CITY OF UNION CITY

MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING ON THURSDAY, OCTOBER 18, 2018, 7:00 P.M. IN THE COUNCIL CHAMBERS OF CITY HALL 34009 ALVARADO-NILES ROAD UNION CITY, CA 94587

1. **ROLL CALL: Chairperson Lee Guio, Vice Chair Harris Mojadedi Commissioners Ray Gonzales Jr., Jo Ann Lew, Harpal Mann**

   STAFF: Joan Malloy (Economic and Community Development Director); Avalon Schultz (Senior Planner); Farooq Azim (Principle Engineer); Alex Mog (Deputy City Attorney); Denisse Anzoategui (Acting Administrative Assistant)

2. **APPROVAL OF MINUTES:** The regular Planning Commission minutes of October 4, 2018 were approved as submitted.

3. **ORAL COMMUNICATIONS:** None.

4. **WRITTEN COMMUNICATIONS:** Written communications were submitted by Sara Aminoff regarding the Federal Communications Commission's (FCC) order for small wireless facilities. Ms. Aminoff was concerned about the FCC order because it limits local control on small wireless facilities. Ms. Aminoff provided written material that voiced her concerns about potential health impacts caused by the small wireless facilities.

5. **PUBLIC HEARINGS:**

   A. CONTINUED HEARINGS: None.

   B. NEW HEARINGS:

   1. **NUVERA HOMES, 33103 Union City Boulevard, Site Development Review (SD-16-006), Use Permit (UP-16-009), and Tentative Tract Map (TTM 7728)**; The applicant, Nuvera Homes, is requesting approval of Site Development Review (SD-16-006), Use Permit (UP-16-009), and Tentative Tract Map (TTM 7728) for a landfill consolidation and 33-unit single-family planned unit development subdivision. The site is located at the Turk Island Landfill located at the intersection of Westport Way and Carmel Way and is addressed to 33103 Union City Boulevard (APNs: 482-0053-004; 482-0040-008-02 and -05; 482-0050-010-06). An Environmental Impact Report was prepared for the project in accordance with the California Environmental Quality Act (CEQA) Guidelines.

Avalon Schultz, Senior Planner, presented the staff report.

Rebecca Auld, Lamphier-Gregory, the City's consultant that prepared the Environmental Impact Report (EIR), presented on the EIR

Commissioner Mann acknowledged the amount of work that had been put into the project and thanked staff and noted that the project appears to comply with the requirements of the code.

Commissioner Mann clarified that the dirt from the six acre site would be hauled to the 47 acre site and asked if staff was aware of any impacts to residents of Sea Breeze, particularly what chemicals would be in the dirt, what testing had been done and how residents would be protected.

Ms. Schultz referred the question to Ms. Auld.

Ms. Auld replied that the emissions analysis for the project included a health risk analysis that looked at the components of the soil, which were tested, and what chemicals could be in the soil and how those might be distributed during construction. Ms. Auld stated it was all factored into a very technical analysis. Ms. Auld stated that as a construction waste site, there would not be chemicals in there that are particularly hazardous, but the consultants looked at what was there and what could be distributed during construction and the consultants analyzed the health risks for the neighbors in the area and found it to be within an acceptable threshold levels according to the Air District and the State.

Commissioner Mann asked if the soil would be moved from a sealed site and moved to the 47 acre site and whether that would then be sealed. Commissioner Mann asked why the soil is not being moved out of the area.

Ms. Auld replied that there are requirements for where certain debris can be depending the characteristics of that debris and if it was determined to be hazardous, it would not be allowed to be in the area and would be moved elsewhere. Ms. Auld added that the main landfill was a municipal waste landfill, made up mostly of food waste and residential garbage, while the six acre landfill contained less odorous construction debris such as concrete, wood, and plastic, which makes sense given it is surrounded by residential uses currently. Ms. Auld stated that there was no proposal to move that 47 acres of landfill anywhere. Ms. Auld stated that the proposal includes moving the construction waste from the six acre site to the capped 47 acre site and recapping. Ms. Auld added that over time, landfills degrade and they subside and off-gas. Ms. Auld added that the height of the landfill had subsided as much as it was going to and that the proposal would bring the lobes back up to that former height. Ms. Auld added that when most of the materials in the landfill have degraded as much as they are going to degrade, and that point it could be considered to be inert and could be used for recreational purposes.

Commissioner Mann asked what mitigation measures are being proposed to make sure that before the landfill is re-capped, the wind will not blow into the residential areas.

Ms. Auld replied that there is long list of measures would need to be put in place to avoid erosion during the debris movement, but to paraphrase, dirt moved to the 47 acre site would need to be tarped or capped with soil and kept moist so it wouldn't blow anywhere. Ms. Auld added that these measures were laid out in detail in the plan.

Commissioner Mann asked if Ms. Auld understood the apprehension of the community and neighbors.

Ms. Auld replied that yes, and that is why there was so much technical documentation for this project.

Commissioner Mann noted that everything seems to check out but acknowledged that there are real fears and there are no guarantees of what would come out of the six-acre site. He stated it

would be preferred if assurances could be provided that there would not be any toxic chemicals coming out of the site. He asked if soil testing had been done on the site.

Ms. Auld replied yes, there were test pits to see what both the capping on top as well as the debris inside contained.

Commissioner Mann asked if given the proximity to the bay, FEMA requirements have been met, and if there were any tsunami risks taken into account.

Ms. Auld replied that they have maps to show the potential for tsunami run up and this would meet those standards and that the tsunami risk is lower on sites near the bay versus the ocean.

Commissioner Mann asked if there are any concerns or medical risks to individuals buying a house in the future due to the methane gas at the 47 acre site.

Ms. Auld replied that gas migration is always a concern near landfills and that when the landfill was capped they created a monitoring system around it and that monitoring of the site has not shown any gas levels or any concerns above background level. Ms. Auld added this indicates there has not been any transmission of gas from the main landfill or transmission of gas from the construction waste on the six acre site.

Commissioner Mann asked about Table 12.3 in the EIR related to vehicle trips and whether 40 vehicle trips for transportation of the soil was a realistic number.

Ms. Auld replied that the vehicle trip numbers were calculated based on the volume of soil and the size of the trucks that would transport it. Ms. Auld added that the number was calculated conservatively based on trucks with smaller capacity.

Commissioner Mann stated he was concerned about traffic on Union City Boulevard, and trucks driving through during peak hours. Commissioner Mann stated he still has concerns about the risks and hazards but would allow for time for his colleagues to ask further questions.

Ms. Auld replied that the consultants took concerns about health and safety seriously and that analysis of these issues were considered in detail to make sure there wouldn't be significant impact on the neighborhood. Ms. Auld added that the appendices to the EIR contain all of the detailed reports that evaluated these concerns.

Commissioner Mojadedi asked if there would be any additional bus routes added near the development.

Joan Malloy, Economic and Community Development Director replied that she would have to check on that.

Commissioner Mojadedi asked if there had been any communication with tech companies about adding a charter bus line. Commissioner Mojadedi asked about a designated bus route that goes to Google or Facebook since he recalled this development was geared towards individuals that work in the peninsula. Commissioner Mojadedi asked if there has been any communication with businesses.

Ms. Malloy replied no, not for this project.

Commissioner Mojadedi asked if staff had received any letters from residents.

Ms. Schultz replied that the letters received on the draft EIR were included in the final EIR. Ms. Schultz added that one email was received from a member of the public and included in the desk item, but she was unsure if that person lived in the neighborhood.

Commissioner Mojadedi asked if the applicant was amenable to building the affordable units instead of paying the in lieu fee.

Ms. Schultz replied no, the conversations focused around the in lieu fee being the most appropriate option, specifically given the type of housing. Ms. Schultz added that staff sees the value in aggregating the in lieu fee payments on projects like this, especially given the large size of the homes, which can be expensive to maintain and pay property taxes on. Ms. Schultz added that the City is working with a nonprofit housing developer on a City-owned block of land that needs funding, and that aggregating in-lieu fees from this project would ultimately allow the City to serve more families.

Commissioner Mojadedi asked if the in-lieu fees would go towards the project on Mission, D, and E.

Ms. Schultz replied yes, but the City Council would make the decision about how in-lieu fees get distributed.

Commissioner Mojadedi asked how long the excavation would process take.

Ms. Schultz referred the question to the applicant because the construction time can vary depending on when permits are pulled.

Commissioner Mojadedi asked if the closest fire station was over by Delaine Eastin Elementary School.

Ms. Malloy replied yes.

Commissioner Mojadedi asked if there was a secondary access route other than Union City Boulevard.

Ms. Malloy replied that the primary access would be Union City Boulevard at Dyer.

Commissioner Lew thanked staff for including her questions as a desk item and noted a correction to the numbering of redlined conditions in the desk item.

Ms. Malloy noted that it was not an oversight, but was a challenge with Microsoft Word, and would be correct when the redlines are accepted.

Commissioner Lew asked if all other issues with the 47 acres would be resolved before the construction on the 6 acre parcel.

Ms. Schultz asked what issues Commissioner Lew was referring to.

Commissioner Lew replied she is referring to the capping and that all the regional agencies have signed off and all the work has been completed.

Ms. Schultz referred the question to the applicant. Ms. Schultz added that the waste discharge requirements would be tied to the certificate of occupancy, and the understanding is that the landfill will be recapped prior to occupancy of the homes, but in terms of construction of the

homes, the construction might begin while the capping is completed on the main landfill. Ms. Schultz referred the detailed construction timing question to the applicant.

Commissioner Lew noted that construction can cause issues such as dust on homes and asked if any relief would be provided to the homeowners such as window washing and cleaning of home exteriors.

Ms. Schultz replied that staff had conversations with the applicant who expressed being amendable towards working with neighbors. Ms. Schultz referred the question to the applicant to what their commitment would be.

Commissioner Lew stated she did not see any additional conditions.

Ms. Schultz replied that they had not been conditioned, and it would be something for the commission to consider and provide direction to staff.

Commissioner Lew asked where the trucks that move the soil to the landfill would park during non-working hours.

Ms. Schultz replied that they would be third party trucks and would not remain on the site. Ms. Schultz added that staff has asked for a staging plan to understand where the construction access will be.

Commissioner Lew asked if they would be required to park on the landfill or the six acre parcel.

Ms. Schultz replied yes, the trucks bring fill off-site and then leave once the truck is empty and clarified that trucks would be required to park on the site.

Commissioner Lew asked when the trucks are there to move the soil from the six acre parcel to the landfill parcel they would not be on the street. Commissioner Lew clarified that the only time City streets would be impacted would be when trucks arrived and left for the day.

Ms. Schultz replied yes, they will remain between the two sites before leaving, and would not be using streets to access the 47 acre parcel. Ms. Schultz added that the fill is anticipated to be a series of trucks that would come drop off their load and then leave with an empty truck. Ms. Schultz added that details of the staging and construction should also be referred to the applicant.

Commissioner Lew asked if the City is prohibiting trucks from parking overnight on Westport.

Farooq Azim, Principal Civil Engineer replied yes, and that there is enough room to park on the six acre site after work hours, there would be no need to park on a public street.

Commissioner Lew noted that residents appear to use Westport and so it would be a good idea to prohibit trucks parking on City streets.

Commissioner Gonzales asked because of the revision to the cubic yards of fill from 70,000 cy to over 200,000 cy, would the estimated time still be six months to do that phase of excavation.

Ms. Schultz replied that the revised cubic yard quantities and the construction duration were provided when the FEIR was prepared so the consultants could be sure to review the newest and most accurate information.

Commissioner Gonzales stated he noticed that the park already have playsets for 2-3 year old toddlers and playsets 4-12 year olds that are going to be refurbished.

Ms. Schultz replied that the existing playsets for young children would be refurbished and then a play structure for older children will be provided. The timing of the off-site improvements and the conditions of approval tie it to the middle point of the residences being permitted. Ms. Schultz added that by the time the second half of the homes are issued building permits, the offsite improvement would be required to be completed.

Commissioner Gonzales stated that a lack of playsets for toddlers is a big complaint among residents and it's good that it's being addressed. Commissioner Gonzales asked when the Commission should discuss adding additional points of access to the proposed trail and asked which agency has oversight of the trail connections.

Ms. Schultz identified a cul-de-sac being the only point of entry that would be on the City of Union City's property. Ms, Schultz noted that there is another access point that was recommended but it would be on private property so it's not practical.

Commissioner Gonzales asked if one of Alameda County Water District's (ACWD) concerns was that they would not have their existing Westport Way access beyond the fencing.

Ms. Schultz replied that they ensured Alameda County Water District would continue to have access to its facilities and easements and asked Commissioner Gonzales which comment he was specifically referring to.

Commissioner Gonzales referred to item B.2 of the ACWD comments.

Ms. Auld replied that this project does not propose to change ACWD's access to any of their monitoring wells or sites and that the map that ACWD has provided shows some locations incorrectly.

Commissioner Gonzales asked if some of their assumptions are incorrect.

Ms. Auld replied that sometimes the mapping programs don't put things exactly where they are and it would just be a matter of coordinating with ACWD on the correct locations.

Commissioner Gonzales recalled memories of residents disposing of regular household debris and even household chemicals, such as oil compounds, in the landfills. Commissioner Gonzales asked if the consultant could confirm that the material on the six acre site was not of those types of waste and were different materials.

Ms. Auld replied that the main Turk Island landfill was for municipal waste. Ms. Auld added that waste on Parcel C (six acre site) contained construction waste materials like soil, plastic, and concrete.

Commissioner Gonzales asked if the studies showed any signs of high levels of any toxic material.

Ms. Auld replied no, there is nothing that would be considered hazardous materials that would require transport to a hazardous materials facility. Ms. Auld added there is not anything particularly hazardous in there and that there is a breakdown of the results of the soil analysis and the health risk analysis in the technical documentation in the appendices.

Commissioner Gonzales asked if anyone from the public could view that analysis.

Ms. Auld replied yes, it is one of the appendices to the draft EIR which is available on the website as well as a CD attached to the back cover of the hard copies of the EIR.

Commissioner Gonzales asked about Impact Geo-3, which discusses soils and geology and how the applicant would mitigate liquefaction since the project entails putting new soil in an area that's already sort of in a marsh area. He continued with a question about how the project would be designed to address the soil conditions.

Ms. Auld replied there is a geotechnical report that was done and looks at conditions of the soil and explained how the clean fill brought to the site would be tailored to the recommendations in the geotechnical report so it would be engineered fill.

Commissioner Gonzales clarified that there was a medium liquefaction risk on the site.

Ms. Auld replied that the geotechnical analysis went into detail in the analysis and made recommendations.

Commissioner Gonzales asked if the methane flare would still be on during construction.

Ms. Auld replied that the intent is to leave the flare on and to phase the disruption of the gas collection system so that the flare can continue. She acknowledged that there could be short disruptions to the flare as they underground the gas collection system, but the intent is not to shut down the whole system during the construction period.

Commissioner Gonzales asked where the imported clean soil would be coming from.

Ms. Auld replied that the question should be referred to the applicant, but clean fill is sourced from various locations, from excavation projects, and is then amended to meet the requirements for the site.

Commissioner Gonzales asked if there is testing performed before the clean fill soil is brought over.

Ms. Auld replied yes.

Commissioner Gonzales stated that he was sure there was criteria for what is considered clean soil.

Ms. Auld replied that the clean fill would need to meet all the residential soil level criteria, which is referred to as an ESL.

Commissioner Gonzalez asked if there are different levels for different types of buildings.

Ms. Auld replied yes, if they were putting soil under an industrial building with pavement on top they wouldn’t be as concerned as a residential project.

Commissioner Gonzales asked staff how the affordable housing in-lieu fees of approximately $1.5 million would be allocated.

Ms. Malloy replied that those funds would go into the City’s affordable housing fund and then be used on projects as the City Council deems appropriate. Ms. Malloy added that a potential

project, as noted, would be the Mission and D site, but that it could be underway before fees for the Turk Island project are collected given the construction timeline for preparing the site.

Chairperson Guio referred to the smaller site nearby that was filled in and then houses were constructed and asked if there were any issues that arose at that site.

Ms. Malloy replied none that she was aware of.

Chairperson Guio stated he was surprised by the big change in the amount of dirt required from 80,000 to 200,000 cubic yard of soil. Chairperson Guio asked the reasoning for the change, and if it could happen again.

Ms. Schultz replied that the applicant hired a civil engineer to do a survey and do a more detailed analysis of the landfill from what was previously completed based on an old report that was more focused on the consolidation activities. Ms. Schultz added that the grading quantities originally provided looked at backfilling Parcel C, but didn't include the quantities to clean cap all the new fill on the 47 acre landfill. Ms. Schultz noted that the additional soil amount was provided and analyzed in terms of additional truck trips and that the applicant is confident with the updated amounts.

Chairperson Guio asked if there were going to be any actions like wetting streets to reduce dust and dirt.

Ms. Schultz replied that the air quality mitigation measure has to do with spraying down and dust control and referred to the updated conditions of approval and Mitigation Measure AIR-1, which includes best management practices for air quality, including sweeping, watering, paving, etc. Ms. Schultz added that perimeter fencing would also be required which would help reduce dust, debris, and odors.

Chairperson Guio asked if there were any additional previous public meetings or meetings planned for the future.

Ms. Schultz replied that there was a Notice of Preparation meeting in the neighborhood to ask what people’s concerns were before any of the analysis was done in the EIR. And added that the scoping meeting was held in 2016. Ms. Schultz also added there was a study session at Planning Commission and there will be a City Council hearing before any action is final on the project. Ms. Schultz also added that the applicant has done door to door outreach and referred the question about neighborhood meetings to the applicant.

Chairperson Guio asked for clarification on where the sound wall would be located.

Ms. Schultz referred to a slide in the presentation, and noted that the sound wall would be between the homes and the Seabreeze Park parking lot and clarified that a wire fence would be located between the new homes and the 47 acre landfill.

Chairperson Guio clarified that the wall would only be on the one side.

Ms. Schultz replied that is correct and the western fence would be more minimal to demarcate the edge but allow views.

Chairperson Guio asked about the walkway to the park and asked how it goes around the sound wall.

Ms. Schultz clarified that the path would go to the west of the sound wall, which would extend along the park parking lot then stop at the last home.

Chairperson Guio asked who owns the 47 acre landfill.

Ms. Schultz replied Joseph Smith LLC.

Chairperson Guio asked if the City would have to buy the land if they decided to develop it.

Ms. Schultz clarified that is correct and that the applicant is a developer working with the landowner.

Chairperson Guio asked Ms. Schultz for further details regarding restrictions about build out for individual homes.

Ms. Schultz replied that one issue is that planned unit developments allow for averaging setbacks as part of the use permit. Ms. Schultz stated that some lots would provide larger than required yards, while others would have a smaller than required and the average meets the requirements. Staff is concerned that over time, future homeowners with larger than average yards may want to expand their houses. Ms. Schultz added that staff would require that the plot plans illustrate the building envelope that would be allowed under the use permit. Ms. Schultz stated that the other issue is that project is required to treat all the storm water runoff, so when it rains, runoff needs to go to landscaped areas that filter any contaminants before the water goes into the storm drain. Ms. Schultz added that front yards are going to be sized with treatment that is tied to a certain amount of impervious surfaces on the lot, and if over time landscaping is removed and concrete is put in, the rain gardens that filter the water won't work the way it was intended. The plot plans and CC&Rs would very clearly show these items and would assist future homeowners and planners in understanding the restrictions.

Chairperson Guio asked if a homeowner would be restricted from constructing a concrete patio in their rear yard.

Ms. Schultz replied potentially, and that staff is refining their understanding of how much treatment areas are being provided and how much impervious surfaces could be added. Ms. Schultz added that it is one of the conditions that needs to be looked at and that if the front yard treatment areas are sized appropriated perhaps it could be acceptable, but the calculations would need to support that.

Chairperson Guio asked if this would be a condition or a restriction put in place by the homeowners association.

Ms. Schultz replied there would be a plot plan for the whole development and then also individual plot plans. Ms. Schultz added that when building permits are issued for new homes, each address gets a building file that tracks all permits. Ms. Schultz stated that all plot plans would contain lot dimensions, the building area, landscape area, etc. And that the plot plans and CC&Rs would have what the restrictions would be.

Chairperson Guio asked if accessory dwelling units (ADUs) would not be allowed.

Ms. Schultz replied that the code would allow for some conversion of interior space for an ADU, and acknowledged that there are state laws that tie the City's hands in terms of what the City could do regarding ADUs. Ms. Schultz added that there would not be any potential for adding on, or having detached structures as ADUs.

Chairperson Guio asked because the developers will pay the park in lieu fee, would the improvements to the park be deducted from the park in lieu fee.

Ms. Schultz replied that the developer will pay the in lieu fee and build the park amenities. Since it is not possible to provide recreation on the primary landfill the developer was amenable towards providing some additional recreation amenities in addition to the park in-lieu fee.

Chairperson Guio asked if there was a map to better see the access points to the trail under discussion.

Ms. Schultz referred to the PowerPoint presentation and showed the location that the City owns that could be converted to a public pedestrian access. Ms. Schultz also pointed out the location where a sound wall is located and access would cross private properties. Ms. Schultz noted that staff would not suggest the Commission consider opening the sound wall on the privately owned property, but that Del Monte Court would be a possibility.

Chairperson Guio referred to a mitigation measure regarding odor issues and asked if waiting 90 days to address odor complaints would be too long.

Ms. Schultz referred the question to the consultants.

Ted Bowie, Ramboll replied that the typical criteria used for evaluating odor complaints under CEQA is looking at an average of five odor complaints per year, over a three year period. Mr. Bowie added that as part of the odor analysis there was only one was confirmed complaint, out of a total of eight, at an industrial site 3 miles northeast of the proposed area, determining no real linkage to the landfill.

Ms. Schultz asked Ms. Auld to respond to the question about triggers or complaints about odors.

Ms. Auld replied that there are a number of mitigation measures that would occur before there is a trigger for the Air District to step in. Ms. Auld added that 10 or more complaints would hit the trigger whether they were made to the Air District or the hotline and that it wouldn't require waiting for 90 days necessarily.

Commissioner Mann asked what kind of odors are expected from the excavation.

Mr. Bowie replied that results from test pits done in the 1990's and 2000's from 10 different test pits in the six acre parcel described odors being slight to mild, with a diesel or chemical type odor. Mr. Bowie added that when looking at landfills they are typically looking at hydrogen sulfide, which would be expected from the 47 acre parcel, but that for the six acre parcel the odors have been described as slight to moderate with a slight chemical smell.

Commissioner Mann asked how hydrogen sulfide would end up from the construction material debris.

Mr. Bowie responded that he did not expect there to be a substantial amount of hydrogen sulfide just given the nature of the debris deposited in the six acre parcel. Mr. Bowie added that part of the odor mitigation there was a monitoring component that doesn't just focus on hydrogen sulfide, but looks at odor as a whole.

Commissioner Mann asked if there were any tests done lately not just in the eighties and nineties.

Mr. Bowie replied that the most recent test was done in 2000.

Commissioner Mann asked if anything had been done in the last five years.

Mr. Bowie replied not that he was aware of.

Commissioner Mann asked if the reason for excavating 10 feet was over concerns of seepage.

Ms. Auld replied that there is always a question of how deep the landfill debris goes, and that the requirement is to get rid of all the landfill debris and a tiny bit of the soil underneath the landfill, and then it will be tested to make sure it meets residential standards for development. Ms. Auld added that they are required to check samples to make sure they've gotten down to clean soil.

Commissioner Mann asked if there is a chance they would have to dig deeper if sample tests return positive and whether a soils engineer or agency would be onsite.

Ms. Auld replied there is a geotechnical consultant that would be on site throughout the project. Commissioner Mann asked if soil placed in trucks will be covered with tarp, so there is minimal risk of any soil debris ending up at the residences during the transport to the 47 acre site.

Ms. Auld replied yes, and it is included in the mitigation requirements for when it is transported. Ms. Auld added there is a certain amount of free board and then it is either tarped are covered with clean soil, wetted clean soil before it's transported.

Commissioner Mann asked Ms. Auld what other typical issues have come up on other landfill projects and are not addressed in this report.

Ms. Auld replied that all topic areas under CEQA have been addressed.

Chairperson Guio opened public comment.

Wilson Hu, Westgate Ventures introduced himself, James Wang and Jeff Lawrence from Nuvera Homes. Mr. Hu thanked staff for their efforts during the last three years on this project and noted that the team was available to answer questions on the project.

Commissioner Mann stated that the project was a fantastic project but stressed that the commission's role is to act as that layer to ensure the community's concerns are addressed and mitigations met. Commissioner Mann asked if there was an analysis done on moving the soil out of the area instead of transporting and capping it to the 47 acre site, and if it would've been more expensive and how the decision was made.

Mr. Hu replied yes, it would be much more expensive to move the soil off site than to move it a couple of hundred yards to the 47 acre landfill.

Commissioner Mann asked how long it is estimated that the excavation of the six acre site and recapping it at the 47 acre site would take.

Mr. Hu replied that they anticipate six months, but it could be faster or slower. Mr. Hu added that project plans have been designed completely around minimizing the amount of odors that are going to be disseminated throughout the neighborhood and that one could move very quickly by bulldozing everything at once, which could potentially cause odors in the neighborhood. By moving slowly, they ensure fewer odor impacts. If during construction there aren't odors, then they may be able to increase speeds.

Commissioner Mann asked if Mr. Hu believed concern of odors was a real issue.

Mr. Hu replied that it is a landfill, and it is a large dirt moving operation in a residential neighborhood, with nuisance factors associated with it. Mr. Hu added that based on the environmental and odor consultants findings it should be relatively inert. Mr. Hu stated the historical use for the landfill was meant for construction materials and it was a staging area for the larger landfill and it was not accepting municipal trash made up of food waste like the larger landfill did. Mr. Hu noted that the pay-as-you-go nature of the six acre site meant that the loads were checked and that when the larger landfill was closed, the smaller staging area site contained a large amount of soil. Mr. Hu also stated that the gas extraction system that exists onsite that is meant to capture any methane that is being produced by the refuse has never been turned on, because there is not enough gas being produced. Mr. Hu also stated that during the construction of the Bay Colony subdivision that was developed in 2000, of the southern face of the landfill was exposed and there was no odor detected.

Commissioner Mann stated that he appreciates the applicant being up front with the risk of odors and asked if odor was detected, then would the developer consider pulling out of the project or what mitigation measures would be taken.

Mr. Hu replied that in the unlikely situation where the excavation was so odoriferous it would be slowed down to reduce the open face of the working area so that minimal odors were released in the air.

Commissioner Mann requested that if a problem arises to make sure issues are mitigated.

Commissioner Mojadedi asked if the developer would be amenable to providing affordable units instead of paying the in lieu fee.

Mr. Hu replied that this question often comes up and it's an issue where you can plan for providing units up front if the requirement is clear, but that if there is an option it becomes a math exercise up front to determine the best approach for the project. Mr. Hu added that it's very important to know what the program is up front and not to have surprises financially, especially on a project as financially sensitive as this one where they have to remediate the site.

Commissioner Mojadedi asked what the process would look like if odor was detected and whether a tent would be put up.

Mr. Hu replied there is a series of mitigation measures that are listed in both the conditions of approval and in the EIR. Mr. Hu added that there are requirements for electronic monitoring and that the people working on site would be able to detect odors immediately. Mr. Hu clarified that

the first course of action would be to move it away from the residences as quickly as possible and secondly cover the trucks and move it out quickly.

Commissioner Mojadedi asked if the process of covering odorous areas to contain odors would be a noisy process.

Mr. Hu replied that the excavation in general would not be any different than a standard construction site in terms of noise.

Commissioner Lew asked if the capping of the 47 acres would be completed before starting the construction of the homes.

Mr. Hu replied that the excavation and filling of Parcel C and the capping of the 47 acre parcel would occur at the same time. He clarified they would be move dirt from the six acre site to the 47 acre site then cap it immediately and fill in Parcel C.

Commissioner Lew asked if the work would be continuous.

Mr. Hu clarified that it is an ongoing process to move the material and cap it and back fill.

Commissioner Lew asked whether the 47 acre site would be capped before home construction begins.

Mr. Hu said it would be around the same time.

Commissioner Lew asked whether the phasing would be continuous while the six-acre parcel would be cleared and while the 47 acre site is capped and noted that residents would not have any break from construction noise.

Mr. Hu stated that when the remediation is done, it will become like a regular construction site. Mr. Hu added that when fill is brought in the area may experience some construction traffic.

Commissioner Lew asked if the regular construction was less noisy that the earth moving.

Mr. Hu replied yes, it will be less construction activity and less noisy.

Commissioner Lew asked what the truck route would be between the two parcels.

Mr. Hu replied it will be a matter of finding the most efficient route.

Commissioner Lew ask if they would use the gate at the end of Westport Way.

Mr. Hu replied no, their intent will be to have as little construction traffic going through facilities used by the public. Mr. Hu added that they intend to keep as much construction traffic, including parking, contained to the construction site.

Commissioner Lew asked where the trucks would be parked during non-construction hours.

Mr. Hu replied there would be two teams of trucks, the first would be trucks bringing in the fill from the outside that would not be parked in the neighborhood at all and the second would be those that would move the fill back and forth between Parcel C and the larger 47 acre landfill.

Commissioner Lew asked what was discussed with regarding relief for nearby homeowners in terms of dust and soil accumulated during construction.

Mr. Hu replied that it was something that came up at the neighborhood meetings. Mr. Hu added that there are best practices like watering the site, and putting up fences, but Nuvera Homes would be open to power washing houses or washing cars throughout the process.

Commissioner Gonzales asked if there was a plan in place for protecting construction workers from potential migration of gas underground, and if any potential flammable gases could be detected.

Mr. Hu referred the question to Mr. Chris Jennings from the Remediation Group.

Commissioner Gonzales asked if there would be disclosures to future homeowners regarding the past use of the site in terms of mitigation. Commissioner Gonzales gave the example of homeowners wanting to install a pool and what that would mean if they started digging 9 feet in the ground.

Mr. Hu replied that the past use of the site would be disclosed to homeowners, as required. Mr. Hu added that at that depth owners may run into groundwater issues but it would be disclosed in sales packages.

Chris Jennings, Remediation Group, introduced himself to the members of the Planning Commission. Mr. Jennings stated that he had managed the property for the past 20 years. He noted that during excavation they would be onsite with combustible gas meters for the duration of the project.

Commissioner Gonzales asked if the gas could be detected by smell.

Mr. Jennings indicated that the best indicator of gases would be an individual's nose, which has a low odor threshold. Mr. Jennings stated that the person monitoring is a certified engineering geologist, registered geologist, and a certified hydro-geologist with about 25 years of experience. Mr. Jennings discussed how their team would work collectively with the contractor selected to streamline the process and avoid complaints, or any health and safety issues.

Commissioner Gonzales addressed concerns over gas pipes and the possibility of an issue occurring like in San Bruno, but noted in that situation it was a PG&E pipe. Commissioner Gonzales asked if it contained the same type of gas pressures.

Mr. Jennings replied that it was not the same pressure because landfill gas is heavier than atmospheric gas and requires a driving mechanism. Mr. Jennings added that the six acre landfill has been monitored monthly for the last 12 years and have not resulted in detecting anything with the exception of one gas probe in the middle of the landfill area. Mr. Jennings noted that when the landfill was in operation, the six acre site was used as a staging area and had a large amount of soil. Mr. Jennings stated that previously when test pits were opened some odors could be detected but quickly dissipated. Mr. Jennings stated that the most recent tests were conducted in August. Mr. Jennings explained the history of the Turk Island Landfill, its franchise agreement with the Oakland Scavenger Company and Alameda County and its use as a local landfill for construction debris. Mr. Jennings explained the procedure of how local waste was evaluated and charged before dumping. Mr. Jennings stated the Turk Island landfill site received formal closure from the San Francisco Regional Water Board in 1988. Mr. Jennings stated that the post close monitoring period was defined at the time as a 30 year period. Mr. Jennings indicated that other impacts such as ground water quality impacts and air quality impacts have been closely monitored and have not found anything. Mr. Jennings stated that

there is a landfill gas extraction system consequently making the landfill cleaner than when it first closed.

Commissioner Gonzales asked if there was any talk about removing the capped soil in the primary landfill.

Mr. Jennings stated that the cap will not be moved. Mr. Jennings explained that refuse is kept as dry as possible in what is called a “dry tomb” to create a situation where outside elements cannot intrude into the refuse causing leachate.

Chairperson Guio confirmed if the refuse from the six acre site would be transported to the 47 acre site and capped before any housing would be completed on the six acre site.

Mr. Hu replied yes, the excavation of the refuse of Parcel C and movement to the 47 acre site, fill of Parcel C and capping of the 47 acre site would happen simultaneously within six months then subdivision activity would begin.

Chairperson Guio asked how long the subdivision activity would take.

Mr. Hu replied that is would probably take a year and a half depending on how quickly construction crews moved and how quickly utilities are put in. The first houses could be occupied approximately 9-10 months after the landfill is capped.

Chairperson Guio thanked Mr. Hu for the park improvements mentioned earlier and expressed what a nice addition to the neighborhood it would be.

Mr. Hu said they were happy to build in the improvements.

Commissioner Lew noted the age of the landfill and the fact that it accepted construction waste and asked if there was a possibility of asbestos and lead paint found in the landfill.

Mr. Jennings stated that those materials could be found in any landfill, but if it was to be found it would be acted upon appropriately. Mr. Jennings stated that there would not be large pockets. He described the process of test pits and noted that those materials had not been noted.

Commissioner Lew asked if asbestos and lead paint ever breakdown to no longer be considered hazardous.

Mr. Jennings explained his experience in working in San Francisco and asbestos remediation and detailed concerns with air quality after asbestos remediation and noted that workers would be the first to potentially be exposed but that ample monitoring would be done.

Chairperson Guio opened public comment.

Bridget Russell, 5193 Westport Way, Union City, explained her concerns over the construction dust and noise, as someone with a home office. Ms. Russell stated that her concerns have nothing to do with the company and that the houses are beautiful, but her concerns are with the landfill. Ms. Russell stated that her concerns are primarily related to the odors, but rather the dust and noise. Ms. Russell also addressed concerns over construction hours occurring from 8 a.m. to 8 p.m. especially given she works from home and the construction would make it difficult to concentrate. Ms. Russell stated that when she moved to Bay Colony there were snakes everywhere because their habitat was disturbed. Ms. Russell noted that there were burrowing owls, foxes, and all sorts of wildlife she enjoys seeing. Ms. Russell stated that it is windy in the

area, which is why they call it Seabreeze, and she does not see how this project will take two years and not significantly impact the neighbors' quality of life on Westport Way and Carmel Way. Ms. Russell asked where the trucks would park and where the portable restrooms would be located. She explained that she purchased a home on a dead-end street because she did not want traffic and now the project is proposing to tie in to Westport Way directly across from her house. She is ultimately concerned about the impacts to her and her neighbor's quality of life during the next two years.

Michelle Rogers, 32563 Carmel Way, Union City, noted she is concerned about opening the landfill given her home is within a breeze of the landfill. Ms. Rogers also stated that a concern was the possibility of toxic dust from the refuse ending up in her home. Ms. Rogers stated that Commissioners spoke about concerns over wildlife including geese and access to the trails but the real concern is that of the safety of friends and neighbors. Ms. Rogers noted she is not concerned about the proposed trail, but is concerned about the safety of her neighbors and friends by displacing chemicals that are currently in a sealed landfill and risks to her home. Ms. Rogers demanded the monitoring of the landfills done routinely and not periodically and by somebody without a stake in the game to make sure they remain safe and can continue to live in their home of many years. Ms. Rogers emphasized that the wind is strong in the area and should be considered. She requested that the Commission think about the neighbors and not just the revenue the project could generate.

Chairperson Guio thanked the speakers for their comments and asked staff if there were any responses or follow-up comments.

Ms. Malloy pointed out that as part of the EIR the mitigation measures include environmental training and monitoring programs. Ms. Malloy added that before they begin any work, they will need to have several plans in place including spill prevention, control countermeasures, storm water prevention plans, a dust and odor control plan, very specifically about what they'll be doing, and a soil sampling and an analysis plan, which would all be part of that next step of the project mitigation.

Ms. Rogers stated she understood sampling of soil would be done, but asked if there was going to be additional sampling of dust on surfaces to get a sense of the exposure that residents were experiencing.

Ms. Auld stated that the sampling of the soil on the site could indicate what potentially is leaving the site, not looking at what might be sources from other locations. Ms. Auld stated that potentials for contaminants leaving the site have been reviewed and that there are not substantial contaminants at the site.

Chairperson Guio closed public comment.

Chairperson Guio re-opened the public hearing.

Mr. Hu responded to several of the items raised my Ms. Russell and noted that there were other neighbors with similar concerns. He acknowledged that the developer shares the neighbors' concerns and wants to limit complaints and be a good neighbor. He noted that the neighbors had also expressed concerns about rats and other vectors leaving the site and that they would be abating and trapping rodents before they disturb the site and would be open to rat-proofing neighboring homes should homeowners be interested.

Commissioner Lew asked about liquefaction and inquired whether the science of building on landfills was old by now given it began locally in the 1970s.

Mr. Hu noted that liquefaction would be addressed through the fill and/or the home designs.

Commissioner Lew asked about the restrictiveness of California's environmental regulations and suggested that neighbors would have more measures in place now than they would have in decades past with the landfill remediation part of the project. Commissioner Lew noted there are extensive requirements for the construction and avenues will be created for neighbors to complain and that while she understands the neighbors' concerns, they are much better off than they would have been 10-15 years ago.

Mr. Hu noted that the team is skilled and knows the site well and have already accomplished a similar project with the adjacent 3.2 acre site. He noted that the process outlined for this project derived from what was done previously.

Chairperson Guio closed the public hearing.

Commissioner Mann noted that monitoring is a requirement of the report and raised the comment from Ms. Rogers about monitoring routinely.

Chairperson Guio reopened the public hearing.

Ms. Auld addressed the question about monitoring and explained that regular odor monitoring would be required but that there would not be monitoring of dust on homes but that something like that could be considered as a condition of approval given it is tied to quality of life and nuisance more than environmental.

Chairperson Guio closed the public hearing.

Commissioner Mojadedi expressed he has concerns with the project mainly due to the lack of affordable housing units in a time when so many residents are being priced out of their homes. He acknowledged staff's work on the project and detailed report but the affordable units and environmental impacts made him uncomfortable voting in favor of the project.

Commissioner Lew requested a condition addressing the applicant voluntarily power washing homes and cars and providing pest remediation/pest control and rodent proofing of homes.

Ms. Malloy requested clarification on whether this would be in response to requests by neighbors.

Commissioner Lew replied yes, that it would be in response to residents' requests.

Commissioner Gonzales concurred with Commissioner Lew especially given the applicant coming forward and volunteering to be a good neighbor. He stated that when a developer comes to our city and says they want to clean up a landfill, remove garbage, and put some very beautiful homes so that there are more homes available for people in this housing crisis, the answer is not to say no. The EIR includes many mitigation measures so if something arises, the applicant is mandated to take care of it. Commissioner Gonzales expressed his support for the project.

Commissioner Guio agreed with Commissioner Gonzales and stated he is impressed with the analysis and work that went into the project.

Commissioner Gonzales requested clarification from the other Commissioners about the additional trail entrances that had been suggested.

Commissioner Lew inquired as to whether it would be on the project site.

Ms. Malloy noted that it is on City property and would potentially open up public access, which has not been discussed yet, but staff can forward the Commission's recommendation to the City Council.

Commissioner Gonzales expressed an interest in making that recommendation to the Council.

Chairperson Guio requested a motion

Commissioner Lew made a motion to recommend that the City Council certify the Environmental Impact Report as complete, adequate, and in compliance with CEQA, and further recommend that the City Council make all required mitigation and alternatives findings, adopt a Statement of Overriding Considerations, and adopt a Mitigation Monitoring and Reporting Program, all in compliance with the requirements of CEQA, and recommended approval of Site Development Review (SD-16-006), Use Permit (UP-16-009), and Tentative Tract Map (TTM 7728) subject to the modified conditions that includes the desk items, making the specific findings of approval and adopt a resolution confirming this action.

Commissioner Gonzales seconded.

AYES	4 (Gonzales, Guio, Lew, Mann)
NOES	1 (Mojadedi)
ABSTAIN	0
ABSENT	0

6. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS: None.

7. ECONOMIC DEVELOPMENT REPORTS: None.

8. COMMISSION MATTERS:

A. Follow-up on Planning Commission referrals to the City Council.

B. Upcoming applications for the Regular Planning Commission meeting for November 1, 2018.

9. GOOD OF THE ORDER:

Commissioner Gonzales stated that he noticed the Monarch construction site moving along very quickly. Commissioner Gonzales stated he noticed more dust than usual.

Commissioner Lew stated the driveway on Courthouse Drive near the Sprint Store is badly damaged and in need of repair. Commissioner Lew stated that Mattress Firm, one of the businesses at Union Landing has filed for bankruptcy, and noticed that Office Depot is announcing a moving sale. Commissioner Lew stated that she is concerned about the vacancies in the shopping center.

Ms. Malloy stated that Ross Store has signed a lease to occupy the former Sports Authority store and is projected to open their doors early in the new year.

Commissioner Lew stated that the parking lot between Starbucks and the hotel and Fuddruckers is in need of restriping. Commissioner Lew stated that the geese at Contempo Park were soiling the walkways and concerned for the children at the park.

Commissioner Mann stated that there is a street light out at 34248 Pinnacles Drive, the number on the pole is 6775. Commissioner Mann stated that as you are driving on 7th Street toward Decoto Road there is a long line to turn left but there is concern over two cars wanting to turn right.

Mr. Azim replied that the resident concern has been evaluated but the issue is the parking alongside the park, and adding striping would eliminate the much needed parking.

Chairperson Guio stated that he was approached by a Union City resident that was concerned over residents from other cities coming to the BART Station and using the parking facilities. Chairperson Guio stated the resident was hoping there could be some way Union City residents could be given priority over the limited parking. Chairperson Guio stated he attended Manufacturing Day, the Mutt Strutt event, and Science in the Park. Chairperson Guio stated he attended State of the City a week before and thought the event was a success.

10. <u>ADJOURNMENT</u>: 10:32 PM

APPROVED:

LEE GUIO, CHAIRPERSON

ATTEST:

JOAN MALLOY, SECRETARY