

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

I. Introduction

The City of San Leandro (City) prepared a Final Environmental Impact Report (EIR) for the proposed 880 Doolittle Drive Industrial Project (project).

The Final EIR, which is comprised of the Draft EIR; Responses to Public Comments; and appendices and supporting technical studies and reports, addresses the potential environmental effects associated with the development of the project site, including demolition of on-site development and the construction of a new industrial building, utility connections, surface parking, and landscaping.

The Findings and Statement of Overriding Considerations (Findings) set forth below are presented for adoption by the City Council, as the City's findings under the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) relating to the project. The Findings provide the written analysis and conclusions of this City Council regarding the project's environmental impacts, mitigation measures, alternatives to the project, and the overriding considerations, which in this Council's view, justify approval of the proposed project, despite significant and unavoidable environmental effects.

II. General Findings and Overview

A. Relationship to the City of San Leandro General Plan

The project site consists of two Assessor's parcels (APN 77A-0741-004-02 and 77A-0741-005-00). Both parcels are designated as General Industrial (IG) in the San Leandro 2035 General Plan. According to the Land Use Element of the 2035 General Plan, areas designated as General Industrial may contain a wide range of manufacturing, transportation, food and beverage processing, technology, warehousing, vehicle storage, office-flex, and distribution uses. A limited range of commercial uses are also permitted in areas designated as General Industrial. The proposed warehouse with office space is consistent with the described building types for the General Industrial land use designation of the project site.

B. Relationship to the City of San Leandro Zoning Code

The project site is zoned as an Industrial General (IG) District. According to the San Leandro Zoning Code, areas zoned as Industrial General Districts are allowed to contain the following uses: accessory uses, other than entertainment events, when in conjunction with a permitted use; adult-oriented business; emergency and non-emergency ambulance services; artists' studios; automobile parts sales; building materials and services; business services; business and trade schools; catering services; communications facilities; emergency health care; equipment sales; retail financial institutions; general and limited food processing; government offices; health and fitness centers; home improvement and interior decoration; custom, general, limited, and research and development industry; laboratories; maintenance and repair services; marine sales and services; medical supply stores; nurseries; offices, business and professional; parcel processing and shipping centers; pre-existing residential uses; big box retail sales; telecommunications, architecturally-integrated antennas and/or co-locations on existing tower structures; minor utilities; new vehicle/heavy equipment dealers; and storage and wholesale/retail distribution warehouse that utilizes the existing building that would not be expanded 10,000 square feet or more. The proposed warehouse with office space is consistent with the described building types for the Industrial General District.

C. Procedural Background

The City started the environmental review process following submittal of the development application. The City prepared a Notice of Preparation (NOP) on November 22, 2023, stating that an EIR with an accompanying Initial Study for the project would be prepared. This NOP was circulated to the public, local, state, and federal agencies, and other interested parties to solicit comments on the project. The City prepared an Initial Study to evaluate potential impacts of the proposed project, which commenced upon circulation of the NOP. Following preparation of the Initial Study, the City determined the potential for the proposed project to result in potentially significant impacts. Concerns raised in response to the NOP were considered during preparation of the Draft Environmental Impact Report (Draft EIR) and accompanying Initial Study. The Notice of Availability for the Draft EIR was published on June 21, 2024. The Draft EIR, which included the Initial Study as an appendix, was published for public review and comment on June 21, 2024 and was filed with the California Office of Planning and Research under State Clearinghouse No. 2023110597. The review period for the Draft EIR ended on August 5, 2024.

The City prepared written responses to the comments received during the comment period and included these responses in a separate volume entitled 880 Doolittle Drive Industrial Project Final Environmental Impact Report. The Final EIR includes a list of those who commented on the Draft EIR, copies of written comments (coded for reference), written responses to comments regarding the environmental review, and errata with minor text changes made to the Draft EIR as a result of comments. The Final EIR was made available for public review on the City's website.

The City finds, accordingly, that the Final EIR was published, circulated and reviewed in accordance with the requirements of CEQA, the State CEQA Guidelines, and constitutes an accurate, objective, and complete Final EIR.

D. Consideration of the Environmental Impact Report

In adopting these Findings, the City Council finds that the Final EIR was presented to the decision-making body of the lead agency, which reviewed and considered the information in the Final EIR prior to approving the proposed project. By these Findings, the Council ratifies, adopts, and incorporates the analysis, explanations, findings, responses to comments, and conclusions of the Final EIR. The City Council finds that the Final EIR was completed in compliance with the California Environmental Quality Act. The Final EIR represents the independent judgment and analysis of the City.

E. Severability

If any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court to be invalid, void, or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the proposed project, shall continue in full force and effect unless amended or modified by the City.

F. Summary of Environmental Findings

The City Council has determined that based on all of the evidence presented, including but not limited to the EIR, written and oral testimony given at meetings and hearings, and submission of comments from the public, organizations, and regulatory agencies, and the responses prepared to the public comments, the following environmental impacts associated with the project are:

1. Potentially Significant Impacts that Cannot be Avoided or Reduced to a Less Than Significant Level

Indirect and Direct. As discussed in the Final EIR in Section 4.1, *Greenhouse Gas Emissions*, significant project-related impacts were found related to the provision of natural gas plumbing in the proposed building.

Cumulative. As discussed in the Final EIR in Section 4.1, *Greenhouse Gas Emissions*, significant cumulative impacts were found related to the provision of natural gas plumbing in the proposed building.

2. Potentially Significant Impacts that can be Avoided or Reduced to a Less Than Significant Level Through Implementation of Mitigation Measures

Indirect and Direct. As discussed in the Initial Study, project-related impacts in the areas of air quality, biological resources, cultural resources, and tribal cultural resources could be mitigated to a level of less than significant with mitigation. As discussed in the Final EIR in Section 4.2, *Hazards and Hazardous Materials* and Section 4.3, *Noise and Vibration*, project-related impacts in the areas of hazards and hazardous materials and noise and vibration could be mitigated to a level of less than significant with mitigation.

Cumulative. To the extent impacts in the foregoing environmental topical areas have the capability of cumulating, the Initial Study and Final EIR Section 4.2 through Section 4.4, incorporated herein by this reference, demonstrate that either the proposed project would not make a considerable contribution to an impact or would not, in combination with other existing and reasonably foreseeable projects, combine to have significant cumulative impacts.

3. Less Than Significant and No Impacts That Do Not Require Mitigation

Indirect and Direct. As discussed in the Initial Study and in the Final EIR in Section 1, *Introduction*, project-related impacts that do not require mitigation were found in the areas of Aesthetics; Agriculture and Forest Resources; Energy; Geology and Soils; Hydrology and Water Quality; Land Use and Planning; Mineral Resources; Population and Housing; Public Services; Recreation; Transportation, Utilities and Service Systems; and Wildfire.

Cumulative. As discussed in the Initial Study and Final EIR Sections 4.2 through 4.4 (incorporated herein by this reference), cumulative impacts in the areas of Aesthetics; Agriculture and Forest Resources; Energy; Geology and Soils; Hydrology and Water Quality; Land Use and Planning; Mineral Resources; Population and Housing; Public Services; Recreation; Transportation, Utilities and Service Systems; and Wildfire were found less than significant.

III. Findings and Recommendations Regarding Significant and Unavoidable and Cumulatively Considerable Impacts

A. Greenhouse Gas Emissions

1. **The proposed project would include new natural gas connections, which would have the potential to contribute to the long-term generation of GHG emissions affecting the environment. This impact would be significant and unavoidable. (EIR Impact GHG-1)**
 - a) **Potential Impact.** The proposed project would include new natural gas connections and plumbing within the proposed building. According to the Bay Area Air Quality Management District (BAAQMD) 2022 CEQA Guidelines, when and if a project includes new natural gas plumbing, the GHG impacts of that project are considered significant and unavoidable. The Final EIR uses the BAAQMD 2022 CEQA Guidelines to analyze and determined the significance of the GHG impacts of the proposed project. Accordingly, GHG impacts were determined to be significant and unavoidable.
 - b) **Mitigation Measures.** The City is unable to implement mitigation to reduce this significant impact to a level that would be less than significant based on a recent court case titled California Restaurant Association v. City of Berkeley. Briefly, in this case, the California Restaurant Association sued Berkeley in the U.S. District Court for the Northern District of California, arguing among other things that the federal Energy Policy and Conservation Act (EPCA) preempted the City's ordinance banning natural gas in new buildings. The District Court dismissed the California Restaurant Association's challenge. However, the Ninth Circuit reversed the District Court, holding that EPCA expressly preempts state and local regulations concerning the energy use of many natural gas appliances. The Ninth Circuit concluded that EPCA preempted Berkeley's ban of natural gas, because it prohibited the onsite installation of natural gas infrastructure necessary to support natural gas appliances covered under the EPCA. Accordingly, based on the decision of the Ninth Circuit in California Restaurant Association v. City of Berkeley, the City of San Leandro cannot require the project applicant to eliminate natural gas from the proposed project. The City has developed mitigation measure GHG-1 to reduce the use of natural gas in the proposed building. Project mitigation measure GHG-1 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.
 - c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:
 - (1) **Mitigation is Unfeasible.** The GHG impact of the project is related to the provision of natural gas in the proposed building. Based on the decision of the Ninth Circuit in California Restaurant Association v. City of Berkeley, the City of San Leandro cannot require the project applicant to eliminate natural gas from the proposed project. Other actions to reduce GHG emissions, such as purchasing offsite carbon credits would not reduce the severity of this impact because the proposed building would continue to commit California to fossil-fuel dependency, which is what the BAAQMD 2022 CEQA Guidelines thresholds address. Accordingly, eliminating natural gas plumbing and utility from the project is infeasible.
 - (2) **Remaining Impacts.** The implementation of mitigation measure GHG-1 would potentially reduce the impact of natural gas as it relates to GHG. However, because the City is unable to require the project to entirely eliminate natural gas, there are

no mitigation measures that would be feasible to implement to reduce this impact to less than significant. Impacts would remain significant and unavoidable because the City is unable to eliminate natural gas from the project.

- (3) **Overriding Considerations.** The environmental, economic, social, and other benefits of the project override remaining significant adverse impacts of the project resulting from the provision of natural gas, as more fully stated in the Statement of Overriding Considerations in Section VIII, below.

2. The proposed project would conflict with an applicable policy or policies adopted for the purposes of reducing the emissions of greenhouse gases. This impact would be significant and unavoidable. (EIR Impact GHG-2)

- a) **Potential Impact.** The proposed project would be generally consistent with the City's Climate Action Plan. However, the proposed project would be inconsistent with policies BE-1 and BE-2 of the Climate Action Plan, because the proposed project would include new natural gas connections. Accordingly, the proposed project would conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. Accordingly, GHG impacts of the project were determined significant and unavoidable.
- b) **Mitigation Measures.** Project mitigation measure GHG-1 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program. However, the City is unable to implement mitigation to reduce this significant impact to a less than significant level based on a recent court case titled California Restaurant Association v. City of Berkeley (see EIR Impact GHG-1, above). No other mitigation is available to eliminate the use of natural gas in the proposed project.
- c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:
 - (1) **Mitigation is Unfeasible.** The GHG impact of the project is related to conflicts with the City's Climate Action Plan due to the provision of natural gas in the proposed building. Based on the decision of the Ninth Circuit in California Restaurant Association v. City of Berkeley, the City of San Leandro cannot require the project applicant to eliminate natural gas from the proposed project. Accordingly, eliminating natural gas plumbing and utility to make the project consistent with the Climate Action Plan policies to eliminate natural gas is infeasible.
 - (2) **Remaining Impacts.** The implementation of mitigation measure GHG-1 would potentially reduce the impact of natural gas as it relates to GHG. However, because the City is unable to require the project to eliminate natural gas, there are no mitigation measures that would be feasible to implement to reduce this impact to less than significant. Impacts would remain significant and unavoidable because the City is unable to eliminate natural gas from the project.
 - (3) **Overriding Considerations.** The environmental, economic, social, and other benefits of the project override remaining significant adverse impacts of the project resulting with conflicts with the Climate Action Plan due to the provision of natural gas, as more fully stated in the Statement of Overriding Considerations in Section VIII, below.

3. Cumulative impacts associated with the greenhouse gas emissions.

- a) **Potential Impact.** The GHG emissions from existing sources in the San Francisco Bay Area have resulted in a significant cumulative impact related to climate change. The proposed project would result in additional GHG emissions, including from the combustion of natural gas that is included in the proposed project. The other reasonably foreseeable future projects listed in the Final EIR would also generate GHG emissions. Accordingly, the cumulative GHG impacts of the proposed project would be significant.
- b) **Mitigation Measures.** The City is unable to implement mitigation to reduce this significant impact to less than significant based on a recent court case titled California Restaurant Association v. City of Berkeley. (see EIR Impact GHG-1, above) No other mitigation is available to eliminate the use of natural gas in the proposed project. However, the City has developed mitigation measure GHG-1 to reduce the use of natural gas in the proposed building. Project mitigation measure GHG-1 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.
- c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:
 - (1) **Mitigation is Unfeasible.** Project mitigation measure GHG-1 would reduce the use of natural gas in the building. However, the GHG impact of the project is related to the provision of natural gas in the proposed building, regardless of how often it is used. Based on the decision of the Ninth Circuit in California Restaurant Association v. City of Berkeley, the City of San Leandro cannot require the project applicant to eliminate natural gas from the proposed project. Other actions to reduce GHG emissions, such as purchasing offsite carbon credits would not reduce the severity of this impact because the proposed building would continue to commit California to fossil-fuel dependency, which is what the BAAQMD 2022 CEQA Guidelines thresholds address. Accordingly, eliminating natural gas plumbing and utility from the project is infeasible.
 - (2) **Remaining Impacts.** The implementation of mitigation measure GHG-1 would potentially reduce the impact of natural gas as it relates to GHG. However, because the City is unable to require the project to eliminate natural gas, there are no mitigation measures that would be feasible to implement to reduce this impact to less than significant. Impacts would remain significant and unavoidable because the City is unable to eliminate natural gas from the project.
 - (3) **Overriding Considerations.** The environmental, economic, social, and other benefits of the project override remaining significant adverse impacts of the project resulting from the provision of natural gas, as more fully stated in the Statement of Overriding Considerations in Section VIII, below.

IV. Findings and Recommendations Regarding Significant Impacts Which Are Avoided or Mitigated to a Less Than Significant Level

A. Air Quality

- 1. **Construction of the proposed project would generate fugitive dust emissions. Site preparation and grading, for example, may cause wind-blown dust that could contribute particulate**

matter into the local atmosphere. Impacts would be less than significant with mitigation. (Impact discussed in Initial Study)

- a) **Potential Impact.** Site preparation and grading, for example, may cause wind-blown dust that could contribute particulate matter into the local atmosphere. The BAAQMD does not have quantitative thresholds for fugitive dust emissions during construction. Instead, BAAQMD recommends Best Management Practices (BMPs) be implemented to reduce fugitive dust emissions. The proposed project does not include these BMPs. See Initial Study pages 41 through 43, which is Appendix A to the Final EIR and incorporated herein by this reference.
- b) **Mitigation Measures.** Project mitigation measure AQ-1 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.
- c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:
 - (1) **Effects of Mitigation.** The impacts related to air quality from fugitive dust emissions during project construction will be mitigated to a less than significant level by requiring implementation of the BAAQMD BMPs for construction-related fugitive dust emissions.
 - (2) **Remaining Impacts.** Remaining impacts related to air quality would not be significant.

B. Biological Resources

1. The proposed project could impact migratory nesting birds in trees. Impacts would be less than significant with mitigation. (Impact discussed in Initial Study)

- a) **Potential Impact.** The proposed project would involve construction work near street trees just off the project site near the driveway that connects to Hester Street which may affect protected nesting birds in existing trees. For example, construction noise could result in adult birds abandoning their nests. Project construction would also potentially require the removal of these trees, resulting in loss of nests if present. See Initial Study pages 51 and 52, which is Appendix A to the Final EIR and incorporated herein by this reference.
- b) **Mitigation Measures.** Project mitigation measure BIO-1 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.
- c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:
 - (1) **Effects of Mitigation.** The impacts related to migratory nesting birds will be mitigated to a less than significant level by avoiding construction during the nesting season to the extent feasible, conducting pre-construction surveys to identify nest sites, and establishing avoidance buffers around active nest sites.
 - (2) **Remaining Impacts.** Remaining impacts related to special-status species, including migratory nesting birds, would not be significant.

C. Cultural Resources

1. Construction of the proposed project could damage or destroy unanticipated archaeological resources. Impacts would be less than significant with mitigation. (Impact discussed in Initial Study)

- a) **Potential Impact.** Project construction activities would include grading and excavation, such as trenching for utility connections. During construction it is possible that unanticipated

archaeological deposits could be encountered and damaged or destroyed. See Initial Study page 57, which is Appendix A to the Final EIR and incorporated herein by this reference.

- b) **Mitigation Measures.** Project mitigation measure CR-1 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.
- c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:
 - (1) **Effects of Mitigation.** The impacts related to cultural resources will be mitigated to a less than significant level by requiring procedures for the appropriate handling of unanticipated discoveries of cultural resources.
 - (2) **Remaining Impacts.** Remaining impacts related to cultural resources would not be significant.

D. Hazards and Hazardous Materials

- 1. **The project has the potential to create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment due to potential hazardous materials that may be present in the existing on-site structures and soil and groundwater. In addition, because of existing soil and groundwater contamination, the site is on a list compiled pursuant to Government Code Section 65962.5. This impact would be potentially significant but mitigable. (EIR Impact HAZ-1)**

- a) **Potential Impact.** Demolition of the existing on-site structure would have the potential to release lead and asbestos containing materials, potentially exposing construction workers. Project construction activities involving excavation, such as construction of the proposed building foundation or buried utility connections, could disturb soils or groundwater from previous contamination incidents and expose construction workers. Project construction would generate dust. If soils from the contamination areas on-site are stockpiled on site and become airborne dust, either from wind erosion or construction equipment, off-site receptors could be exposed, as well as project construction workers. During operation of the proposed project, building occupants could be exposed to hazardous vapors from underlying contamination. Likewise, stormwater runoff collected in on-site bioretention areas could cause mobilization of contamination through leaching. See Final EIR pages 4.2-11 through 4.2-19, incorporated herein by this reference.
- b) **Mitigation Measures.** Project mitigation measures HAZ-1 through HAZ-6 are hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.
- c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:
 - (1) **Effects of Mitigation.** The impacts related to lead and asbestos containing materials will be mitigated to a less than significant level by requiring materials inspections and possible sampling to determine if lead or asbestos are present, and if so, safe removal, remediation, and disposal in accordance with all federal, state, and local regulations. The impacts related to soil and groundwater contamination will be mitigated to a less than significant level by requiring implementation of the previously approved Revised Soil and Groundwater Management Plan with oversight from the Department of Toxic Substances Control, implementing proper

dewatering measures, installing a vapor barrier beneath the building foundation, and consulting with the City on the location and/or design of on-site bioretention areas.

- (2) **Remaining Impacts.** Remaining impacts related to lead and asbestos exposure would not be significant. Remaining impacts related to soil and groundwater contamination would not be significant.

E. Noise and Vibration

1. **Construction and operation of the proposed project would generate noise, increasing ambient noise levels near the project site. Construction noise would be temporary and below thresholds of significance. Traffic noise during operation would also be below significance thresholds; however, on-site operational noise would exceed thresholds established for the nearest sensitive receptor. Impacts would be potentially significant but mitigable. (EIR Impact NOI-1)**

- a) **Potential Impact.** On-site activities, including truck activity and HVAC equipment would generate noise levels exceeding applicable thresholds when the trucks operate on the north side of the proposed building. See Final EIR page 4.3-11 through 4.3-18, incorporated herein by this reference.
- b) **Mitigation Measures.** Project mitigation measure NOI-1 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.
- c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:

- (1) **Effects of Mitigation.** The impacts related to operational noise will be mitigated by requiring construction of a permanent noise barrier along a section of the property boundary that is northeast of the proposed building. With a noise barrier in this location, on-site noise levels at the nearest sensitive receptor will be reduced to 50 dBA. Noise levels of 50 dBA will be below the threshold of 55 dBA.

- (2) **Remaining Impacts.** Remaining impacts related to noise would not be significant.

2. **Operation of the project would not generate substantial groundborne vibration, but project construction would generate groundborne vibration. Construction vibration levels would exceed thresholds of structural damage at nearby existing buildings. Impacts would be potentially significant but mitigable. (EIR Impact NOI-2)**

- a) **Potential Impact.** Project construction activities would have the potential to generate ground-borne vibration affecting nearby receptors. Vibration levels during project construction would exceed the threshold for structural damage at the existing industrial buildings approximately 10 feet away from the project site. The damaging vibration levels would be the result of a vibratory roller used for construction. See Final EIR page 4.3-18 through 4.3-20, incorporated herein by this reference.
- b) **Mitigation Measures.** Project mitigation measure NOI-2 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.
- c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:

- (1) **Effects of Mitigation.** The impacts related to groundborne vibration will be mitigated by prohibiting the use of a vibratory roller for paving activities within 15 feet of existing off-site buildings.

- (2) **Remaining Impacts.** Remaining impacts related to groundborne vibration would not be significant.

F. Tribal Cultural Resources

1. Construction of the proposed project would require excavation and grading, which could damage or destroy tribal cultural resources, if present. (Impact discussed in Initial Study)

- a) **Potential Impact.** Subsurface excavation and grading required for the project would have the potential to uncover and either damage or destroy unknown or unidentified tribal cultural resources, if present. See Initial Study pages 126 and 127, which is Appendix A to the Final EIR and incorporated herein by this reference.
- b) **Mitigation Measures.** Project mitigation measure TCR-1 is hereby adopted and will be implemented as provided by the Mitigation Monitoring and Reporting Program.
- c) **Findings.** Based on the Final EIR and the entire record before this City Council, the Council finds that:
 - (1) **Effects of Mitigation.** The impacts related to tribal cultural resources will be mitigated to a less than significant level by requiring construction work to halt around discovery of a potential tribal cultural resource, and development of a mitigation plan if the resource is determined to be a tribal cultural resource.
 - (2) **Remaining Impacts.** Remaining impacts related to tribal cultural resources would not be significant.

V. Other Impacts and Considerations

A. Growth-Inducing Impacts of the Proposed Project

CEQA Guidelines Section 15126.2(d) requires that an environmental impact report evaluate the growth-inducing impacts of a proposed action.

- a) **Findings.** Based on the Final EIR and the entire record before this City Council, the project would generate further employment growth. However, employment growth would consist of approximately 152 long-term employees, which would not generate substantial growth in San Leandro or the larger San Francisco Bay Area.
- b) **Explanation.** As identified on Final EIR pages 5-1 and 5-2, incorporated herein by this reference, the proposed project would generate short-term construction jobs, that given their short-term duration, would be filled by the local Bay Area workforce. Operation of the project would generate 152 new long-term jobs, which would not be considered substantial unplanned growth in San Leandro or the larger San Francisco Bay Area.

B. Significant Irreversible Environmental Changes Involved if the Project is Implemented

CEQA Sections 21100(b)(2) and 21100.1(a) require that EIRs prepared for the adoption of a project include a discussion of significant irreversible environmental changes of project implementation.

- a) **Findings.** Based on the Final EIR and the entire record before the City Council, the project would result in consumption of renewable, nonrenewable, and limited resources including, but are not limited to, natural gas, oil, gasoline, lumber, sand and gravel, asphalt, water, steel, and similar materials. However, the proposed building would be constructed pursuant to CalGreen and the City's Reach Code, both of which require energy efficiency, and therefore would not be significant.

- b) **Explanation.** As identified on Final EIR pages 5-2 and 5-3, incorporated herein by this reference, the proposed project would result in consumption of renewable, nonrenewable, and limited resources including, but are not limited to, natural gas, oil, gasoline, lumber, sand and gravel, asphalt, water, steel, and similar materials. Additional vehicle trips associated with the proposed project would incrementally increase local traffic and regional air pollutant and GHG emissions. The project would be required to comply with standards set forth in California Building Code (CBC) Title 24, which would minimize the wasteful, inefficient, or unnecessary consumption of energy resources during operation. CALGreen (as codified in CCR Title 24, Part 11) requires implementation of energy-efficient light fixtures and building materials into the design of new construction projects. The City also has a Reach Code that requires efficiency beyond CalGreen, which would be applicable to the proposed project, and therefore would not be significant.

C. Issues Raised on Appeal.

There are no appeals to certification of the Final EIR.

VI. Project Alternatives

A. Background – Legal Requirements

CEQA requires that environmental impact reports assess feasible alternatives or mitigation measures that may substantially lessen the significant effects of a project prior to approval (Public Resources Code Section 21002). Apart from the "no project" alternative, the specific alternatives or types of alternatives that must be assessed are not specified. CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. Each case must be evaluated on its own facts, which in turn must be reviewed in light of the statutory purpose" (*Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553, 556 1990]). The legislative purpose of CEQA is to protect public health and welfare and the environment from significant impacts associated with all types of development by ensuring that agencies regulate activities so that major consideration is given to preventing environmental damage while providing a decent home and satisfying living environment for every Californian (Public Resources Code Section 21000).

In short, the objective of CEQA is to avoid or mitigate environmental damage associated with development. This objective has been largely accomplished in the project through the inclusion of project modifications and mitigation measures that reduce the potentially significant impacts to an acceptable level. The courts have held that a public agency "may approve a developer's choice of a project once its significant adverse environment effects have been reduced to an acceptable level— that is, all avoidable significant damage to the environment has been eliminated and that which remains is otherwise acceptable" (*Laurel Hills Homeowners Assoc. v. City*, 83 Cal.App.3d 515, 521 [1978]).

B. Identification of Project Alternatives

The CEQA Guidelines state that the "range of potential alternatives to the project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects" of the project (CEQA Guidelines Section 15126.6(c)). Thus, consideration of the project objectives is important to determining which alternatives should be assessed in the EIR.

Section 6, *Alternatives*, of the Final EIR identified the following objectives for the proposed project:

- Increase the economic base of the City's industrial corridor by maximizing the productive use of the City's industrial land, which is currently underutilized;
- Create a modern warehouse that contributes to the aesthetics of the surrounding area through the redevelopment of an obsolete and underutilized property;
- Create a new, efficient and updated warehouse that is attractive to future tenants, by incorporating the state's green building design and building health and safety standards;
- Maintain and protect the City's inventory of larger-scale industrial sites with easy access to freeways, rails, airports, and seaports; and
- Support and retain existing industrial uses and employment in the City of San Leandro's industrial sector.

VII. Alternatives Analysis in Final EIR

A. Alternatives Considered but Rejected

Alternatives considered but rejected from further consideration include an alternate site alternative.

- a) **Findings.** An alternate site alternative was considered but rejected from further consideration because there are few if any properties that are 14 acres or larger, vacant, available to the project applicant, and proximate to freeways and the Oakland International Airport. The project applicant owns other land in the region, but these holdings are generally smaller than the project site and would not facilitate the proposed project without displacing ongoing operations or for other reasons related to site characteristics, such as conflicting zoning.
- b) **Explanation.** The alternate site alternative could eliminate potentially significant impacts and mitigable impacts related to hazards and hazardous materials depending on the specific alternate site chosen. Additionally, depending on the relative distance between the alternate site and receptors sensitive to noise and vibration, the potentially significant but mitigable impacts of the project related to noise and vibration could also be avoided. However, if the alternate site contained hazardous contamination or was proximate to land uses sensitive to noise and vibration, these impacts may not be avoided by the alternate site alternative. Additionally, the alternate site alternative would not avoid or reduce the potentially significant and unavoidable greenhouse gas impacts of the project. These impacts include direct and cumulative impacts associated with the provision of new natural gas plumbing in the proposed building, which would occur regardless of the location of the proposed building.

B. Alternatives Analyzed in the Final EIR

The CEQA Guidelines state that the "range of potential alternatives to the project shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant effects" of the project. The City evaluated the alternatives listed below.

1. **No Project Alternative.** The No Project Alternative assumes that the industrial building, surface parking, landscaping, and other project components associated with the proposed industrial building are not constructed. Additionally, the No Project Alternative assumes that the two existing industrial masonry buildings would remain on the project site. These buildings are currently vacant. The City has no applications on file for occupancy of the buildings; therefore,

this alternative assumes the buildings would remain vacant. The project applicant or another person or organization could submit an application for occupancy of one or both buildings in the future. Granting an occupancy permit for a business or activity allowed by-right within the existing Industrial General zoning district of the site would be a ministerial permit, and CEQA may not be applicable.

- a) **Findings.** The No Project Alternative is rejected as a feasible alternative because it would not achieve the project objectives as listed on page 6-1 of the Final EIR.
 - b) **Explanation.** The No Project Alternative would avoid the significant and unavoidable impacts of the project no new natural gas plumbing would be installed on the project site. Because no construction would occur on the project site, other significant but mitigable impacts of the project would be avoided under this alternative, such as impacts from construction dust, nesting migratory birds, cultural and tribal cultural resources, contaminated soils and groundwater, and noise and vibration. While the No Project Alternative would avoid the potentially significant impacts of the proposed project, it would meet none of the project objectives.
- 2) **No Natural Gas Alternative.** Under the No Natural Gas Alternative, the proposed industrial building would be constructed on the project site, nearly consistent with the proposed project. This alternative assumes that the industrial building and associated surface parking lot would be approximately the same size and design as the proposed project, which would require the same demolition and construction activities as the proposed project. Once construction is complete, the No Natural Gas Alternative assumes the same on-site operations would occur as with the proposed project, with the exception of natural gas consumption. Under this alternative, natural gas connections would not be provided on the project site. Therefore, potential future occupants and uses in the new industrial building would not consume natural gas, as natural gas would be unavailable on the project site. The No Natural Gas Alternative would instead require on-site building operations to rely entirely on electricity for energy.
- a) **Findings.** The No Natural Gas Alternative is rejected as a feasible alternative because it would not achieve some of the basic project objectives, as listed on page 6-5 of the Final EIR. For example, this alternative may not fulfill the objective of creating a warehouse that is attractive to future tenants to the same extent as the proposed project. This is due to the elimination of natural gas from the proposed project, which could limit the types of potential tenants of the proposed building.
 - b) **Explanation.** The No Natural Gas Alternative would avoid the significant and unavoidable impacts of the project because no new natural gas plumbing or utility would be provided for the project. However, the No Natural Gas Alternative would not avoid some of the potentially significant but mitigable impacts of the proposed project. For example, the No Natural Gas Alternative would require construction in soils and potentially groundwater that is contaminated with hazardous materials. Similarly, construction of the No Natural Gas Alternative would require excavation and there would be potential to impact buried but previously unknown cultural resources.

While the No Natural Gas Alternative would avoid the potentially significant and unavoidable impacts of the proposed project, it would fail to meet a basic project objective to create a warehouse that is attractive to future tenants to the same extent as the proposed project.

- 3) **Airport Parking Land Use Alternative.** Under the Airport Parking Land Use Alternative, the proposed industrial building would be constructed on the project site, nearly consistent with the proposed project. This alternative assumes that the industrial building and associated surface parking lot would be approximately the same size and design as the proposed project, which would require the same demolition and construction activities as the proposed project. Once construction is complete, the Airport Parking Land Use Alternative assumes the proposed building would not operate as a warehouse. Instead, the building would operate as covered vehicle parking serving the Oakland International Airport. The new surface parking areas would also be for airport parking. Because the building would not operate as a warehouse, more surface parking would be provided on-site compared to the proposed project because larger parking spaces and areas for tractor trailer maneuvers would be eliminated from the project design.

Because the building would be used for vehicle parking and storage, there would not be many people working inside of the building. Some workers, such as parking attendants, maintenance workers and cashiers, may be present, but generally the building would be dedicated to vehicle circulation and parking. Accordingly, the Airport Parking Land Use Alternative assumes that the new building would not include natural gas connections, as there would not be demand to heat internal spaces used solely for vehicle parking and storage that could not generally be met with electric heat.

- a) **Findings.** The Airport Parking Land Use Alternative is rejected as a feasible alternative because it would not achieve most of the project objectives, as listed on page 6-9 of the Final EIR. For example, the Airport Parking Land Use Alternative would not maintain and protect the City's inventory of larger-scale industrial sites with easy access to freeways, rails, airports, and seaports, nor would it support and retain existing industrial uses and employment in the City of San Leandro's industrial sector.
- b) **Explanation.** The Airport Parking Land Use Alternative would avoid the significant and unavoidable impacts of the project because this alternative would not include new natural gas plumbing or utility. However, the Reduced Project Alternative would not avoid some of the potentially significant but mitigable impacts of the proposed project. For example, the Reduced Project Alternative would require tree removal, which could impact migratory nesting birds. The Reduced Project Alternative would also fail to meet most of the project objectives. For example, the Airport Parking Land Use Alternative would not maintain and protect the City's inventory of larger-scale industrial sites with easy access to freeways, rails, airports, and seaports, nor would it support and retain existing industrial uses and employment in the City of San Leandro's industrial sector

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The environmentally superior alternative is discussed on pages 6-14 and 6-15 of the Final EIR. Under CEQA Guidelines Section 15126.6(e)(2), if the environmentally superior alternative is the No Project Alternative, another environmentally superior alternative must be identified. For the EIR analysis, the Airport Parking Land Use Alternative is the environmentally superior alternative.

However, while the Airport Parking Land Use Alternative would reduce impacts in the categories of air quality, greenhouse gas emissions, hazards and hazardous materials, and noise and vibration, it would not meet all the objectives of the proposed project, such as providing industrial productivity and employment in San Leandro that is near freeways and airports.

VIII. Statement of Overriding Considerations Related to the 880 Doolittle Drive Industrial Project Findings

The City is the lead agency under CEQA, responsible for the preparation, review and certification of the Final EIR for the 880 Doolittle Drive Industrial Project. As the lead agency, the City is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant. CEQA also requires the lead agency to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed action.

In making this determination the lead agency is guided by the CEQA Guidelines Section 15093, which provides as follows:

- a) "CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region -wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region -wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ` acceptable,"
- b) "When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record."
- c) "If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination"

In addition, Public Resources Code Section 21081(b) requires that where a public agency finds that economic, legal, social, technical, or other reasons make infeasible the mitigation measures or alternatives identified in the EIR and thereby leave significant unavoidable adverse project effects, the public agency must also find that overriding economic, legal, social, technical or other benefits of the project outweigh the significant unavoidable adverse effects of the project.

The Final EIR identified a number of alternatives to the proposed project, and the administrative record of proceedings, including without limitation the Final EIR and these findings, determined the extent to which these alternatives meet the basic project objectives, while avoiding or substantially lessening any significant adverse impacts of the proposed project.

Analysis in the Final EIR for the 880 Doolittle Drive Industrial Project has concluded that the proposed development will result in greenhouse gas impacts that cannot be mitigated to a less than significant level. These impacts are set forth in Findings IIIA, above, which is incorporated herein by this reference. All other potential significant adverse project impacts have been mitigated to a less than significant level based on mitigation measures identified in the Final EIR.

In accordance with CEQA Guidelines Section 15093 and other applicable law, the City has, in determining whether or not to approve the project, balanced the economic, social, technological, and other project benefits against its unavoidable environmental risks, and finds that each of the benefits of the project set forth below outweigh the significant adverse environmental effects that are not mitigated to less-than-significant levels. This statement of overriding considerations is based on the City's review of the Final EIR and other information in the administrative record.

Each of the benefits identified below provides a separate and independent basis for overriding the significant unavoidable adverse environmental effects of the project. The benefits of the project are as follows:

A. Implementation of Goals and Policies Set Forth in the City's General Plan

The project implements the construction and development of 880 Doolittle Drive, which will allow for new industrial warehouse and office activities, consistent with General Plan Goals and Policies as detailed in the staff report prepared for the project, as well as and the requirements of CEQA Guidelines Section 15126.6(e)(3)(A). The proposed development would involve the construction of a new, modern, and aesthetically pleasing warehouse with office space, consistent with the General Plan.

B. Employment Opportunities and Economic Development

The proposed project would directly provide temporary construction jobs and approximately 152 permanent employment opportunities, based on employment rates per square footage of building space. Further, the proposed project would be consistent with the General Plan and would be within the employment and population projections in the General Plan EIR.

C. Conclusion

Based on the objectives identified for the project, review of the project, review of the EIR, and consideration of public and agency comments, the City Council has determined that the project should be approved and that any remaining unmitigated environmental impacts attributable to the project are outweighed by the specific social, environmental, land use, and other overriding considerations.

The City Council has determined that environmental detriment caused by the proposed 880 Doolittle Drive Industrial Project has been minimized to the extent feasible through the mitigation measures identified herein and, where mitigation is not feasible or fully capable of reducing impacts to less than significant, has been outweighed and counterbalanced by the significant social, environmental, and land use benefits to be generated to the City. Accordingly, the City hereby adopts this Statement of Overriding Considerations.

IX. Statement of Location and Custodian of Documents

Public Resources Code Section 21081.6(a)(2) and Section 15091(e) of the California Code of Regulation requires that the City of San Leandro, as the Lead Agency, specify the location and custodian of the documents of other materials that constitute the record of proceedings upon which the decision has been based. The following location is where review of the record may be performed:

City of San Leandro
835 East 14th Street
San Leandro, CA 94577

The City of San Leandro has relied on all of the documents contained within the record of proceedings in reaching its decision on the project.