

ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

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Environmental Checklist Form
Prepared Pursuant to the California Environmental Quality Act (CEQA)

A. PROJECT DESCRIPTION

1. **Project title:** Alameda County Historic Preservation Ordinance
2. **Project location:** Unincorporated Alameda County
3. **Project sponsor's name and address:** Alameda County Community Development Agency
224 West Winton Avenue, Room 111, Hayward, CA 94544
4. **Lead Agency name and address:** Alameda County Community Development Agency
224 West Winton Avenue, Room 111, Hayward, CA 94544
5. **Contact Person and phone number:** Elizabeth McElligott, Assistant Planning Director,
(510) 670-5400
6. **General plan designation:** Not applicable. The Ordinance is not specific to a site or a community.
7. **Zoning:** Not applicable. See #6.
8. **Description of project:** The Alameda County Historic Preservation Ordinance would protect and preserve historic resources in unincorporated Alameda County by formally recognizing such resources and by providing financial incentives for their preservation. The Ordinance would also standardize the review process for development projects that involve or might otherwise affect historic resources. In order to accomplish these goals, the County has proposed an entirely new chapter of the County's Zoning Ordinance (Title 17), amendments to Chapter 2.86 of the County Administrative Code which authorizes and defines the responsibilities of the County's Parks Recreation and Historical Commission (PRHC), and amendments to Chapter 17.20 of the County's Zoning Ordinance which addresses Historic Preservation (HP) districts.
9. **Surrounding land uses and setting:** Alameda County is one of the nine San Francisco Bay Area counties, located along the eastern shore of the San Francisco Bay. The County covers approximately 738 square miles. Alameda County is one of only two Bay Area counties that spans an area that reaches from the Bay to California's Central Valley. The western portion of Alameda County is located generally on the East Bay Plain between the coastal hills and the Bay. The area is heavily urbanized and contains the incorporated cities of Albany, Berkeley, Piedmont, Oakland, Emeryville, Alameda, San Leandro, Hayward, Union City, Newark, and Fremont, as well as the unincorporated urban areas of Castro Valley, Fairview, San Lorenzo, Ashland, and Cherryland.

Eastern Alameda County is primary composed of the coastal range's rough terrain that extends from the hills above the Bay Plain to the border with San Joaquin County in the Central Valley. It is comprised mainly of non-urban uses including agriculture, parkland, watershed, and open space. This area has relatively low population density except for the Livermore-Amador Valley, in which the incorporated cities of Dublin, Pleasanton, and Livermore are located.
10. **Other public agencies whose approval may be required:** None

B. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

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

- | | | |
|---|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forest Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Climate Change and Green-house Gas Emissions | <input checked="" type="checkbox"/> Cultural Resources |
| <input type="checkbox"/> Geology /Soils | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology and Water Quality |
| <input checked="" type="checkbox"/> Land Use and Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population and Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation and Traffic | <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

C. LEAD AGENCY DETERMINATION:

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Elizabeth McElroy
Signature

9/21/11
Date

D. EVALUATION OF ENVIRONMENTAL EFFECTS:

The Environmental Checklist and discussion that follows is based on sample questions provided in the CEQA Guidelines (Appendix G) which focus on various individual concerns within 17 different broad environmental categories, such as air quality, climate change, cultural resources, land use, public services, noise and traffic (and arranged in alphabetical order). The Guidelines also provide specific direction and guidance for preparing responses to the Environmental Checklist. The sample questions are meant to be used to meet the requirements for an initial study when the criteria set forth in CEQA Guidelines have been met. Substantial evidence of potential environmental impacts that are not listed in the checklist must also be considered. The sample questions are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.

Each question in the Checklist essentially requires a “yes” or “no” reply as to whether or not the project will have a potentially significant environmental impact of a certain type, and, following a Checklist table with all of the questions in each major environmental heading, citations, information and/or discussion that supports that determination. The Checklist table provides, in addition to a clear “yes” reply and a clear “no” reply, two possible “in-between” replies, including one that is equivalent to “yes, but with changes to the project that the proponent and the Lead Agency have agreed to, *no*”, and another “no” reply that requires a greater degree of discussion, supported by citations and analysis of existing conditions, threshold(s) of significance used and project effects than required for a simple “no” reply. Each possible answer to the questions in the Checklist, and the different type of discussion required, is discussed below:

- a) Potentially Significant Impact. Checked if a discussion of the existing setting (including relevant regulations or policies pertaining to the subject) and project characteristics with regard to the environmental topic demonstrates, based on substantial evidence, supporting information, previously prepared and adopted environmental documents, and specific criteria or thresholds used to assess significance, that the project will have a potentially significant impact of the type described in the question.¹
- b) Less Than Significant With Mitigation. Checked if the discussion of existing conditions and specific project characteristics, also adequately supported with citations of relevant research or documents, determine that the project clearly will or is likely to have particular physical impacts that will exceed the given threshold or criteria by which significance is determined, but that with the incorporation of clearly defined mitigation measures into the project, that the project applicant or proponent has agreed to, such impacts will be avoided or reduced to less-than-significant levels.
- c) Less Than Significant Impact. Checked if a more detailed discussion of existing conditions and specific project features, also citing relevant information, reports or studies, demonstrates that, while some effects may be discernible with regard to the individual environmental topic of the question, the effect would not exceed a threshold of significance which has been established by the Lead or a

1 *Note:* for this subject application, this reply is not given for any of the questions, because all of the impacts are expected to be mitigated to less-than-significant levels with changes agreed to by the project proponent. CEQA requires that if the Checklist makes a determination that the project will have one or more potentially significant environmental impacts (and the project proponent does not agree to changes that would change the reply to the conditional “no” described in the following type of reply), an environmental impact report (EIR) is required. In such instances, the discussion may be abbreviated greatly if the Lead Agency chooses to defer the analysis to preparation of the EIR.

Responsible Agency. The discussion may note that due to the evidence that a given impact would not occur or would be less than significant, no mitigation measures are required.

- d) No Impact. Checked if brief statements (one or two sentences) or cited reference materials (maps, reports or studies) clearly show that the type of impact could not be reasonably expected to occur due to the specific characteristics of the project or its location (e.g. the project falls outside the nearest fault rupture zone, or is several hundred feet from a 100-year flood zone, and relevant citations are provided). The referenced sources or information may also show that the impact simply does not apply to projects like the one involved. A response to the question may also be "No Impact" with a brief explanation that the basis of adequately supported project-specific factors or general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a basic screening of the specific project).

The discussions of the replies to the Checklist questions must take account of the whole action involved in the project, including off-site as well as on-site effects, both cumulative and project-level impacts, indirect and direct effects, and construction as well as operational impacts. Except when a "No Impact" reply is indicated, the discussion of each issue must identify:

- a) the significance criteria or threshold, if any, used to evaluate each question; and
- b) the mitigation measure identified, if any, to reduce the impact to less than significance, with sufficient description to briefly explain how they reduce the effect to a less than significant level.

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

- a) Earlier Analysis Used. Identify and state where they are available for review.
- b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
- c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

1. AESTHETICS Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant with Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Have a substantial adverse effect on a scenic vista?				x
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				x
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				x
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				x

Summary:

The proposed Ordinance will not have any potentially significant visual impacts as the Ordinance is designed to protect the historic and architectural integrity of historic resources in unincorporated Alameda County.

Mitigation Measures:

None.

<p>2. AGRICULTURE AND FOREST RESOURCES</p> <p>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the Project:</p>	<p>YES: Potentially Significant Impact</p>	<p>NO: Less Than Significant with Mitigation</p>	<p>NO: Less Than Significant Impact</p>	<p>NO: No Impact</p>
<p>a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?</p>				<p>✗</p>
<p>b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?</p>				<p>✗</p>
<p>c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?</p>				<p>✗</p>
<p>d) Result in the loss of forest land or conversion of forest land to non-forest use?</p>				<p>✗</p>
<p>e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?</p>				<p>✗</p>

Summary:

The proposed Ordinance will not have any potentially significant impacts on agricultural resources in unincorporated Alameda County.

Mitigation Measures:

None.

3. AIR QUALITY Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant with Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X

Summary:

The proposed Ordinance will not have any potentially significant impacts on air quality in unincorporated Alameda County.

Mitigation Measures:

None.

4. BIOLOGICAL RESOURCES Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				x
b) Have a substantial adverse effect on any riparian, aquatic or wetland habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?				x
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				x
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				x
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				x
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				x
g) Result in conversion of oak woodlands that will have a significant effect on the environment?				x

Summary:

The proposed Ordinance will not have any potentially significant impacts on biological resources in unincorporated Alameda County.

Mitigation Measures:

None.

5. CLIMATE CHANGE AND GREENHOUSE GAS EMISSIONS Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?				<input checked="" type="checkbox"/>
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?				<input checked="" type="checkbox"/>

Summary:

The proposed Ordinance will not have any potentially significant impacts on climate change and greenhouse gas emissions in unincorporated Alameda County.

Mitigation Measures:

None.

6. CULTURAL RESOURCES Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 of the CEQA Guidelines?				x
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the CEQA Guidelines?				x
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				x
d) Disturb any human remains, including those interred outside of formal cemeteries?				x

Discussion:

The Historic Preservation Ordinance establishes procedures for the nomination, designation, and alteration/demolition of historically significant properties and in general terms, provides further protection for historic resources in unincorporated Alameda County. The Historic Preservation Ordinance procedures will assist in establishing a more orderly and predictable process for the treatment of historic resources in unincorporated Alameda County and will further the following County goals:

- Establishment of an orderly and predictable process to govern the nomination, designation, and alteration/demolition of historically significant properties;
- Facilitation of continued County compliance with CEQA in the area of historic resources; and
- Application to the State Historic Preservation Office (SHPO) for Certified Local Government (CLG) certification. The County would be eligible to apply for CLG certification following the adoption of a historic preservation ordinance. The benefits of becoming a CLG include: eligibility for federal grants; direct participation in the nomination of historic properties to the National Register of Historic Places; opportunity for enhanced responsibilities to review and comment on development projects in compliance with federal environmental regulations; special technical assistance and training for staff and commission members; and potential for participation in the review of building rehabilitation plans for federal investment tax credits.

The basic components of the Historic Preservation Ordinance are: a) purpose and definitions; b) cultural resource surveys; c) Register criteria and process for placement and removal; d) permit process for the proposed alteration or demolition of a property listed on the County Register; e) procedures for the demolition of a structure over 50 years old; f) appeals; g) preservation incentives; h) preventative maintenance; and i) enforcement.

Chapter 2.86 of the County’s Administrative Code and Chapter 17.20 of its Planning Code would be revised as part of the proposed Ordinance amendment. Changes to Chapter 2.86 would update the membership composition/qualifications, and duties of the PRHC. The proposed amendment to Section 2.86.020 will bring PRHC membership requirements in conformance with State CLG certification requirements for participating local governments to have an adequate and qualified historic preservation review commission established by local law. The proposed amendment to Section 2.86.070 will update

the duties of the PRHC so that they are consistent with their current duties as they have evolved over the years and include those duties that will result from adoption of the new Ordinance. A revision to Section 17.20.060 clarifies the advisory role of the PRHC with respect to the rezoning of a parcel to the HP (Historic Preservation) zoning district.

If adopted, the Ordinance would establish the Alameda County Register of Historic Resources ("Register"). The Alameda County Register is a listing of those properties that have been approved by the Board of Supervisors as a Landmark, Historic Preservation District, or Structure of Merit. Owners of properties identified by the County in previous surveys of the Ashland, Castro Valley, Cherryland, East County, and San Lorenzo communities as noted in their respective surveys as being significant will be given the opportunity to opt in to the County's Register within 180 days of the adoption of the Ordinance by the Board of Supervisors. Upon receipt of their request to participate in the Register, the County will conduct a review of the resource to ensure that no changes or alterations have been performed that would render it ineligible for participation in the Register. Those properties retaining their historic/architectural integrity will be included on the Register. Properties not identified in those prior surveys will follow a different procedure outlined in the draft Ordinance; however, in no case would a property be listed without its owner's consent. Properties may be removed from the Register if the Board finds that the listed resource "no longer has significant aesthetic, cultural, architectural, or engineering interest or value of a historical nature"

The Historic Preservation Ordinance would require a Certificate of Appropriateness (C of A), discretionary approval, when a property owner proposes to alter or demolish a designated resource. The C of A process exempts preventative maintenance work, such as painting, roof repair, foundation or chimney work and landscape maintenance. A C of A would be closely coordinated with any other land development and building permit review required by the Planning Department and Building Inspections Division.

Alterations to resources listed on the Register must meet the Secretary of the Interior's Standards for the Treatment of Historic Properties or not destroy or adversely affect the integrity of the resource, unless a finding is made that there is no feasible alternative. The PRHC will make recommendations to the Planning Director on the approval/denial of C of A. Decisions of the Planning Director may be appealed to the Board of Supervisors.

In order to further the goal of historic preservation in the County, the Historic Preservation Ordinance commits the County to consider economic and other incentive programs including: financial incentives, permit streamlining, technical assistance, workshops and production of educational materials. Under the proposed Ordinance, the County would establish its own Mills Act program. The Mills Act allows local jurisdictions to enter into contracts with owners of qualified historic resources and provides for a reduction in local property taxes in exchange for a commitment from the owner to preserve the historic integrity and significance of the contracted historic resource.

The Historic Preservation Ordinance will facilitate the preservation of the historic significance and character of designated properties. The County currently has no codified criteria or procedures for listing historic resources, nor does the County have any codified review procedures when alteration of a historic resource has been proposed (with the exception of historic resources that are located in a Historic Preservation District which generally require a Site Development Review.) In total, adoption of the Historic Preservation Ordinance will result in a more comprehensive and systematic process for the protection of historic resources in unincorporated Alameda County.

Mitigation Measures:

None.

7. GEOLOGY AND SOILS Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				x
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				x
ii) Strong seismic ground shaking?				x
iii) Seismic-related ground failure, including liquefaction?				x
iv) Landslides?				x
b) Result in substantial soil erosion or the loss of topsoil?				x
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				x
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				x
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				x

Summary:

The proposed Ordinance will not have any potentially significant impacts on geology and soils in unincorporated Alameda County.

Mitigation Measures:

None.

8. HAZARDS AND HAZARDOUS MATERIALS Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				x
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				x
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				x
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				x
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				x
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				x
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				x
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				x

Summary:

The proposed Ordinance will not have any potentially significant impacts on hazards and hazardous materials in unincorporated Alameda County.

Mitigation Measures:

None.

<p>9. HYDROLOGY AND WATER QUALITY Would the project:</p>	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Violate any water quality standards, conflict with water quality objectives, fail to meet waste discharge requirements, significantly degrade any surface water body or groundwater, or adversely affect the beneficial uses of such waters, including public uses and aquatic, wetland and riparian habitat?				<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site (i.e. within a watershed)?				<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff (e.g., due to increased impervious surfaces) in a manner which would result in flooding on- or off-site (i.e. within a watershed)?				<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems due to changes in runoff flow rates or volumes?				<input checked="" type="checkbox"/>
f) Result in a significant increase in pollutant discharges to receiving waters (marine, fresh, and/or wetlands) during or following construction (considering water quality parameters such as temperature, dissolved oxygen, turbidity, and typical stormwater pollutants such as heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash)?				<input checked="" type="checkbox"/>
g) Result in an increase in any pollutant for which a water body is listed as impaired under Section 303(d) of the Clean Water Act?				<input checked="" type="checkbox"/>
h) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				<input checked="" type="checkbox"/>
i) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				<input checked="" type="checkbox"/>
j) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				<input checked="" type="checkbox"/>
k) Inundation by seiche, tsunami, or mudflow?				<input checked="" type="checkbox"/>

Summary:

The proposed Ordinance will not have any potentially significant impacts on hydrology and water quality in unincorporated Alameda County.

Mitigation Measures:

None.

10. LAND USE AND PLANNING Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Physically divide an established community.				x
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				x
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				x

Discussion:

The proposed Ordinance will codify strategies to: inventory and evaluate historic resources; prevent or minimize impacts to historic resources; and restore, enhance and commemorate resources. The proposed Ordinance would not conflict with any existing land use policy or regulation. As a result, the proposed Ordinance would not have any potentially significant impacts on land use in unincorporated Alameda County.

Mitigation Measures:

None.

11. MINERAL RESOURCES Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				x
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				x

Summary:

The proposed Ordinance will not have any potentially significant impacts on mineral resources in unincorporated Alameda County.

Mitigation Measures:

None.

12. NOISE Would the project result in:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				x
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				x
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				x
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				x
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				x
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				x

Summary:

The proposed Ordinance will not have any potentially significant impacts on noise hazards in unincorporated Alameda County.

Mitigation Measures:

None.

13. POPULATION AND HOUSING Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				<input checked="" type="checkbox"/>

Summary:

The proposed Ordinance will not have any potentially significant impacts on population and housing in unincorporated Alameda County.

Mitigation Measures:

None.

14. PUBLIC SERVICES Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Fire protection?				X
b) Police protection?				X
c) Schools?				X
d) Parks?				X
e) Other public facilities?				X

Summary:

The proposed Ordinance will not have any potentially significant impacts on public services in unincorporated Alameda County.

Mitigation Measures:

None.

16. TRANSPORTATION Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?				<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?				<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?				<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?				<input checked="" type="checkbox"/>

Summary:

The proposed Ordinance will not have any potentially significant impacts on transportation in unincorporated Alameda County.

Mitigation Measures:

None.

17. UTILITIES AND SERVICE SYSTEMS Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				x
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				x
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				x
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				x
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?				x
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				x
g) Comply with federal, state, and local statutes and regulations related to solid waste?				x

Summary:

The proposed Ordinance will not have any potentially significant impacts on public utilities in unincorporated Alameda County.

Mitigation Measures:

None.

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

Discussion:

The proposed Ordinance will not have a significant new impact on the environment, nor will the project create a new cumulative impact. As discussed in the section on Cultural Resources, the proposed Ordinance would preserve, protect, enhance and perpetuate resources of architectural, historical, and cultural merit within unincorporated Alameda County. Moreover, the Ordinance is consistent with existing land use regulations. Therefore, there will be a less than significant impact on cultural resources, land use and planning.

E. SOURCES

The following references (which are available for review at the Alameda County Planning Department 224 West Winton Avenue, Room 111, Hayward, CA 94544) were consulted to prepare the Initial Study Checklist:

- Eden Area General Plan, adopted March 30, 2010.
- General Plan, County of Alameda (Land Use and Circulation Elements), adopted May 26, 1966. Amended August 27, 1969; June 6, 1974; October 10, 1974; November 3, 1977; August 8, 1978; January 4, 1979; December 16, 1980; November 3, 1984; and April 5, 1984.
- Castro Valley Plan, adopted June 15, 1961. Amended January 29, 1974; August 8, 1978; April 4, 1985; modified by voters through Measure D, November, 2000, codified by Board of Supervisors May, 2002.
- Livermore-Amador Valley Planning Unit General Plan, adopted November 3, 1977. Amended January 4, 1979; December 16, 1980; November 3, 1983; April 5, 1984; December 12, 1989. Superseded by the East County Area Plan, adopted May 5, 1993; modified by voters through Measure D, November, 2000, codified by Board of Supervisors May, 2002.
- General Plan for the Central Metropolitan, Eden and Washington Planning Units, adopted January 13, 1981. Amended November 3, 1983.
- Unincorporated Eden (Portion) Area Plan, adopted November 3, 1983.
- Housing Element, adopted March 30, 2010, amended April 12, 2011.
- Park and Recreation Element, adopted June 12, 1956. Amended November 21, 1968.
- Scenic Route Element, adopted May 5, 1966.
- Open Space Element, adopted May 31, 1973. Amended December 12, 1989.
- Conservation Element, adopted January 8, 1976. Amended November 23, 1976.
- Seismic and Safety Elements, adopted January 8, 1976. Amended August 5, 1982, and September 14, 2010.
- Noise Element, adopted January 8, 1976.
- Alameda County Assessor's Williamson Act Subvention data as of December 31, 2008.
- Fairview Area Specific Plan, adopted September 4, 1997.
- CEQA Guidelines

ADDENDUM

DRAFT INITIAL STUDY/NEGATIVE DECLARATION ALAMEDA COUNTY HISTORIC PRESERVATION ORDINANCE

COMMENTS AND RESPONSES TO THE INITIAL STUDY AND NEGATIVE DECLARATION

This addendum includes a reproduction of, and response to, the letter received during the public review period. The letter has been reproduced in its entirety and is immediately followed by a response.



Sara N. Pasquinelli
spasquinelli@fablaw.com

October 12, 2011

VIA FACSIMILE AND ELECTRONIC MAIL

Angela Robinson-Piñon, Planner II
Alameda County Community Development Agency, Planning Department
224 West Winton Avenue, Room 111
Hayward, CA 94544

Re: CEQA Comments Regarding Initial Study and Negative Declaration for
the Alameda County Historic Preservation Ordinance

Dear Ms. Piñon:

This law firm represents Duane and Carolyn Doyle, Trustees of the Duane S. and Carolyn S. Doyle Trust (“the Doyles”), owners and residents of 24829 Palomares Road, located in Castro Valley. On behalf of the Doyles, we have been following the County of Alameda’s (“County”) progress relating to adoption of the Historic Preservation Ordinance (“Ordinance”) over the past several years. We have reviewed the County’s Draft Initial Study/Negative Declaration (IS/ND) for the Ordinance and submit the following comments.

The IS/ND Adequately Supports the “Opt-In” Version of the Ordinance

The IS/ND specifically analyzes the potential impacts of the “opt-in” version of the Ordinance, which was recommended for approval by the Parks, Recreation and Historical Commission (“PRHC”) on August 4, 2011.¹ That is, the Ordinance as proposed by the PRHC is the Proposed Project for CEQA purposes.

The IS/ND concludes, based upon analysis presented, that the “opt-in” version of the Ordinance will have less than significant impacts on cultural resources and land use and planning. The IS/ND further concludes that the “opt-in” version of the Ordinance will not have any potentially significant impacts on other resource areas.²

¹ See, IS/ND at pp. 10-11.

² See, IS/ND.

Because the IS/ND bases its CEQA analysis and conclusions on the “opt-in” version of the Ordinance, any deviation from the “opt-in” posture, would, therefore, require further CEQA review and public comment. That is, should the prior mandatory or “opt-out” versions of the Ordinance, or any other permutation of the Ordinance, be considered for adoption by the Board of Supervisors, such a change would constitute a change in the Proposed Project such that the potentially significant impacts on the environment created by those different versions would need to be fully considered and analyzed by the County in a subsequent CEQA document, and the public would need to be provided with an opportunity to comment upon the adequacy of a new CEQA document in connection with that different project.

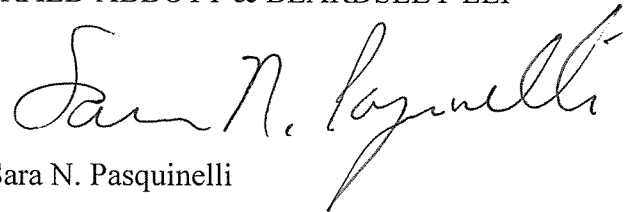
Thank you for the opportunity to comment.

Very truly yours,

FITZGERALD ABBOTT & BEARDSLEY LLP

By

Sara N. Pasquinelli

A handwritten signature in black ink, appearing to read "Sara N. Pasquinelli", is written over the typed name. The signature is fluid and cursive, with a long, sweeping tail on the final letter.

RESPONSE TO ATTORNEY PASQUINELLI'S LETTER

The comments from Attorney Pasquinelli do not question the adequacy of the Draft Initial Study/Negative Declaration, but rather describes what action should be taken should the Board of Supervisors ("Board") adopt an ordinance that deviates from the "opt-in" version that was recommended by the Alameda County Parks, Recreation and Historical Commission (PRHC) on August 4, 2011. At its October 17, 2011 meeting, the Alameda County Planning Commission recommended that a new draft of the Ordinance be sent to the Board for approval. While most of the changes endorsed by the Planning Commission are technical or otherwise non-substantive in nature and are therefore consistent with draft ordinance proposed by the PRHC, the draft ordinances differ in the following ways:

- The ordinance alternative includes a provision to allow the PRHC to draft a non-recommendation and transmit that non-recommendation to the Board for properties where the owner has withheld their consent. (Section 17.##.100, paragraph F)
- If the Board is considering a non-recommendation by the PRHC, the Board may by unanimous vote place a property on the Register, even if the property owner has withheld their consent. (Section 17.##.110, paragraph A)

Section 15073.5 of the Guidelines for the California Environmental Quality Act (CEQA) provides guidance on the recirculation of a Negative Declaration prior to adoption by a hearing body. Under Section 15073.5, a Negative Declaration must be recirculated when it "must be substantially revised after public notice of its availability...but prior to its adoption". The section goes on to define the term "substantial revision":

"A 'substantial revision' of the negative declaration shall mean:

- (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or*
- (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required."*

The draft recommend by the Planning Commission, although different from that approved by the PRHC, would neither create "a new, avoidable significant effect" or require new mitigation measures or project revisions.

Section 15073.5, paragraph c provides exclusions for recirculation a negative declaration:

Recirculation is not required under the following circumstances:

- (1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.*
- (2) New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects.*

- (3) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.*
- (4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.*

No mitigation measures were included in the Draft Initial Study/Negative Declaration, nor would any be required under the Ordinance proposed by the Planning Commission. There are no project revisions which have been added in response to comments received on the project's effects which are "new avoidable significant effects." No "measures or conditions of project approval" not required under CEQA have been added that create a new significant effect, and are not required to mitigate an identified avoidable significant effect. The information in this response is consistent with Section 15073.5 (c)(4) in that it is new information which has been added to the Draft Initial Study/Negative Declaration that it "merely clarifies, amplifies, or makes insignificant modifications to the negative declaration".

Based upon its analysis of the proposed revisions, the Draft Initial Study/Negative Declaration, and CEQA staff has concluded that, if adopted, the Ordinance recommended by the Planning Commission on October 17, 2011 would not cause a new, potentially significant change in the environment that was not considered or analyzed in the Draft Initial Study/Negative Declaration released on September 22, 2011. Therefore, no additional review is required.