



June 11, 2007

Terrence Grindall
Community Development Director
City of Newark
37101 Newark Boulevard
Newark, California 94560-3796

Subject: Comments in Response to the Notice of Preparation of an
Environmental Impact Report and Notice of Public Scoping Meeting
for Newark Area 3 & 4 Specific Plan

Dear Mr. Grindall:

The Friends of Coyote Hills is a grassroots organization dedicated to the conservation and preservation of open space and the plant and wildlife habitats it supports, and to engaging public involvement with local and regional environmental issues through community outreach, education, collaborative efforts, and advocacy. We have an active leadership group of 24 members, a volunteer base of 120 members and a communications circle of several hundred members. Our members hail from Newark, Fremont and Union City.

This letter is in response to the Notice of Preparation (NOP) of an Environmental Impact Report and Notice of Public Scoping Meeting for the Newark Area 3 and 4 Specific Plan. Our comments begin with some thoughts on the public process associated with planning the largest development in Newark's history and conclude with technical comments regarding the land capabilities of Area 3 and 4, the cumulative impacts of developments in the Tri-City Area and the development of project alternatives for Area 3 and 4.

Project Description and the Planning Process

The NOP indicates that the project is approximately 950 acres and is generally bounded by Mowry Avenue on the north, Cherry Street on the east, Stevenson Boulevard on the south and the salt flats on the west. The description also indicates that the specific plan will retain the existing light industrial, institutional and City fire station, park and community center uses. Thus, the project actually appears to be the development of the 560 acres in Area 4 bounded by Mowry Avenue and Stevenson Boulevard to the north and south respectively and the Union Pacific Railroad and salt ponds and sloughs along

San Francisco Bay to the east and west respectively and the 77 acres of remaining undeveloped land in Area 3. Is this project a specific plan or simply a project level development proposal for the undeveloped acreages in Areas 3 and 4? Why are existing facilities included in this environmental impacts report (EIR)? Will any future environmental impacts reports be tiered off the EIR prepared under this NOP? Does Newark have established thresholds of significance for evaluating impacts? If no, how will thresholds of significance be determined? The relationship of Area 4 to San Francisco Bay and the history of the land indicate that this project may be subject to numerous regulatory permits (U.S. Army Corps of Engineers, Regional Water Quality Control Board, U.S. Fish and Wildlife Service, Bay Conservation and Development Commission, California Department of Fish and Game, State Lands Commission and Alameda County Flood Control) and significant agency coordination (Union Pacific Railroad, Pacific Gas and Electric, Alameda County Flood Control, etc.). We noticed a light turnout for the April community meeting and essentially very limited turnout at the Scoping Meeting? What has been and will be Newark's efforts to solicit comments from these agencies? In addition, as Newark residents we wonder how much coordination/outreach there has been or will be with residents?

There has been little outreach to the community to date. It appears there have been only two workshops (fall 2006 and spring 2007) that provided a very brief introduction to the project. At these meetings we learned that the project description was based upon the Newark General Plan. This plan was purportedly adopted in 1992. What environmental impact report was conducted for the adoption of the General Plan (please note neither of these documents are available for public review in the Newark Library)?

At the April meeting we also learned that the City might be getting a golf course in exchange for giving away significant development approvals. We learned that this golf course might be valued at nearly \$20 million dollars and would be a condition of the development. Yet at the this most recent meeting, residents made suggestions for other desired types of community facilities if a development agreement were to be executed. Is a golf course what Newark needs? The previous Silver Pines golf course (built on similar landscape to Area 4) and two driving ranges have failed. Has Newark conducted surveys to determine community interest? Has Newark examined how a golf course would operate? Would this course be publicly or privately owned? If publicly owned, would the City be required to subsidize the operations and maintenance? The San Jose Mercury News recently reported on the financial struggles of publicly owned golf courses in Santa Clara County. When will the community be given the opportunity to provide input into the scope of the project description? How does the city plan to fully understand what are the interests of the current citizens? Will the city consider polling citizens on the development? We believe Newark residents need to be invited into all discussions that may bring about community amenities in exchange for development approvals. Inclusive community input should help craft the eventual project description associated with this environmental impact report.

Land Use

The lands of Area 4 are included in the 1990 Refuge Boundary Expansion for the Don Edwards San Francisco Bay Wildlife Refuge (“Land Protection Plan, Potential Additions to San Francisco Bay National Wildlife Refuge,” based upon Congressional approval of Public Law 100-556, in 1988). These lands have the potential to provide important habitat for migratory waterfowl and breeding shorebirds. The lands may also provide habitat for endangered species for which recovery plans have been established. How will this project work to implement the 1990 Refuge Boundary Expansion?

Hydrology and Water Quality

Areas 3 and 4 drain to Mowry Slough, which historically served as a landing for seasonal shipments of grain grown in Newark fields and bagged salt collected from the salt crystallizers (Centennial History of Newark). The slough was surrounded by tidal wetlands and transitional upland habitats that extended both east and west of the railroad line (Baylands and Creeks of South San Francisco Bay, Oakland Museum, 2005). The upland areas were used for dairy farming through the 1950s. This land use maintained the soil structure and plant communities of these habitats. Later, the land was manipulated and managed for use as hay fields and row crops. Up until the early 1980s the Whistling Wings Duck Club and Pintail Duck Club hunted on ponds filled by seasonal rains and freshwater that was pumped into these ponds from nearby wells in Area 4.

Today, much of Area 4 is diked marshes and seasonal wetlands situated at very low elevation ranging from 3 to 10 feet above sea level (USGS, 1997). Even the hayfields on the upland areas show evidence of persistent wetland vegetation through Google Earth. Although some of the land was drained and disked in the late 1980s, the character of the soils and local hydrology create a landscape eager to return to wetlands. The lower elevation lands still support wetland vegetation evidencing the propensity of this landscape to remain moist much of the year and support various forms of wetland habitat. Much of this area was subject to floods prior to the flood control improvements of the 1950s and is still today covered in poorly draining clay soils that pond water in the winter providing seasonal wetland habitat for migratory shorebirds and waterfowl.

Global Warming is the latest effect that may return these lands to wetlands or tidal mudflats. The Bay Conservation and Development Commission has released mapping that indicates the potential inundation of lands surrounding San Francisco Bay under the conservative 1 meter sea level rise scenario (http://www.bcdc.ca.gov/media/planning/CCP_ESouthBay_H.jpg). This sea level rise scenario does not take into account some of the data surrounding polar ice cap melt and ice sheet degradation. These scenarios project even higher sea level rise and are less optimistic. Even under planning scenario adopted by BCDC much of Area 4 is under water.

Given the history the land, the nature of the soils and the projections for the future, we encourage Newark to carefully evaluate the following with regards to hydrology, water quality and flooding:

- This past winter was the third driest winter on record in Newark. Will the wetland delineation be accurate and reflect the boundaries that would occur in a normal rainfall year?
- Will the updated FEMA flood plain maps be available for use in developing this EIR? Will the flood assessment evaluate both today's tidal and storm flood risk as well as the forecasted impact of sea level rise on the site and project. Will Newark clearly illuminate the one-meter rise scenario as well as less optimistic scenarios. In addition, we ask that you discuss not only sea level rise but also the various rates of sea level rise describing whether the 1-meter rise could occur suddenly over a few years or gradually over decades and how these different scenarios would impact the land and proposed project.
- Will the flood assessment clearly indicate the criteria for flood insurance and whether flood insurance could be obtained for Areas 3 and 4? Will the new post-Katrina FEMA flood insurance program guidelines apply? Would this insurance be provided by the State of California or through the Federal government? What if any modifications to land and/or certifications would be necessary for obtaining flood insurance?
- How will this project be coordinated with the South San Francisco Bay Shoreline Study being conducted by the Army Corps of Engineers? Are any of these lands needed to reduce the threat of flooding to existing Newark businesses and residences? How would the project be protected from flooding? If the area does flood, what is the city's liability?
- What will be the effect of sea level rise on local ground water resources? Will there be any effect on the new desalinization plant that is currently treating local ground water? If there is an effect on ground water, how could the effect(s) impact the project or the community's water supply, which is partially dependent upon local ground water resources?
- How will runoff be treated to prevent pollution from entering Mowry Slough and San Francisco Bay? Nonpoint source pollution is one of the largest threats to the Bay's water quality. How will the proposed golf course be designed and managed to limit the transportation of herbicides, pesticides, rodenticides and fertilizers from entering the estuary?

Biological Resources

The lands in Area 4 provide suitable habitat for endangered species and wetland dependent species. The regional significance of these lands is acknowledged by the Federal government through the inclusion of these lands in *1990 Land*

Protection Plan, Potential Additions to San Francisco Bay National Wildlife Refuge and area scientists in the *2000 Baylands Ecosystem Habitat Goals Project*. The Habitat Goals Project identified the Mowry Slough Area as an opportunity “to restore historic tidal marsh/upland transitional habitat and associated vernal pool habitat at the upper ends of Newark, Plummer, Mowry and Albrae sloughs.” The Goals Project states that the Mowry Slough marshes are “centers for populations of California clapper rail and salt marsh harvest mouse.” The existing levees and salt pans may be used by nesting snowy plovers. Outer Mowry Slough is one of the largest harbor seal haul-out and pupping locations in the entire San Francisco Bay.

The former duck hunting clubs clearly supported populations of migratory waterfowl and shorebirds. The waterfowl, shorebirds and small mammals were also likely hunted by a variety of raptor species the peregrine falcon, northern harrier, white-tailed kite, red tailed hawk, etc. Burrowing owls were known to occur at the Newark Ohlone campus and have a strong likelihood of being present on Area 3 and 4. The history of the site also indicates that the Area 4 land is likely an enormous seed bank of wetland species. Many wetland plants are opportunistic and the seeds can last for decades dormant the soil. Area 4 is likely a treasure chest of seed bank biological diversity.

Most of the species discussed above are afforded protection under the Federal Endangered Species Act, California Endangered Species Act, Marine Mammal Protect Act or the Migratory Bird Treaty Act. In many cases, recovery plans have been established for listed species.

- Will sufficient time be committed to field observations and protocol level surveys to adequately document the presence/absence of the species and to evaluate the suitability of the habitat for restoring these species?
- Given the sensitivity and special status of many of these species, what will be Newark’s approach to habitat protection? Will the Project and Project Alternatives work to avoid or minimize impacts to suitable habitat?
- In general, we are not supportive of compensatory mitigation. If compensatory mitigation is included in the plan, will this mitigation be performed and monitored to ensure the functional ecological values are achieved prior to the destruction of any existing habitat?
- How will the seed bank be documented?
- How will wildlife corridors through the sites be documented?

The Project Description indicates the Specific Plan will include open space wetland mitigation areas.

- What is the definition of “open space” used by Newark?

- Where will the wetland mitigation and/or open space lands be sited? Will these lands be contiguous to other other protected lands? Will they support wildlife movement or will the built environment fragment the land making less suitable for wildlife?
- If lands are preserved or restored who would manage these lands?

Development creates both direct and indirect impacts on the natural world. Indirect impacts can take the form of predation by domestic pets on sensitive species, escape of exotic invasive plants from public or private landscaping, creation of artificial habitat that supports higher than typical populations of native species (for example Newark Lake and Canada geese). At times the expanded native populations have a deleterious effect on other native species.

- How will Newark prevent this project from having a negative predation effect on sensitive species?
- How will landscaping materials be selected?
- Will the artificial environment of the golf course attract and support an increase in native predators such as gulls and corvids which may in turn effect the recovery plans of the least tern, snowy plover or other listed species?

Geology and Soils

The USGS has recently updated the liquefaction susceptibility mapping for the Bay Area (<http://pubs.usgs.gov/of/2006/1037>). Areas 3 and 4 are located in an area of high susceptibility for liquefaction.

- How will this affect the proposed housing?
- How will this effect levees surrounding Area 4 that provide flood protection?
- Will construction contribute to erosion or siltation? How will this be mitigated?
- How much fill is needed for this development?

Cultural Resources

- Is the historic Mowry Landing located within Area 4? What is the significance of this historic landing site?
- Are there Native American prehistoric resources on the sites?

Utilities and Service Systems

- How will the project impact local or regional water supplies? How is the impact of Global Warming on the Sierra snow pack being taken into consideration in planning this project?
- How much water would be needed to support the golf course?
- Would Newark be required to hire golf management and maintenance staff?
- How will the Newark Unified School District accommodate new students?

Safety and Health

In addition to the risks posed by tidal flooding and storm events, we raise the following health hazards questions.

- What potential contamination is present on Area 3 and 4? Are there residual pesticides from former agricultural practices? Are there hydrocarbon contaminants from the auto dismantlers or from the light industrial facilities located in Area 3? What is the status of the old landfill? Are leachates impacting groundwater? What other contaminants have effect these Newark lands? If any contaminants were present, how would these contaminants effect the project, the safety of families moving into the proposed housing and the wetland mitigation?
- Mold has become a serious remediation issue in schools, public buildings and homes. Do the soil types, ponding nature of the landscape and low elevations of Area 3 and 4 predispose the proposed development project to the any higher risk of mold growth? If yes, how would this risk be mitigated?

Aesthetics

Area 4's bayfront location affords it a viewshed of the Peninsula. The Santa Cruz Mountains can be viewed from the end of Mowry Avenue and Stevenson Boulevard. How would the proposed project impact these views? At the April 2007 public meeting it was suggested that an overpass at the UPRR line would be required to access Area 4 located to the west of railroad. Any overpass would need a minimum vertical clearance of 26 feet to allow freight trains to pass beneath the overpass. This height is more than twice the total elevation difference across the entire site (elevations range from 0 to 13). How will views be preserved?

Energy

- How will this development implement the U.S. Mayor's Climate Protection Agreement recently adopted by the Newark City Council?

Traffic and Circulation

- How would Area 4 be accessed? What new roads, bridges and/or overpasses would be built to provide day-to-day circulation as well as egress in the event of an emergency such as a fire, earthquake or tsunami? Who would pay for these improvements?
- How will the cumulative impacts of other new neighboring developments (A's ballpark village, Patterson Ranch, Globe retail center) exacerbate traffic conditions?
- Will transit service (rail or bus) be a viable solution in this area?

Cumulative Impacts

The Tri-City area is under significant development pressure. Specifically, three of the largest development proposals to impact Fremont and Newark are proposed on the lands west of Cherry Street and Paseo Padre Parkway. Over 5,000 homes, half a million square feet of retail, a major league ballpark and a golf course are proposed between the A's Ball Park Stadium, Area 3 and 4 Specific Plan and Patterson Ranch.

- How will the cumulative impacts on biological resources, traffic, water resources and energy be addressed?
- All of these developments are at the fringes of the cities and far removed from public transportation? How will these developments impact air quality and traffic congestion?
- What will happen to Newark's "small town feel" when there are 50,000 to 80,000 more cars trip per day along the Cherry Street corridor?
- What are the cumulative impacts to wetlands and stream courses?

Project Alternatives

Why has there been essentially no community involvement in developing the basic objectives of a project that is intended to provide community resources in exchange for community impacts (traffic, congestion, loss of small town feel, threat to the San Francisco Bay wetlands)? How will the Project Alternatives be selected? Will the community be provided an opportunity to suggest Project

Alternatives? The Friends of Coyote Hills would recommend that at least one of the project alternatives should be compatible with the land capabilities of the site as defined by the soils, hydrology and biological resources and by the diminishing resources of the future including potable water, energy, sensitive species and dry land.

We encourage the preservation and restoration of our remaining open space lands. The Project and Project Alternatives should include the expansion of the San Francisco Bay Wildlife Refuge as respite for Newark residents and as habitat wildlife.

We appreciate the opportunity to provide written scoping comments.

Sincerely,

Jana Sokale and Greg Scott

Dan and Gaby Ondrasek

Linda and Virgil Patterson

Wayne and Mari Miller
Newark Residents of Friends of Coyote Hills

cc: Ryan Olah, USFWS
Craig Aubrey, USFWS
Cay Goude, USFWS
Mendel Stewart, USFWS
Mike Monroe, EPA
Jane Hicks, USACE
Mark D'Avignon, USACE
Carl Wilcox, CDFG
Janice Gan, CDFG
Bruce Wolfe, SFBRWQCB
Kerri Davis, Coastal Program Analyst, BCDC
Sierra Club
Alameda Creek Alliance
California Native Plant Society
Ohlone Audubon Society