rehnstrom, Senior Civil Engineer, Water Service Planning at (510) 287-1365.

Sincerely,

David J Rehnstrom

FOR William R. Kirkpatrick
Manager of Water Distribution Planning

WRK:ELE:djr
sb09_173.doc

Enclosure

Letter
A4
cont.

EAST BAY
MUNICIPAL UTILITY DISTRICT

April 29, 2008

Amber Curl, Associate Planner
City of Albany
Community Development Department
1000 San Pablo Avenue
Albany, CA 94706

Re: Notice of Preparation of a Draft Environmental Impact Report – University Village at San Pablo Project, Albany

Dear Ms. Curl:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report (EIR) for the University Village at San Pablo Project located in the City of Albany. EBMUD has the following comments.

WATER SERVICE

EBMUD's Central Pressure Zone, with a service elevation between 0 and 100 feet, will serve the proposed development. When the development plans are finalized, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions for providing water service to the proposed development. Engineering and installation of water mains and services requires substantial lead-time, which should be provided for in the project sponsor's development schedule.

The Notice of Preparation indicates the presence of contaminated soils and/or groundwater within the project site boundaries. The project sponsor should be aware that EBMUD will not inspect, install or maintain pipeline in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be handled as a hazardous waste or that may pose a health and safety risk to construction or maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping in areas where groundwater contaminant concentrations exceed specified limits for discharge to sanitary sewer systems or sewage treatment plants.

Applicants for EBMUD services requiring excavation in contaminated areas must submit copies of existing information regarding soil and groundwater quality within or adjacent to the project boundary. In addition, the applicant must provide a legally sufficient, complete and specific written remedial plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of all identified

Letter
A4
cont.

contaminated soil and/or groundwater. EBMUD will not design the installation of pipelines until such time as soil and groundwater quality data and remediation plans are received and reviewed and will not install pipelines until remediation has been carried out and documentation of the effectiveness of the remediation has been received and reviewed. If no soil or groundwater quality data exists or the information supplied by the applicant is insufficient EBMUD may require the applicant to perform sampling and analysis to characterize the soil being excavated and groundwater that may be encountered during excavation or perform such sampling and analysis itself at the applicant's expense.

WASTEWATER PLANNING

EBMUD's Main Wastewater Treatment Plant is anticipated to have adequate dry weather capacity to treat the proposed wastewater flow from this project, provided this wastewater meets the standards of EBMUD's Environmental Services Division. However, the City of Albany's Infiltration/Inflow (I/I) Correction Program set a maximum allowable peak wastewater flow from each subbasin within the City and EBMUD agreed to design and construct wet weather conveyance and treatment facilities to accommodate these flows. EBMUD prohibits discharge of wastewater flows above the allocated peak flow for a subbasin because conveyance and treatment capacity for wet weather flows may be adversely impacted by flows above this agreed limit. The developer for this project needs to confirm with the City of Albany Public Works Department that there is available capacity within the subbasin flow allocation and that it has not been allocated to other developments. The projected peak wet weather wastewater flows from this project need to be determined to assess the available capacity within the subbasin and confirmation included in the EIR. Suggested language to include in the EIR is as follows: "The City of Albany Public Works Department has confirmed that there is available wastewater capacity within Subbasin 11-002."

In general, the project should address the replacement or rehabilitation of the existing sanitary sewer collection system to prevent an increase in I/I. Please include a provision to control or reduce the amount of I/I in the environmental documentation for this project. The main concern is the increase in total wet weather flows, which could have an adverse impact if the flows are greater than the maximum allowable flows from this subbasin.

WATER RECYCLING

The proposed project is located within the service boundaries of EBMUD's East Bayshore Recycled Water Project. EBMUD's Policy 8.01 requires that customers use non-potable water for non-domestic purposes when it is of adequate quality and quantity, available at reasonable cost, not detrimental to public health ant not injurious to plant life, fish and wildlife to offset demand on EBMUD's limited potable water supply. EBMUD recommends that the City of Albany require the project sponsor to coordinate and consult

COMMENTER A4
East Bay Municipal Utility District
William R. Kirkpatrick, Manager of Water Distribution Planning
July 31, 2009

Response A4-1: The Draft EIR has been revised to reflect this updated information from the East Bay Municipal Utility District. The following text revisions are hereby made to Section XVI, Utilities and Service Systems, Appendix A of the Draft EIR (p. 46):

> *e) 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?* ***(Potentially Significant Unless Mitigation Incorporated)***

~~According to EBMUD, the Main WWTP is anticipated to have adequate dry weather capacity to treat the proposed wastewater flow from the project.[33] However, deteriorated community sanitary sewer pipes allow rainwater to enter into the sanitary sewer systems during the heaviest storms, causing overflows. The existing sewer pipes in the project area are in poor condition and receive a considerable amount of infiltration from groundwater.[34] The City of Albany has an Infiltration/Inflow (I/I) Correction Program that sets a maximum allowable peak wastewater flow from each subbasin within the City. EBMUD prohibits discharge of wastewater flows above the allocated peak flow for each subbasin; conveyance and treatment capacity of wastewater may be adversely impacted by flows above the agreed limit.~~

> ~~[33] East Bay Municipal Utility District, 2008. City of Albany re Notice of Preparation of a Draft Environmental Impact Report – University Village at San Pablo Project, Albany. Written communication to Amber Curl, City of Albany. April 28.~~
>
> ~~[34] LSA Associates, 2004. *Subsequent Focused Draft EIR for the University Village & Albany/Northwest Properties Master Plan Amendments EIR.* January 30.~~

According to EBMUD, the Main Wastewater Treatment Plant (MWWTP) and interceptor system are anticipated to have adequate dry weather capacity to treat the proposed wastewater flows from this project, provided that the wastewater meets the requirements of the current EBMUD Wastewater Control Ordinance. However, wet weather flows are a concern. EBMUD has historically operated three

Wet Weather Facilities (WWFs) to provide treatment for high wet weather flows that exceed the treatment capacity of the MWWTP. On January 14, 2009, due to the Environmental Protection Agency (EPA) and the State Water Resources Control Board's re-interpretation of applicable law, the RWQCB issued an order prohibiting further discharges from EBMUD's WWFs. Additionally, on July 22, 2009, a Stipulated Order for Preliminary Relief issued by the EPA, State Water Regional Control Board (SWRCB), and RWQCB became effective. This order requires EBMUD to begin work that will identify problem inflow and infiltration (I/I) areas, begin to reduce I/I through private sewer lateral improvements, and lay the groundwork for future efforts to eliminate discharges from the WWFs.

Currently, there is insufficient information to forecast how these changes will impact allowable wet weather flows in the individual collection system subbasins contributing to the EBMUD wastewater system, including the subbasin in which the proposed project is located. As required by the Stipulated Order, EBMUD is conducting extensive flow monitoring and hydraulic modeling to determine the level of flow reductions that will be needed in order to comply with the new zero-discharge requirement at the WWFs. It is reasonable to assume that a new regional wet weather flow allocation process may occur in the East Bay, but the schedule for implementation of any new flow allocations has not yet been determined.[41]

[41] East Bay Municipal Utility District, 2009. Notice of Availability of a Draft Environmental Impact Report – University Village at San Pablo Project, Albany. Written communication to Amber Curl, City of Albany. April 28.

Sewer lines maintained by the University of California serve University Village. Wastewater is transported from University Village through two mainlines: one is located on the west side of the University Village crossing underneath the railroad tracks and connecting to the EBMUD intercept that runs parallel to Eastshore Highway; the other mainline is located on the east side of the property along San Pablo Avenue. The proposed project would connect to the existing wastewater system within University Village. As mentioned in Section XVI.a above, estimates of the project's anticipated wastewater flows are approximately 29,265 gallons per day. The City of Albany Public Works Department has confirmed, with implementation of Mitigation Measure UTIL-2, that there is available wastewater capacity.[35] To prevent an increase in inflow and infiltration, the following mitigation measure shall be implemented.

Mitigation Measure UTIL-2: The project applicant shall replace and/or rehabilitate existing sewer pipes within the

project site to decrease groundwater infiltration and shall ensure any new wastewater collection systems for the project are constructed to prevent I/I to the maximum extent feasible.

Letter
A5

DISTRICT ADMINISTRATION

Marla Stephenson
Superintendent

Laurie Harden
Assistant Superintendent

ALBANY UNIFIED SCHOOL DISTRICT

904 Talbot Avenue • Albany, CA 94706
(510) 558-3750
FAX: (510) 559-6560
www.albany.k12.ca.us

BOARD OF EDUCATION

David Glasser
President
Ronald Rosenbaum
Vice President
Miriam Walden
Dr. Patricia Low
Paul Black

October 1, 2009

Amber Curl, Associate Planner
City of Albany
Community Development Dept.
979 San Pablo Avenue, 2nd Floor
Albany, CA 94706

Re: University Village At San Pablo Avenue
Project Environmental Review

Dear Ms. Curl,

Albany Unified School District has conducted a review of the University Village at San Pablo Avenue Project Draft EIR to determine if there are environmentally related concerns about the implementation of the development as it may specifically affect the Ocean View Elementary School. In reviewing the DEIR documentation, three topics of potential concern were examined. They include traffic, circulation and parking, air quality, and noise. Of the three topics, traffic and circulation and parking needs to be further considered.

Jackson Street Traffic Impacts

Because of the existing and future traffic impacts found along San Pablo Avenue in the project study area (and the proximity of the existing Ocean View Elementary School on the southwest corner of Jackson Street/Buchanan Street, and the existing residential areas of University Village, the DEIR does not discuss nor report the potentially significant traffic impacts that may occur along Jackson Street and 8th Street, between Buchanan Street and Gilman Street, as a result of existing cut-through traffic from San Pablo Avenue, and the potential for future cut-through traffic from the proposed project. 1

According to the project trip distribution in the DEIR, approximately 22 percent of project traffic would originate north of the project site and use I-80, I-580, and Jackson Street to access the project site; while approximately 14 percent would originate from the south and use I-80 to access the site. The traffic analysis assumes that approximately 19 percent (of the 22 percent) of the project traffic from the north would travel on Buchanan Street to San Pablo Avenue to access the site via the San Pablo Avenue/Marin Avenue intersection. Approximately three percent of that traffic would use Jackson Street to access the project site. From the south, all 14 percent of project traffic would use Gilman Street to San Pablo Avenue to access the site via the San Pablo Avenue/Gilman Avenue intersection. Therefore, a nominal amount of project traffic from the north (i.e., three percent of the 36 percent originating from the freeways and Jackson Street-north) was assumed to use Jackson Street to access the project site, and no project traffic from the south was assumed to use 8th Street (to Jackson Street) from Gilman Street to access the project site. 2

Letter
A5
cont.

According to the intersection level of service (LOS) results reported in the DEIR, both intersections of San Pablo Avenue/Marin Avenue and San Pablo Avenue/Gilman Street currently operate, and are forecast to operate, with unsatisfactory LOS (LOS E or F) in one or more peak hours (weekday a.m. and p.m. and Saturday peak hour) in all three analysis scenarios: existing, year 2015, and year 2035. Furthermore, the DEIR indicated that the project impacts to these intersections are significant and unavoidable since no feasible mitigation measures can be implemented. Even the CMP roadway segment analysis found San Pablo Avenue, between Marin Avenue and Gilman Avenue to operate with LOS F conditions in one or more peak hours in all three analysis scenarios. **3**

Because of the LOS F conditions determined at the intersections of San Pablo Avenue/Marin Avenue and San Pablo Avenue/Gilman Street, as well as the LOS F roadway conditions determined along San Pablo Avenue between Marin Avenue and Gilman Street (along the project's frontage), the DEIR fails to discuss the high potential of cut through traffic that would be created by the project along Jackson Avenue and 8th Street due to the congested operations on San Pablo Avenue. The DEIR reported satisfactory LOS (LOS D or better) at Jackson Street/Buchanan Street, Jackson Street/Monroe Street, and 8th Street/Gilman Street. In addition, the DEIR indicated that improvements to Jackson Street/Buchanan Street would include protected left turn phasing on Buchanan Street with dedicated left turn lanes on Jackson Street. With better LOS and operations at those intersections, project traffic as well as background traffic would likely use Jackson Street and 8th Street as an alternative, or cut-through, street from San Pablo Avenue. This increase in traffic would have potential impacts to the residential neighborhood of University Village and the student pedestrians/bicyclists at the Ocean View Elementary School. **4**

In addition, there is a shortfall of parking spaces for the development (using City guidelines, which do not include possible reduction from use of public transit). This condition could potentially lead to a potential effect upon parking spaces in the area around the school, particularly from additional cut-through traffic or others that may be looking for parking should a shortfall occur. **5**

At a minimum, the DEIR should discuss and analyze the potential of cut-through traffic on Jackson Street and 8th Street as a result of unsatisfactory intersection, roadway segment, and left turn lane queuing operations on San Pablo Avenue between Marin Avenue and Gilman Street. It is anticipated that some type(s) of traffic calming and/or diverting devices; making Jackson one way or blocking Jackson at the University Village boarder may be warranted along Jackson Street and 8th Street to prevent cut-through traffic from significantly impacting the existing residential uses and the Ocean View Elementary School along Jackson Street. **6**

Sincerely,

David Glasser
President, Board of Education
Albany Unified School District

Marla Stephenson
Superintendent
Albany Unified School District

COMMENTER A5
Albany Unified School District
David Glasser, President, Board of Education
October 1, 2009

Response A5-1: The Draft EIR analyzed impacts of the proposed project at Buchanan Street/ Jackson Street, Monroe Street/Jackson Street, and Gilman Street/8th Street intersections. See Draft EIR, Chapter IV.A, Transportation, Circulation and Parking, pages 90-95; these three intersections are study intersections #5, #9 and #17 respectively in Figures IV.A-11, -12a, and -12b, and in Table IV.A-13. The analysis was based on existing counts, which include existing cut-through traffic, collected at these intersections. The proposed project would not cause a significant impact at these intersections.

Response A5-2: As stated in the comment, the majority of project generated traffic was assigned to the major roadways in the area. This analysis assumed that the majority of traffic generated by the project would approach and leave the project site via San Pablo Avenue.

Considering the relatively low existing traffic volumes on the local streets (see Table IV.A-13, where study intersections #5, #9 and #17 which are interior to University Village show existing levels of service of A and B), assigning project generated traffic to local streets would not trigger any of the significance criteria used in the Draft EIR; therefore, the project would not cause a significant impact at intersections along cut-through routes. In addition, assigning project traffic to local streets would result in fewer vehicles assigned to the major arterials and potentially fewer significant impacts than identified in the Draft EIR.

Response A5-3: Please see Responses to Comments A5-1 and A5-2.

Response A5-4: The commenter states that the proposed project may result in additional traffic on surrounding residential neighborhood streets. The traffic analysis presented in the Draft EIR assumes that traffic generated by the proposed project would use the major roadways in the study area to access the site. However, project generated traffic may use adjacent residential streets, such as Jackson Street, as a cut-through route to divert from existing and potential future congestion on San Pablo Avenue.

Traffic intrusion on adjacent residential streets would not result in a significant impact based on the significance criteria used in the Draft EIR. In other words, even if a hypothetically (but unrealistically) high volume of trips were to cut through the local streets, the LOS criteria at the local intersection would not be exceeded. It should be noted that an improvement at the intersection of

Marin and San Pablo Avenues that is envisioned by the University Village Master Plan (to allow for a free right-hand turn from eastbound Buchanan/ Marin to southbound San Pablo Avenue) will tend to dissuade drivers from cutting through University Village to reach the proposed project. In addition, acceptable traffic levels of service on internal University Village roadways would also facilitate an acceptable pedestrian environment. No pedestrian safety impact would result; no mitigation measure would be required. However, the following supplement to Recommendation TRANS-2 (hereby added to the Draft EIR on page 118, immediately following Recommendation TRANS-2) should be considered during review of the project's merits to reduce potential cut-through traffic and improve pedestrian, bicycle, and pedestrian safety on surrounding local streets.

> **Recommendation TRANS-2a**: Project applicant should pay to monitor traffic volumes and speeds on the following roadways three months before start of construction and six months after the completion of the Whole Foods Market component of the proposed project:
>
> - Dartmouth Street, east of San Pablo Avenue
> - Harrison Street, east of San Pablo Avenue
> - Kains Avenue, north and south of Dartmouth Street
> - Stannage Avenue, north and south of Dartmouth Street
> - Jackson Street, north of Monroe Street
> - Jackson Street, south of Monroe Street
> - Sixth Street, north of Harrison Street
> - Eighth Street, north of Harrison Street
>
> In consultation with local residents and City of Albany staff, appropriate traffic calming measures, such as speed humps, horizontal deflectors, turn prohibitions, roadway closures, or pedestrian improvements, should be considered if and when traffic volumes or average speeds exceed City standards. Note that monitoring of existing conditions should await completion of the various roadway, intersection and bicycle route improvements planned and in process for the Buchanan Street/Marin Avenue corridor; measuring those conditions prior to their long-term design and operational characteristics would be premature. The project applicant shall fund these improvements.

Response A5-5: The parking demand analysis discussed on pages 124 through 126 of the Draft EIR is based on published demand rates in ITE's *Parking Generation* (3rd Edition). These parking rates were not reduced to account for transit or other factors. As stated in the comment, the project would have a parking deficit during peak periods. However, the parking deficit can be accommodated by available on-street parking spaces adjacent to the project on Monroe Street and San Pablo Avenue. In addition, Recommendation TRANS-3

includes strategies to better manage the available parking supply and reduce the potential for vehicles circulating for available parking spaces. See also Response to Comment A3-5.

Response A5-6: Please see Response to Comment A5-4.

Letter
A6

CITY OF ALBANY
TRAFFIC AND SAFATY COMMISSION

September 21, 2009

City of Albany
Planning and Zoning Commission
979 San Pablo Avenue
Albany, CA 94706

Attn: Amber Curl, Associate Planner

Dear Ms. Curl,

Thank you for taking the time to attend our July meeting and discuss the University Village at San Pablo Avenue EIR project. After reviewing the document, the Traffic and Safety Commission has the following comments:

Back-In Parking

The back-in parking option on Monroe Avenue, just for the segment along the project location could generate confusion because the next segment to the west of the project location is laid out as traditional angled parking. The Commission would like the project designer to consider extending the back-in parking option on Monroe Street west of 10th Street to facilitate consistency and decrease confusion. 1

San Pablo Avenue Crossing at Dartmouth

While the Commission understands that Caltrans is the agency that has jurisdiction over San Pablo Avenue, and ultimately determines whether or not a traffic signal would be installed, the Commission supports signalizing the intersection of Dartmouth Street and San Pablo Avenue. The main reason for signalization is to provide control at this intersection since a large number of pedestrians and bicyclists is anticipated at this crossing as it leads to the main entrance of Whole Foods and the store fronts of the shopping complex. In addition, signalization of the intersection would provide continuity to the bike path that would be aligned along Codornices Creek. The EIR presents three options for signalizing this crossing, which include a traditional signalized T intersection, a two-stage signalized crossing, and a HAWK signal, which is pedestrian or bicycle activated. The un-signalized alternative presented in the EIR is the provision of a two-stage crossing. The Commission supports either the traditional signal or the two-stage signalized option. The HAWK signal might not be appropriate for this intersection as there could be multiple requests for crossing and may cause the San Pablo Avenue system to fail. 2

Letter
A6
cont.

Jackson Street/Buchanan Street Intersection
The Commission would like the consultant to analyze in more detail the potential impacts that increased traffic from, and to, this project could have on the intersection of Jackson and Buchanan Streets. The concern is that drivers will use Jackson Street as a shortcut to come and go from Whole Foods. If so, what type of mitigation measures would be recommended to deter this behavior? 3

Posted Speed Limit on San Pablo Avenue
Lastly, the Commission called attention to the fact that the speed limit on San Pablo Avenue in Albany is 30 mph, not 35 as stated on the EIR. There are signs posted along San Pablo Avenue indicating the speed limit as 30 mph. 4

Sincerely,

Ray Anderson
Chair

COMMENTER A6
City of Albany Traffic and Safety Commission
Ray Anderson, Chair
September 21, 2009

Response A6-1: The suggestion in the comment, extending back-in angled parking along Monroe Street west of 10th Street, is included in Recommendation TRANS-1 on page 113 and illustrated on Figure IV.A-15 on page 115 of the Draft EIR.

Response A6-2: The Commission's support for "either the traditional signal or the two-stage signalized option" is noted. No further response is required.

Response A6-3: The Draft EIR analyzed potential project impacts on Buchanan Street/Jackson Street intersection (see Table IV.A-13, study intersection #5, p. 94). The analysis accounted for the planned improvements at this intersection (see page 73 of the Draft EIR). Based on the analysis, the proposed project would cause virtually no change in the delay at this intersection (0 seconds of additional delay with the project in the AM Peak and Saturday Peak, and 1 second of delay in the PM Peak). See Response to Comment A5-4 regarding potential improvements along Jackson Street if excessive traffic volumes or speed is observed on Jackson Street.

Response A6-4: The following text revisions are hereby made to page 53 of the Draft EIR:

- *San Pablo Avenue* (State Route 123) is a four-lane north-south arterial with a center median or two-way left turn. The portion of San Pablo Avenue in the project area has a mix of fronting retail and office uses with on-street parking in both directions and a posted speed limit of ~~35~~ 30 mph. San Pablo Avenue extends between 17th Street in Oakland in the south to Willow Avenue in Rodeo in the north. San Pablo Avenue is a designated State highway and has an ADT of 25,500 vehicles per day south of Marin Avenue. Changes to San Pablo Avenue require review and approval from the California Department of Transportation (CalTrans).

Letter
A7

1600 Franklin Street, Oakland, CA 94612 - Ph. 510/891-4716 - Fax. 510/891-7157

Nancy Skowbo
Deputy General Manager - Service Development

October 8, 2009

Amber Curl, Associate Planner
City of Albany
Community Development Department
979 San Pablo Avenue, 2nd Floor
Albany, CA 94706

Subject: University Village at San Pablo Avenue Project

Dear Ms. Curl:

Thank you for the opportunity to comment on the Environmental Impact Report (EIR) for the University Village at San Pablo Avenue Project. The Project is sometimes referred to as the "Whole Foods Project," which is a major element of it.

The site is along San Pablo Avenue on either side of Monroe Street in University Village, Albany. It is currently vacant. The project would add 85,000 square feet of retail space, 55,000 feet of it in the Whole Foods supermarket. It would add 175 units of senior housing, with the units divided between 100 independent-living and 75 assisted-living units. There would be 326 off-street parking spaces provided in underground lots below the supermarket and in a surface parking lot adjacent to it. This is equivalent to approximately 2.5 parking spaces per 1,000 square feet of retail and 2 spaces for every 3 residential units, although some of the parking is available for either use.

AC Transit supports mixed-use development along major transit corridors in our service area. San Pablo Avenue, where this development is located, is one of the major corridors in the AC Transit district (this location is served by local, but not by Rapid, service). Mixed use development supports increased transit ridership and helps to create a land use pattern where people can make more of their trips by walking, transit, and bicycles. At the same time, San Pablo Avenue already experiences significant afternoon congestion. If this condition worsens seriously it will degrade services for passengers and discourage transit ridership. 1

The District's comments on the project concern the following topics:
1. Transit operations in the immediate site area
2. Increasing transit use to the site
3. Impacts of congestion on transit operations beyond the site
4. Appropriate levels of parking.

1. Transit Operations in the Immediate Site Area

AC Transit operates service along San Pablo Avenue and along Monroe Street. The AC Transit Board of Directors is currently considering service adjustments. These could change the specific routes which serve the area, but San Pablo Avenue, Jackson Street and Monroe Street would continue to be served. On San Pablo Avenue, there is a southbound stop that appears to be unaffected by the project on the south (far) side of Monroe Street. There is a northbound companion stop across San Pablo on the south (near) side of the project, also unaffected by it. 2

AC Transit has bus stops on both sides of Monroe Street at 10th Street, at the edge of this project. It is unclear what the specific configuration of Monroe would be. The District would be concerned if roadway travel widths were to be reduced; the street is already challenging for bus operations.

2. Increasing Transit Use to the Site

The EIR projects that 75% of Whole Food's customers will drive to the store, and that only 1% will use transit. The District recognizes that EIRs must be careful to avoid unduly optimistic projections and consider a worst realistic case for impacts, including transportation impacts. Nonetheless, District staff believes that the transit share could be increased significantly above 1%. This location is served by two trunk bus routes: line 18 via Solano Avenue and Shattuck Avenue to Downtown Berkeley and Downtown Oakland, and line 72 via San Pablo Avenue south to West Berkeley, Emeryville, and Downtown Oakland, and north to El Cerrito and Richmond. The site is also served by line 52L, which runs north to Albany Hill and El Cerrito Plaza BART and south to University Avenue and the University of California campus.

Programs and activities that would increase the transit share of shoppers and reduce the automobile share would serve as mitigations for congestion impacts that the store is projected to create. Such a mode shift would also serve to reduce emissions of greenhouse gases. 3

Transportation Demand Management (TDM) is generally considered applicable only to retail employees rather than customers. There certainly should be TDM for employees. Whole Foods could purchase AC Transit EasyPasses for all of its employees, encouraging them to use transit to get to work.

However, there should also be efforts to change the travel patterns of customers, who make up by far the largest proportion of trips. Whole Foods could provide discounts and incentives to customers who show that they arrived on transit. The District understands that some Whole Foods stores in Southern California do this. Whole Foods should sell transit passes to store customers. It should also make transit information available to its customers in a prominent location. The measures to maintain efficient bus operations and easy passenger access will also help support transit ridership.

Letter
A7
cont.

3. Impacts of Congestion on Transit Operations Beyond the Site

AC Transit appreciates the fact that the EIR attempted to quantify delay to bus operations on San Pablo Avenue. The analysis indicated that travel time in the area for "Existing plus Project" in the PM peak would increase .3 minutes (18 seconds) southbound and .5 minutes (30 seconds) northbound. The most significant projected increase was .9 minutes (54 seconds) southbound during the Saturday peak hour.

The EIR states that this is not an excessive increase in travel time for buses, and thus not a significant impact. However, it is unclear if this analysis considered cumulative impacts on bus operations of other projects in the corridor. The EIR should state whether this analysis considered cumulative impacts on bus operations, and if not, should analyze those impacts. The District is concerned that multiple projects along the corridor, each individually causing relatively modest delays, could cumulatively cause substantial delay. **4**

It is also important that buses be able to travel along Jackson Street without excessive delay. The EIR projects that the Level of Service at Jackson & Buchanan Streets will not be degraded below D, and that therefore there is no significant impact. However, the analysis of cumulative impacts includes the projection that delays at this intersection will grow from 11 seconds in the PM Peak to 54 seconds. Delays to buses are often greater than delays to cars. Therefore, the impact on buses at this location could be significant, especially since some buses using Jackson Street could also experience delays along San Pablo Avenue.

4. Appropriate Levels of Parking

The section of the EIR that discusses parking supply and demand should note that parking demand is not an environmental impact under the California Environmental Quality Act (CEQA); not all readers are aware of this fact. However, oversupplying parking is detrimental because it can attract additional traffic to the site, use excessive amounts of space on a site, and inflate the costs of building housing and other development.

It would be useful to compare the parking required in this project with parking requirements in other similar projects. The Berkeley Bowl West supermarket, recently opened in West Berkeley, provides a particularly apt comparison for the most parking-intensive element of the project. Another comparable could be the new Whole Foods store in Oakland. The general parking requirement for retail parking in West Berkeley, adjacent to Albany, is 2 spaces per 1,000 square feet. **5**

Absent this data, the proposed level of parking in this project appears more modest than some. It is also positive that at least some of the parking will be available for either retail or residential use. The EIR also expresses a goal (Recommendation TRANS-2, p. 126) of making as much space available for shared parking as possible. However, the effective parking level for the senior

Letter
A7
cont.

housing remains high. Assuming 2.5 spaces per 1,000 square feet for the retail space, 113 spaces would remain for the senior housing. That would provide a parking space for every single independent living unit. It would also provide 13 spaces for the assisted housing units, whose residents are typically ill, frail, or infirm, and no longer driving. An explanation of the rationale for the levels of residential parking would be appreciated, along with a discussion of the anticipated use of the parking spaces. **5 cont.**

If you have questions about this letter, please contact Nathan Landau, Senior Transportation Planner at 891-4792.

Yours Truly,

Nancy Skowbo
Deputy General Manager Service Development

C: Nathan Landau
Cory LaVigne
Puja Sarna
Tina Spencer

COMMENTER A7
AC Transit
Nancy Skowbo, Deputy General Manager, Service Department
October 8, 2009

Response A7-1: This comment provides some background information and introduces the commenter's thoughts on a number of topics that follow. Each of those topics is expanded upon in the comments that follow. No further response is required.

Response A7-2: The comment notes that the AC Transit Board of Directors is considering adjustments to its services that might change specific routes serving the area. It also expresses a concern in the event that the roadway width of Monroe Street were to be narrowed as a result of the proposed project. The conceptual site plan for the proposed project is shown in the Draft EIR as Figure III-3 on page 39. The potential for the proposed site plan to lead to site access and circulation impacts is analyzed in Chapter IV.A, Transportation, Circulation and Parking, on page 106. There, the issues of auto, truck and bus queuing, width of drive aisles, delivery vehicle access, parking stall dimensions and any other internal conflicts are addressed. While this analysis draws the conclusion that no significant adverse impacts in the area of site access and circulation would result, a series of recommendations for incorporation into the eventual, more detailed, site plan is provided (p. 113). Use of several of the measures listed there would further ensure that potential impacts of the proposed project would be less than significant.

Response A7-3: Please see Response to Comment A3-3 for a discussion on why a formal TDM program has been determined by the EIR team's transportation consultant and the City to be ineffective in the case of this particular project. While the City is not willing to impose a condition that Whole Foods either provide discounted price transit passes to its customers or to serve as a vendor of transit passes, it is willing to consider requiring the store to install an informational kiosk to make transit information available to its customers. Recommendation TRANS-2 (Draft EIR, pp. 117-118) is hereby supplemented with an additional item (to be located in the third-from-the-bottom position on p. 118), as follows:

- Request that Whole Foods (or operator of the retail market space) install a kiosk or billboard of at least 4 feet by 4 feet, in a prominent location near one of the store's entrances/exits, for the placement of information relating to transit availability for employees and customers.

Response A7-4: Since bus routes, schedules, and headways may change in the future, it is difficult to determine the impact of cumulative traffic on transit operations and bus travel times. However, as requested, Table Response to Comments 1 summarizes travel times along San Pablo Avenue between Gilman Street and Solano Avenue under Cumulative (2035) conditions (which, as described in the Draft EIR on p. 242, are based on the ACCMA Countywide Travel Demand Model from February 2009). Overall, bus travel times under Cumulative Conditions are expected to be higher than Existing conditions because of additional congestion caused by traffic generated by cumulative development in the area.

Table Response to Comments 1:
Travel Times Along San Pablo Avenue (Cumulative Conditions)

Peak Hour	Direction	Cumulative (2035) No Project (Minutes)	Cumulative (2035) Plus Project (Minutes)
AM Peak Hour	Northbound	3.8	3.9
	Southbound	5.0	5.4
PM Peak Hour	Northbound	5.2	5.6
	Southbound	5.6	6.9
Saturday Peak Hour	Northbound	5.4	6.3
	Southbound	4.6	5.5

Source: Fehr & Peers based on the results of the Synchro analysis.

As shown in Table Response to Comments 1, the proposed project is expected to generally increase bus travel times by less than one minute along this segment of San Pablo Avenue, except on southbound San Pablo Avenue during the PM peak hour, where the proposed project is expected to increase travel time by about 1.3 minutes. The additional congestion under Cumulative conditions would not result in excessive delays to buses operating along San Pablo Avenue.

As stated in the comment, the Buchanan Street/Jackson Street intersection currently has an average intersection delay of about 11 seconds under Existing Conditions and 54 seconds under Cumulative (2035) Plus Project conditions during the PM peak hour. As shown in the Draft EIR, in Tables IV.A-13, IV.A-7, and IV.A-8, the proposed project would increase the average delay at this intersection by about 1, 2, and 6 seconds under Existing, Near-Term (2015) and Cumulative (2035) conditions, respectively. Thus, only a small portion of the additional delay experienced at this intersection would be caused by the proposed project. As described on page 73 of the Draft EIR, the City of Albany is currently planning to modify the signal equipment at this intersection to provide protected left-turns and improve pedestrian crossings. The addition of protected left-turn phasing would contribute to the increased delay at this intersection.

Response A7-5: As stated in the comment (and summarized above in Response to Comment A3-5), a simple mismatch between parking demand and supply is no longer

considered an environmental impact based on the latest published *CEQA Guidelines*. However, it was evaluated as a potential adverse impact when the Draft EIR was under preparation.

Letter
A8

Planning and Development Department

October 5, 2009

Ms. Amber Curl
Associate Planner
Albany Community Development Department
979 San Pablo Avenue
Albany, CA 94706

Dear Ms. Curl:

Thank you for the opportunity to respond to the Draft EIR (DEIR) prepared for Planning Application 07-100 for the San Pablo Avenue/Monroe Street rezoning, grocery story, and mixed use development.

We have the following specific comments about the traffic analysis, but also want to use this opportunity to initiate a process to ensure that the project applicant is required to mitigate traffic impacts within the City of Berkeley. The Draft EIR acknowledges that the City of Albany does not have jurisdiction over capital improvements that would need approval by the City of Berkeley and/or Caltrans, and the DEIR references that the project applicant "shall contribute its fair share" toward several improvements. Although many of the transportation impacts are identified as significant and unavoidable, this does not release the City of Albany or the project applicant from establishing an appropriate mechanism for ensuring that the applicant provides the required funding. Prior to approval of the project, a process should be initiated to identify an appropriate mechanism and the applicant's fair share contributions. The City requests that a mitigation be added and that a condition of approval be adopted that, prior to approval of a building permit, the applicant shall either contribute their fair share for all required improvements to a fund to be held in escrow or enter into a legally-binding MOU or other mechanism, subject to approval by the City of Berkeley, to ensure payment of transportation mitigations. **1**

Our specific comments on the Transportation Section of the DEIR follow.

Page 89: Peak AM traffic underrepresented
It is stated that because the Peak AM pass-by rate is not available in the ITE Trip Generation Handbook 2nd edition, the peak PM pass-by rate of 36% has been used for the Peak AM rate (for the supermarket). Typically, significantly more pass-by trips are expected to be made during the Peak PM period than the Peak AM period; therefore the DEIR Peak AM traffic has been significantly underrepresented. **2**

2118 Milvia Street, 3rd Floor Berkeley, CA 94704 Tel: 510.981-7400 Fax: 510 981-7470 TDD:510 981-7474
E-mail: planning@ci.berkeley.ca.us

Letter
A8
cont.

DEIR Comments
University Village at San Pablo Avenue

Page 97 - Mitigation Measure TRANS-5: Inaccurate representation of street conditions and infeasibility of proposed mitigation measure
The mitigation recommends elimination of parking on the north side of Gilman between Kains and San Pablo and provision of an additional westbound travel lane. There is no parking allowed in the area described. In addition, the pavement width in the westbound direction is barely 18 feet wide, therefore, the proposed improvement of adding an additional travel lane seems unfeasible. Are there other possible mitigations? **3**

Page 118 - Impact Trans-12: Recommendation regarding loop detectors
The crossing of San Pablo at Dartmouth should not include loop detectors for bicycle actuation of a new HAWK or full signal. Actuation should be handled by a push-button located at the intersection and accessible from the street side (not the sidewalk side). This will prevent false positive activation of the signal by cars passing over the bicycle loop detector. **4**

Page 126 - Impact Trans-3: Recommendation on bike parking
Short-term bicycle parking rates should be 1 space for every 2,000 square feet with a minimum of two spaces at any public entrance. Additional information should be provided to show the required bike parking - only short-term bicycle parking locations at public entrances are shown, it is not shown whether or not these locations can accommodate the required parking, and no long-term parking locations (lockers or bike cages for employees) are shown on the plans. **5**

In addition, we note that the DEIR does not address the impact of existing air quality on future residents. We recommend that this be considered. Although the DEIR provides data taken from the Monitoring Station at Camelia and 6th Street where the BAAQMD is monitoring for Pacific Steel Casting, this location is not of direct relevance to the project. Rather a closer monitoring location would address concerns including diesel from the freeway, dust from the Community Conservation Center and Berkeley's Transfer Station (less than 1000 feet away), and the railroad (just over 500 feet away). The attached link to the City's report, PM10/PM2.5 Monitoring at Harrison Park, may be useful. **6**
http://www.ci.berkeley.ca.us/uploadedFiles/Parks_Rec_Waterfront/Level_3__-General/HarrisonFieldFinalReport.pdf

Thank you again for the opportunity to comment on the Draft EIR. We look forward to working with you on funding mechanisms to mitigate traffic impacts.

Sincerely,

Wendy Cosin, AICP
Deputy Planning Director

cc:
Councilmember Linda Maio
City Manager Phil Kamlarz
Hamid Mostowfi, P.E. Supervising Traffic Engineer

COMMENTER A8
City of Berkeley Planning and Development Department
Wendy Cosin, AICP, Deputy Planning Director
October 5, 2009

Response A8-1: See Response to Comment A3-1 regarding the City of Albany's intention to work with Caltrans and the ACCMA to establish a mutually-acceptable means of financing mitigation measures. The City of Albany intends to work with the City of Berkeley in a similar manner, though specifying the precise method of accomplishing this aim would be premature at this point.

Response A8-2: Please see Response to Comment B12-35.

Response A8-3: The proposed improvements included in Mitigation Measure TRANS-5, which primarily consist of providing an additional travel lane on westbound Gilman Street between Kains Street and San Pablo Avenue, are based on the City of Berkeley's *West Berkeley Circulation Master Plan – Circulation Improvements Report* dated November 6, 2008 (pp. 3-10) and *Implementation Plan Report* dated March 12, 2009 (p. 5). These reports indicate that the proposed improvements are feasible.

Response A8-4: The commenter's suggestion regarding loop detectors is noted. Appropriate bicycle actuation at the intersection will be determined during the design of the proposed improvement.

Response A8-5: Recommendation TRANS-4 on page 127 of the Draft EIR includes monitoring of bicycle parking demand. If needed, additional bicycle parking would be provided. As stated in the comment, the project site plan as shown on Figure IV.A-15 shows short-term bicycle parking near public entrances in order to increase bicyclist convenience and security. As stated in the Draft EIR, the recommended number of bicycle parking spaces will be accommodated in these areas. As stated in the comment, the proposed site plan currently does not show any long-term bicycle parking. However, they could be provided as either bicycle cages in garages or inside buildings.

Response A8-6: Section IV.B Air Quality of the Draft EIR concludes that the proposed project would not expose future residents of the project site to substantial pollutant concentrations or toxic air contaminants. The criteria air pollutant data shown in Table IV.B-4 includes verified monitoring results by the ARB and EPA. Data from the sited Harrison Field report shows slightly elevated PM_{10} and $PM_{2.5}$ concentrations due to railroad and transfer station activities. The report's monitoring data was taken immediately adjacent to the railroad tracks, whereas the proposed project is located more than 2,000 feet from the tracks. As referenced in Section IV.B of the Draft EIR, published reports

from the ARB indicate health risks substantially decline beyond 500 feet of toxic air contaminant sources, such as railroad tracks; therefore, the project site is not expected to carry any additional risk to future residents of the site.

Letter
A9

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

October 6, 2009

Amber Curl
City of Albany
Community Development Department
979 San Pablo Avenue
Albany, CA 94706

Subject: University Village at San Pablo Avenue
SCH#: 2008042004

Dear Amber Curl:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on October 5, 2009, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

for: Scott Morgan
Acting Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Letter
A9
cont.

Document Details Report
State Clearinghouse Data Base

SCH# 2008042004
Project Title University Village at San Pablo Avenue
Lead Agency Albany, City of

Type EIR Draft EIR

Description NOTE: Extended Review per lead 10-05-09.

The project would develop two lots and make various street improvements within the University Village development. Block A would include development of a 55,000 square foot retail structure, pedestrian/bike paths, stormwater drainage facilities, and a parking lot. Block B would include a 175 unit senior housing facility and 28,000 sf of retail space fronting on San Pablo Avenue and Monroe Street. Other improvements associated with the project would include changes to 10th Street and Monroe Street, a pedestrian/bike crossing of San Pablo Avenue, installation of drainage swales, and installation of a path along Codornices Creek between San Pablo Avenue and 10th Street.

Lead Agency Contact

Name Amber Curl
Agency City of Albany
Phone 510-528-5765 **Fax**
email
Address Community Development Department
979 San Pablo Avenue
City Albany **State** CA **Zip** 94706

Project Location

County Alameda
City Albany
Region
Lat / Long 37° 53' 3.861" N / 122° 17' 53.9658" W
Cross Streets San Pablo Avenue/Monroe Street
Parcel No. 2692-66-2-6
Township **Range** **Section** **Base**

Proximity to:

Highways 123, I-580, I-80
Airports No
Railways UPRR, BART
Waterways San Francisco Bay
Schools 20+
Land Use Vacant Lots and Institutional
Z: San Pablo Commercial; Residential (R-2), Watercourse Overlay District (WC)
GP: Residential Commercial and Creek Conservation

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Noise; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Water Quality; Wetland/Riparian

---

Reviewing Agencies Resources Agency; Department of Fish and Game, Region 3; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 4; Department of Housing and Community Development; Regional Water Quality Control Board, Region 2; Department of Toxic Substances Control; Native American Heritage Commission

---

Date Received 07/03/2009 **Start of Review** 07/03/2009 **End of Review** 10/05/2009

Note: Blanks in data fields result from insufficient information provided by lead agency.

COMMENTER A9
California Governor's Office of Planning and Research
Scott Morgan, Acting Director, State Clearinghouse
October 6, 2009

Response A9-1: This comment states that the City has complied with State Clearinghouse requirements for Draft EIRs, pursuant to CEQA. No additional response is required.

Letter
A10

University Village EIR

Comments from Long Range Planning Subcommittee

General Comments

- GHG analysis on the project and alternatives is too limited. Analysis does not show impact of this project on Albany's adopted GHG reduction target for 2020. Please revise and expand, for Project and Alternatives. **1**
- Parking ratio calculations are not explained, making it hard to evaluate whether the project is providing more parking than needed. **2**
- Can there be an alternative which parks Block A on the roof, or underneath, so that land devoted to surface parking can be better utilized (e.g., for park with trees for carbon sequestration). **3**
- It would be good to see a discussion of the ways that a Whole Foods does or doesn't meet GHG reduction per AB 32, SB 375, Albany's GHG Reduction Ordinance, and Albany's Draft Climate Action Plan. **4**
- It would be good to have a brief discussion of how this Project and Alternatives impacts local auto trips (by enabling Village and others within ¼ mile to walk to store), allows Albany residents to shorten their current VMTs to nearest Whole Foods in Berkeley and other similar stores, and also how it impacts jobs/housing "match" with respect to workers at retail stores and assisted living and affordable housing in Albany. **5**
- Please add discussion of impacts if any, on adjacent Gil Tract. **6**

Specific Comments

- Pg. 43 - Can the potential uses of the 2,000 square foot retail building on Block A called "Creekside Retail" be further described? This use is hard to evaluate. **7**
- Pg. 43 – States 112 spaces for Block A, but site diagram states 114 spaces. **8**
- Pg. 43 – Are these site drainage facilities sufficiently low impact (question for committee members)? **9**
- Pg. 44 - Parking detail discussing is missing for Block B in Project. Please provide detail for parking for Block B, including how retail component will be parked, and ratio of senior housing spaces to senior housing units. **10**

Mitigations Measures

- A Transportation Demand Management program, one of the Climate Action Plan measures under consideration, should be assessed as a mitigation measure for this project. It would likely serve to reduce the LOS impacts at key intersections, as well as reduce GHG emissions. **11**
- Bay friendly plans are noted on site plans, but not listed in Mitigation Measures. Please add measure to ensure. **12**

COMMENTER A10
City of Albany
Sustainability Committee, Long Range Planning Subcommittee
September 24, 2009

Response A10-1: Please see Responses to Comments B3-1, B3-5, B12-30 and B13-5.

Response A10-2: Please see Responses to Comments A5-5, A7-5, B12-42(a), B12-42(e) and B17-19.

Response A10-3: While project redesign of the sort recommended might allow for a different use of land currently proposed for at-grade parking, there is no significant impact of the proposed project that would call for such an alternative. The proposed project would result in several unavoidable significant impacts, but they are caused by the increased traffic along San Pablo Avenue and nearby east/west routes (such as Gilman Street and Buchanan Street). These impacts would not be addressed by the relocation of on-site vehicular parking.

Questions would also arise regarding the design and structural feasibility of such an alternative and whether it would lead to adverse impacts of one sort or another in its own right.

Response A10-4: Please see Response to Comment B32-1.

Response A10-5: Please see Responses to Comments B1-3, B7-29, B7-32, B12-35, B15-15, and B27-5 (¶2).

Response A10-6: Please see Responses to Comments B2-5, B7-6 (¶2), B7-7, B7-8 and B7-9.

Response A10-7: Please see Responses to Comments B24-4.

Response A10-8: As the title of Figure III-3 (**Conceptual** Site Plan) implies, it is not intended to be as precise as the text. Please note also that the textual phrase is further qualified as follows: "The parking spaces in this lot would total **approximately** 112 spaces" [both emphases added].

Response A10-9: The Draft EIR addresses site drainage facilities and their relationship to the requirements of the City of Albany Municipal Code and Regional Water Resources Control Board in Chapter IV.F, Hydrology and Water Quality (pp. 220-226). Mitigation measures are recommended for both the construction and operations phases.

Response A10-10: As indicated on Figure III-3, Conceptual Site Plan and stated on page 44 of the Project Description,

> …Below grade parking, which would be accessed off of 10th Street, would be included under the senior housing and would provide approximately 86 parking spaces. There would be approximately 14 surface parking spaces provided on 10th Street within Block B.

At 86 enclosed parking spaces for 100 senior housing units, the rate of parking spaces per unit would be 0.86 to 1.0.

Response A10-11: The proposed project would be located in an urban area adjacent to frequent transit service and would provide bicycle and pedestrian connections to nearby residential neighborhoods. As a result, the project would experience a higher share of pedestrian, bicycle, and transit mode share than typical suburban developments. In addition, the proposed project would include a number of elements, such as bicycle parking and showers, that encourage the use of non-automobile travel modes. However, neither the proposed project nor the mitigation measures presented in the Draft EIR include a formal Transportation Demand Management (TDM) program. In general, TDM programs are not as effective for predominately retail developments as other types of development. Typically, TDM programs are most effective for developments, such as office buildings, where most trips are daily weekday peak period commute trips. Many retail employees may not work every day and may work irregular work hours, typically start and end their work shift outside the peak commute periods, and their trips would also not affect peak hour traffic operations. Many retail customers make large purchases which may not be convenient to transport by walking, bicycling, or transit. In addition, the senior housing component of the project would generate few trips and would be occupied by a population that already uses transit and non-motorized travel modes to a much greater extent than other population groups. Because a potential TDM program would not be effective in reducing peak hour automobile trips and would most likely not reduce significant impacts to a less-than-significant level, project mitigation measures do not include a TDM program.

Response A10-12: Please see Response to Comment A10-9.