

## **EXHIBIT D**

### **FINDINGS CONCERNING INFEASIBILITY OF ALTERNATIVES**

CEQA provides that decision-makers should not approve a project as proposed if there are feasible alternatives or feasible mitigation measures that would substantially lessen the significant impacts of the project. (CEQA Section 21002). The EIR identified feasible mitigation measures that would reduce several of the potentially significant impacts to less than significant, as further set forth in the Exhibit C findings above. However, the following impacts in the EIR remain significant after mitigation (i.e., significant and unavoidable) and no feasible mitigation (as discussed in Exhibit C) or project alternative is identified to reduce the impacts to less than significant:

- 1) Impact T-1. Increases in traffic in the Specific Plan Area under cumulative (year 2035) conditions compared to growth anticipated under the existing 2035 General Plan would cause intersection operating conditions to exceed one or more significance thresholds at three signalized study area intersections. Mitigation would reduce impacts at the Hesperian Boulevard/Halcyon Drive/Fairmount Drive and East 14th Street/Fairmont Drive intersections. However, no feasible mitigation measures are available to reduce impacts at the Hesperian Boulevard/Thornally Drive intersection and the East 14th Street/Fairmont Drive intersection is within Caltrans control and the City cannot guarantee implementation of mitigation. Therefore, impacts at these intersections would be significant and unavoidable.
- 2) Impact T-2. Development facilitated by the proposed Specific Plan would increase traffic on CMP freeway and arterial segments under cumulative (year 2040) conditions. No significant impacts would occur at CMP freeway segments. However, with the proposed Specific Plan, four arterial segments would exceed one or more CMP thresholds. There are no feasible improvements that could be implemented within the available right-of-way of the significantly affected intersections that would reduce impacts. Therefore, impacts at these segments would be significant and unavoidable.
- 3) Impact T-3. The proposed Specific Plan would not conflict with adopted policies, plans, or programs regarding public transit and would not degrade or decrease the performance of the BART system. However, because of the significant increase in vehicle delay at the intersection of Hesperian Boulevard and Thornally Drive as discussed under Impact T-1, buses would also experience significant operational delays approaching this intersection. Therefore, impacts to bus operation would be significant and unavoidable.

In compliance with CEQA, the following findings address whether there are any feasible alternatives available that would avoid or substantially lessen the above significant and unavoidable impacts.

### **FINDINGS CONCERNING ALTERNATIVES**

CEQA requires that an EIR "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project ..." (CEQA Guidelines Section 15126.6(a)). If a project alternative will avoid or substantially lessen the significant environmental effects of a proposed project, the decision-maker should not approve the proposed project unless it determines that specific economic, legal, social, technological, or

other considerations, including considerations for the provision of employment opportunities for highly trained workers, make the project alternative infeasible or the alternative would not meet most of the basic objectives of the project. (CEQA Sections 21002 and 21081(a)(3), and CEQA Guidelines Section 15091(a)(3).) The City Council hereby makes these findings with respect to alternatives.

The project objectives are set forth in Section 2, *Project Description*, of the Draft EIR. Alternatives are identified and analyzed in Section 6, *Alternatives*, of the Draft EIR and include the required No Project Alternative and two other alternatives. Each of the alternatives was assessed for each resource topic and compared to potential project impacts. As further set forth below, the City Council has considered the alternatives identified and analyzed in Section 6 of the Draft EIR and declines to adopt them because they fail to meet most of the basic objectives of the project, do not avoid or substantially lessen the project's significant and unavoidable impacts and/or are infeasible for specific economic, social, or other considerations pursuant to CEQA Sections 21002 and 21081(a)(3), and CEQA Guidelines Section 15091(a)(3). For CEQA purposes, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, technological, and legal factors. (CEQA Section 21061.1, CEQA Guidelines Section 15364.)

#### **Alternative #1: No Project/2035 General Plan Buildout**

CEQA Guidelines Section 15126.6(e) requires that a "No Project" alternative be evaluated as part of an EIR. Under the No Project Alternative, the proposed Specific Plan would not be adopted and the Specific Plan Area would continue to be designated as B-TOD per the City's 2035 General Plan. The No Project alternative would involve no changes to the existing regulatory controls and land use policies for the Specific Plan Area. The circulation improvements in the Specific Plan Area associated with the proposed Specific Plan would not occur. In addition, the zoning changes would not occur. The growth assumptions of approximately 1,100 housing units and 773 jobs in the Specific Plan Area under the 2035 General Plan would continue to apply. This alternative assumes in the near-term that little to no growth in the Specific Plan Area would occur. Over time, growth in accordance with the vision of the area set forth in the City's 2035 General Plan would occur, though not to the same extent as would be envisioned under the proposed Specific Plan.

This alternative would have no impact with respect to aesthetics, air quality, biological resources, cultural resources, geology, GHG emissions, hazards and hazardous materials, hydrology, noise, population and housing, public services, traffic, or utilities and service systems resulting from the proposed Specific Plan, although some impacts in these issue areas would continue to occur in the Specific Plan as a result of under the 2035 General Plan. The 2035 General Plan EIR identified significant and unavoidable impacts with respect to air quality, GHG emissions, noise, and traffic. These impacts resulted from full buildout in the City related to the General Plan and were not specifically related to buildout in the Specific Plan Area.

Construction impacts associated with the proposed Specific Plan would be avoided, although construction associated with development under the 2035 General Plan would still occur and would result in construction impacts as analyzed in the 2035 General Plan EIR. This alternative would avoid the proposed Specific Plan's significant and unavoidable impacts with respect to traffic. No mitigation measures would be required for the No Project alternative, except those

already required for projects in San Leandro by the City's 2035 General Plan EIR. This alternative would not preclude development in the Specific Plan Area in accordance with the City's 2035 General Plan.

Although overall impacts would be lower than those of the proposed Specific Plan, the beneficial effects associated with the proposed Specific Plan (pedestrian facility, bicycle facility, and roadway improvements) would not occur. In addition, the proposed Specific Plan is consistent with City and Bay Area regional goals to facilitate infill development along major transit corridors and to locate housing near jobs and commercial uses in order to reduce vehicle miles traveled (VMT) and associated air pollution and GHG emissions. The proposed Specific Plan is designed to encourage a mix of housing and jobs near major transit corridors in infill locations. As discussed in Section 4.6, *Greenhouse Gas Emissions*, the proposed Specific Plan would reduce per capita VMT compared to development under the 2035 General Plan alone.

The No Project Alternative would not fulfill the basic Project Objectives, especially as existing development conditions do not provide a high level of connectivity between the BART station and adjacent shopping areas, do not support a diverse mix of land uses, and do not allow for provision of diverse and affordable housing. Overall, although the Specific Plan Area would continue to be designated as B-TOD and the 2035 General Plan policies related to the B-TOD land use would apply, the overall intent for development as envisioned by the 2035 General Plan would not be implemented to the extent that it would under the Specific Plan, which builds on and provides specifics to achieve the vision of the 2035 General Plan's B-TOD Designation. Without the changes proposed by the Specific Plan, the No Project Alternative would not fully achieve the City's sustainability-related objectives and policies.

**Finding:** The City Council considered the No Project Alternative and declines to adopt it because it fails to meet the basic project objectives and is infeasible for the specific economic, social, or other considerations described above, as supported by the administrative record for the project.

### **Alternative #2: Residential Focus**

This alternative would involve an alternative vision for land use in Bay Fair TOD Specific Plan in which the Specific Plan would not support office uses and would instead prioritize residential development in the Specific Plan Area. Office use would no longer be a permitted use in the B-TOD District and development standards and guidelines related to office uses (such as the ground-floor office building frontage guidelines in Chapter 5 of the proposed Specific Plan) would be removed from the Specific Plan. All other policies, standards, and guidelines in the proposed Specific Plan would remain. Under this alternative, the estimated number of new residential units in the Specific Plan Area would be 3,200 units, a 26 percent increase compared to the 2,540 units assumed under the proposed Specific Plan. This alternative would still involve the removal of approximately 161,000 of retail space.

The Residential Focus Alternative would involve less office growth than would occur under the proposed Specific Plan; therefore, this alternative would reduce AM and PM peak hour trips compared to buildout under the Specific Plan. The impacts at the intersections of Hesperian Boulevard & Halcyon Drive/Fairmont Drive during the PM peak hour and East 14th Street & Fairmont Drive during the AM peak hour would no longer be significant under Alternative 2. However, the intersection of Hesperian Boulevard and Thornally Drive would remain

significantly impacted under Alternative 2. In addition, under Alternative 2, the impact identified at the MTS arterial segment of East 14th Street south of Estudillo Avenue would be reduced to less than significant. However, like the proposed Specific Plan, the impact at Hesperian Boulevard south of East 14th Street would remain significant and unavoidable. Like the proposed Specific Plan, because of the significant traffic impacts identified above, AC Transit buses would experience delays due to increased traffic. This impact would be significant and unavoidable, the same as the proposed Specific Plan. Because of the reduction in vehicle trips, mobile-related GHG emissions would be reduced compared to the proposed Specific Plan and would remain less than significant.

Because of the increase in residential units associated with this alternative, impacts related to geology and soils, population and housing, public services, recreation, and schools would increase compared to impacts associated with buildout under the proposed Specific Plan. These impacts were found to be less than significant under the proposed Specific Plan and would remain so under this alternative. Mitigation outlined under Section 4.2, *Air Quality*, Section 4.3, *Biological Resources*, Section 4.4, *Cultural, Tribal Cultural, and Paleontological Resources*, and Section 4.10, *Noise*, would continue to apply and impacts related to those resource areas would be less than significant with mitigation.

This alternative would meet some of the project objectives as it would include the policies and standards that support community environmental health, neighborhood compatibility and diverse and affordable housing. However, it would not fulfill the basic Project Objectives, as it would not satisfy Objective 6, “Diversity of Uses,” and would not meet Objective 8, “Range of Educational Opportunities,” Objective 10, “Efficient and Shared Parking,” and Objective 13, “Local and Regional Destination,” to the same extent as the proposed Specific Plan.

**Finding:** The City Council considered the Residential Focus Alternative and declines to adopt it because it does not avoid or substantially lessen all of the project’s significant and unavoidable impacts, fails to meet the basic project objectives and is infeasible for the specific economic, social, or other considerations described above, as supported by the administrative record for the project.

### **Alternative #3: Office Focus**

This alternative would still involve adoption of the Bay Fair TOD Specific Plan, but would prioritize more office development in the Specific Plan Area. Near the Bay Fair BART station and in the Bayfair Center, only office uses with some retail uses would be allowed. Residential with some retail would be allowed in other areas such as the Fairmont Square area northwest of Fairmont Drive, on the Fashion Fair Plaza site, on the King Parcel, along Hesperian Boulevard, and in other locations. As with the proposed Specific Plan, this alternative would also include removal of an estimated 161,000 square feet of retail space. However, under this scenario, an estimated 450,000 square feet of office space would be developed in the Specific Plan Area, a 50 percent increase compared to the increase of 300,000 square feet of office use assumed under the proposed Specific Plan. Further, an estimated 1,500 residential units would be developed compared to the 2,540 units assumed under the proposed Specific Plan (a 40 percent decrease).

The Office Focus Alternative would reduce AM and PM peak hour trips compared to buildout under the Specific Plan. The impacts at the intersections of Hesperian Boulevard & Halcyon

Drive/Fairmont Drive during the PM peak hour and East 14th Street & Fairmont Drive during the AM peak hour would no longer be significant under Alternative 3. However, the intersection of Hesperian Boulevard and Thornally Drive would remain significantly impacted under Alternative 3. In addition, under Alternative 3, the impact identified at the MTS arterial segment of East 14th Street south of Estudillo Avenue would be reduced to less than significant. However, like the proposed Specific Plan, the impact at Hesperian Boulevard south of East 14th Street would remain significant and unavoidable. Like the proposed Specific Plan, because of the significant traffic impacts identified above, AC Transit buses would experience delays due to increased traffic. This impact would be significant and unavoidable, the same as the proposed Specific Plan. Because of the reduction in vehicle trips, mobile-related GHG emissions would be reduced compared to the proposed Specific Plan and would remain less than significant. Mitigation outlined in Section 4.2, *Air Quality*, Section 4.3, *Biological Resources*, Section 4.4, *Cultural, Tribal Cultural, and Paleontological Resources*, and Section 4.10, *Noise*, would continue to apply and impacts related to those resource areas would be less than significant with mitigation.

This alternative would meet some of the project objectives. However it would not satisfy Objective 6 “Diversity of Uses” as it would not support mixing of land uses throughout the Specific Plan Area but would intentionally separate residential and office space uses, especially near the BART station.

**Finding:** The City Council considered the Office Focus Alternative and declines to adopt it because it does not avoid or substantially lessen all of the project’s significant and unavoidable impacts and is infeasible for the specific economic, social, or other considerations described above, as supported by the administrative record for the project.

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