



STAFF REPORT

Date: September 5, 2017

To: Mayor and City Council Members

From: Derek P. Cole, City Attorney

Cc: Bryan H. Montgomery, City Manager; Elizabeth M. Perez, Assistant City Attorney; William R. Galstan, Special Counsel; Joshua McMurray, Planning Manager

Subject: Adopt a Resolution Approving an Amendment to the Gilbert Property Subdivision Tract Map (Subdivision 9033), Final Development Plan and Final Phasing Plan and Adopt an Addendum to the Gilbert Property Environmental Impact Report. The Gilbert property is regarding 120-acres, located at the northeast corner of the Sellers Avenue and East Cypress Road intersection.

FOR CONSIDERATION AT THE CITY COUNCIL MEETING ON SEPTEMBER 12, 2017

Summary and Recommendation

DeNova Homes is requesting minor amendments to its previously approved entitlements. The amendments would result in the addition of 75 lots to an approved development of 506 lots (for a total of 581 lots) on what is known as the "Gilbert Property." This amendment would not affect any other aspect of the approved development, including in particular its street layout.

DeNova has previously filed a government claim against the City regarding the City's interpretation of a fee-credit resolution in effect at the time of the latest amendment to the development agreement for the Gilbert Property. Approval of the amendments requested within would effectively result in a resolution of DeNova's and the City's legal disputes encompassed in DeNova's claim.

The City Attorney recommends the City Council approve the actions as stated within.

Project Description and Analysis

Location and Surrounding Uses – The 120-acre Gilbert Property is located in the northeast corner of the Sellers Avenue and East Cypress Road intersection. It is surrounded by the existing Emerson Ranch subdivision to the west, East Cypress Road to the south, Contra Costa Water District canal to the north, and Dutch Slough to the east. A portion of the future 55-acre Oakley Regional Community Park sits north of the canal.

Existing Approvals – The Gilbert Property was the subject of a development agreement approved on July 14, 2003 (City Council Ordinance No. 06-03) and entered into on August 14, 2003 by and between the City of Oakley and the Mark E. Gilbert Administrative Trust. The P-1 District with Final Development Plan, Vesting Tentative Map, Design Review and Tree Removal Permit were approved in November of 2007. The Gilbert Property Subdivision 9033

Environmental Impact Report (SCH# 2007012075) was also certified at that time. Minor amendments were made to the Final Development Plan in 2013. The Development Agreement was also amended to extend its lifetime until 2025.

The present developer of the Gilbert Property is DeNova Homes.

Denova's Government Claim

Between June 2011 and September 2015, the City had in effect a temporary fee-reduction program for certain residential impact fees, the intent of which was to incentivize residential development during a depressed housing market. In its government claim, DeNova argues that because its Development Agreement was extended when this program was in place, the reduced fee amounts under that program essentially vested, along with the other entitlements the Development Agreement conferred. The City disputes this interpretation, which turns on the reading of certain defined terms within the Development Agreement.

The proposed actions described within would eliminate the need for DeNova and the City to submit their competing positions for resolution by the courts. Effectively, DeNova will agree to pay the full amount of the impact fees applicable at this time if it can increase the number of developable units within the Gilbert Property to 581 from 506. The street layout would not change as a result of such increase. About 300 of the lots would be reduced in size to make room for the increased number of units.

As part of this minor project alteration, DeNova Homes has agreed to implement additional measures, which are included as project conditions of approval. These are:

- Annexation of the Gilbert Development into the City's Community Facilities District for fire-protection services; and
- Gilbert will agree to complete an extension of East Cypress Road beyond its project boundary (in addition to the road widening it is already obligated to complete as part of the project approvals).

Proposed Actions

To accomplish the above, DeNova has presented an amendment to the Gilbert Subdivision Tract Map (Subdivision 9033), Final Development Plan and Final Phasing Plan, which are attached as exhibits to the proposed Resolution. An addendum to the Gilbert Property Environmental Impact report has also been prepared to document that none of the conditions for reopening environmental review under CEQA (through a subsequent or supplemental environmental impact report) are necessary.

Recommendation

The City Attorney recommends that the City Council adopt the proposed resolution approving an amendment to the Gilbert Property Development Agreement and adopt an amendment to the Gilbert Property Environmental Impact Report.

Attachments

1. Proposed Resolution with Exhibits A - D

RESOLUTION NO. XX-17

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
CONFIRMING THE APPLICATION OF CURRENT DEVELOPMENT FEES FOR
THE COMPLETION OF DEVELOPMENT OF THE GILBERT PROPERTY
SUBDIVISION 9033**

WHEREAS, to fully and finally resolve the issues raised in correspondence filed on behalf of DeNova Homes, Inc., East County Communities, LLC, Contra Costa County Communities, LLC, and Civic Property Group, Inc. (collectively, "Developer") dated March 28, 2016 regarding applicable development fees for the approved residential development of the Gilbert Property, Developer has agreed that the currently applicable fees will be charged for all units included in the amended Final Development Plan for the Gilbert Property, and the City has agreed to approve the amended Final Development Plan.

FINDINGS

WHEREAS, the City Council of the City of Oakley finds as follows:

- A. Developer has agreed to pay currently applicable fees for all units included in the amended Final Development Plan for the Gilbert Property (attached hereto as Exhibit A); and
- B. Developer has submitted an amended Tentative Tract Map (Subdivision Map 9033) (attached hereto as Exhibit B) to conform to the amended Final Development Plan; and
- C. Developer has submitted a Final Phasing Plan (attached hereto as Exhibit C) to likewise conform to the amended Final Development Plan; and
- D. An Addendum prepared pursuant to the California Environmental Quality Act (attached hereto as Exhibit D) to evaluate the potential environmental impacts of completing the amended Final Development Plan in relation to the previously-approved project, confirms that there are no new or worse significant adverse impacts associated with development of the project as set forth in the amended Final Development Plan, with conforming amendments to the Tentative Tract Map and Final Phasing Plan, and accordingly that no further CEQA review is required pursuant to Section 21166 of the California Public Resources Code; and

NOW, THEREFORE, the City Council of the City of Oakley does resolve as follows:

1. The City hereby approves the Addendum in compliance with the California Environmental Quality Act; and

2. To fully and finally resolve the issues raised by Developer in correspondence dated March 28, 2016 regarding applicable development fees for the approved residential development of the Gilbert Property, DeNova has agreed that the currently applicable fees will be charged for all units included in the amended Final Development Plan for the Gilbert Property, and the City has agreed to approve the amended Final Development Plan; and

3. All facilities constructed by Applicant that are eligible for reimbursement under the City's Traffic Impact Fee program shall be reimbursed by City at the costs identified in the current fee update adopted by the City.

4. Prior to filing a final map, Applicant shall form and annex into a City-wide Community Facilities District to be established for providing funding to support the East Contra Costa Fire Protection District.

5. The City hereby approves the amended Final Development Plan (Exhibit A), amended Tentative Tract Map (Subdivision Map 9033) (Exhibit B), and Final Phasing Plan (Exhibit C); provided, however, that Developer shall pay currently applicable development fees for each such residential unit built on the Gilbert Property.

PASSED AND ADOPTED by the City Council of the City of Oakley at a meeting held on the 12th of September, 2017 by the following vote:

AYES:

NOES:

ABSENT:

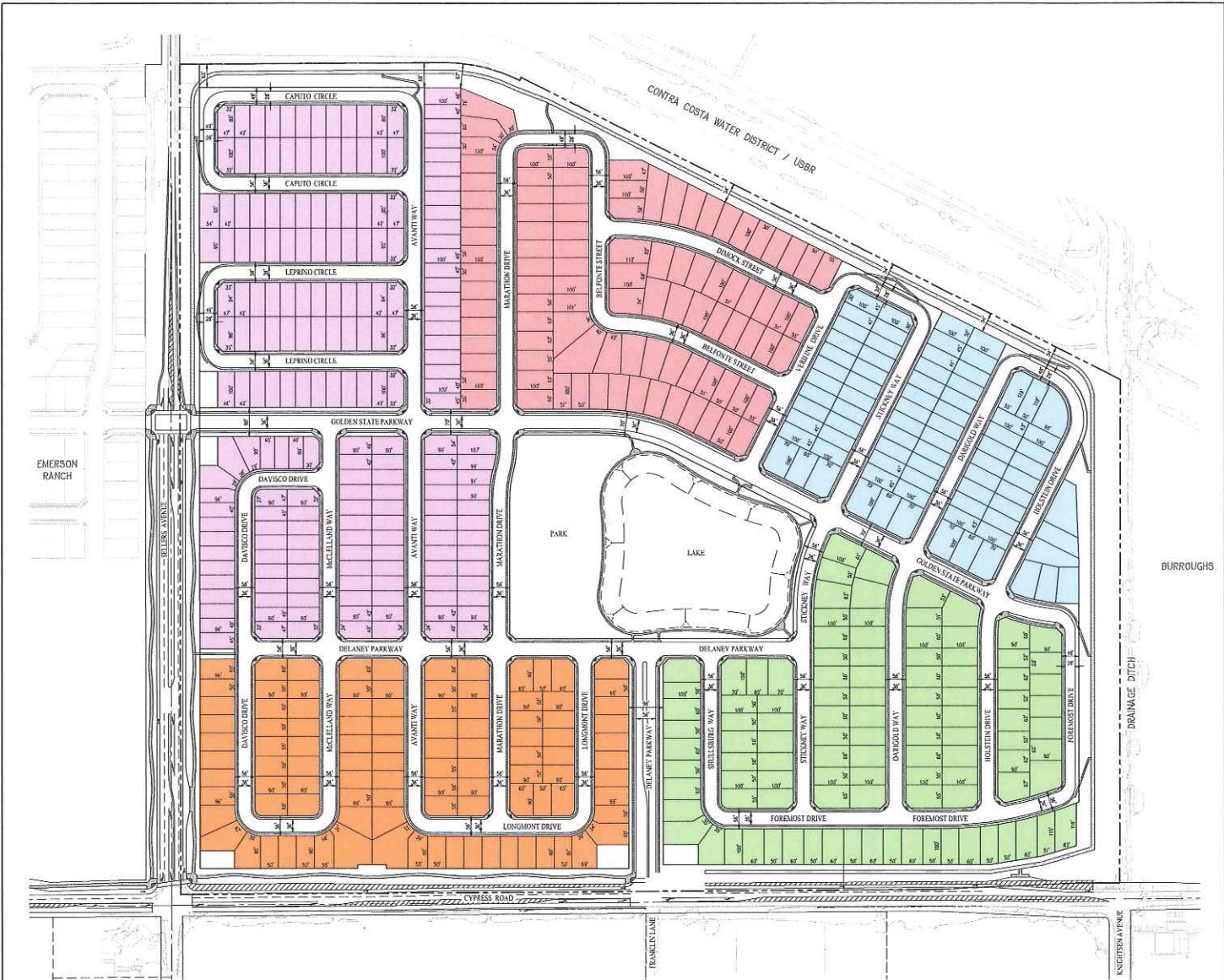
ABSTENTIONS:

APPROVED:

Sue Higgins, Mayor Date

ATTEST:

Libby Vreonis, City Clerk Date



The Planned Development (P-1) zone district shall have the following standards:

- Neighborhood 1 (50' x 100' Typical)**
- Minimum lot area: 5,000 square feet
 - Minimum lot coverage: 30% of the lot property line
 - Minimum front yard setback: 20' to garage, 15' to any living space, 15' to any porch, and 15' to any deck
 - Minimum side yard setback: 5' minimum, rear of both sides 10', corner lots shall maintain a street side yard setback of 10'. Impervious may project into the required side yard setback a maximum of 6" over 10'
 - Minimum rear yard: 15'
 - Maximum wall/ceiling height: 8'
- Neighborhood 2 (40' x 100' Typical)**
- Minimum lot area: 4,000 square feet
 - Minimum lot coverage: 30% of the lot property line
 - Minimum front yard setback: 20' to garage, 15' to any living space or side loaded garage, and 15' to any porch, all measured perpendicular to the structure
 - Minimum side yard setback: 5' minimum, rear of both sides 10', corner lots shall maintain a street side yard setback of 10'. Impervious may project into the required side yard setback a maximum of 6" over 10'
 - Minimum rear yard: 15'
 - Maximum wall/ceiling height: 8'

- Neighborhood 3 (50' x 90' Typical)**
- Minimum lot area: 3,000 square feet
 - Minimum lot coverage: 30% of the lot property line
 - Minimum front yard setback: 20' to garage, 15' to any living space, 15' to any porch, and 15' to any deck
 - Minimum side yard setback: 5' minimum, rear of both sides 10', corner lots shall maintain a street side yard setback of 10'. Impervious may project into the required side yard setback a maximum of 6" over 10'
 - Minimum rear yard: 15'
 - Maximum wall/ceiling height: 8'
- Neighborhood 4 (50' x 90' Typical)**
- Minimum lot area: 3,000 square feet
 - Minimum lot coverage: 30% of the lot property line
 - Minimum front yard setback: 20' to garage, 15' to any living space or side loaded garage, and 15' to any porch, all measured perpendicular to the structure
 - Minimum side yard setback: 5' minimum, rear of both sides 10', corner lots shall maintain a street side yard setback of 10'. Impervious may project into the required side yard setback a maximum of 6" over 10'
 - Minimum rear yard: 15'
 - Maximum wall/ceiling height: 8'

- Neighborhood 5 (100' x 90' Typical)**
- Minimum lot area: 3,000 square feet
 - Minimum lot coverage: 30% of the lot property line
 - Minimum front yard setback: 20' to garage, 10' to any living space, side loaded garage or porch, all measured perpendicular to the structure
 - Minimum side yard setback: 5' minimum, rear of both sides 10', corner lots shall maintain a street side yard setback of 10'. Impervious may project into the required side yard setback a maximum of 6" over 10'
 - Minimum rear yard: 15'
 - Maximum wall/ceiling height: 8'
- All Neighborhoods**
- The lot coverage for any corner lot, when the front and/or side yard lot lines are angled back from the street, will be measured from the lot line and back lot line projection to a point when the front and/or side yard setback is measured from the corner lot.

LEGEND

- PROJECT BOUNDARY
- PROPOSED LOT LINES
- PROPOSED RIGHT OF WAY

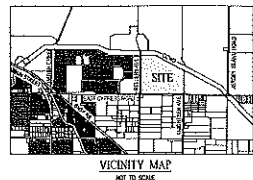
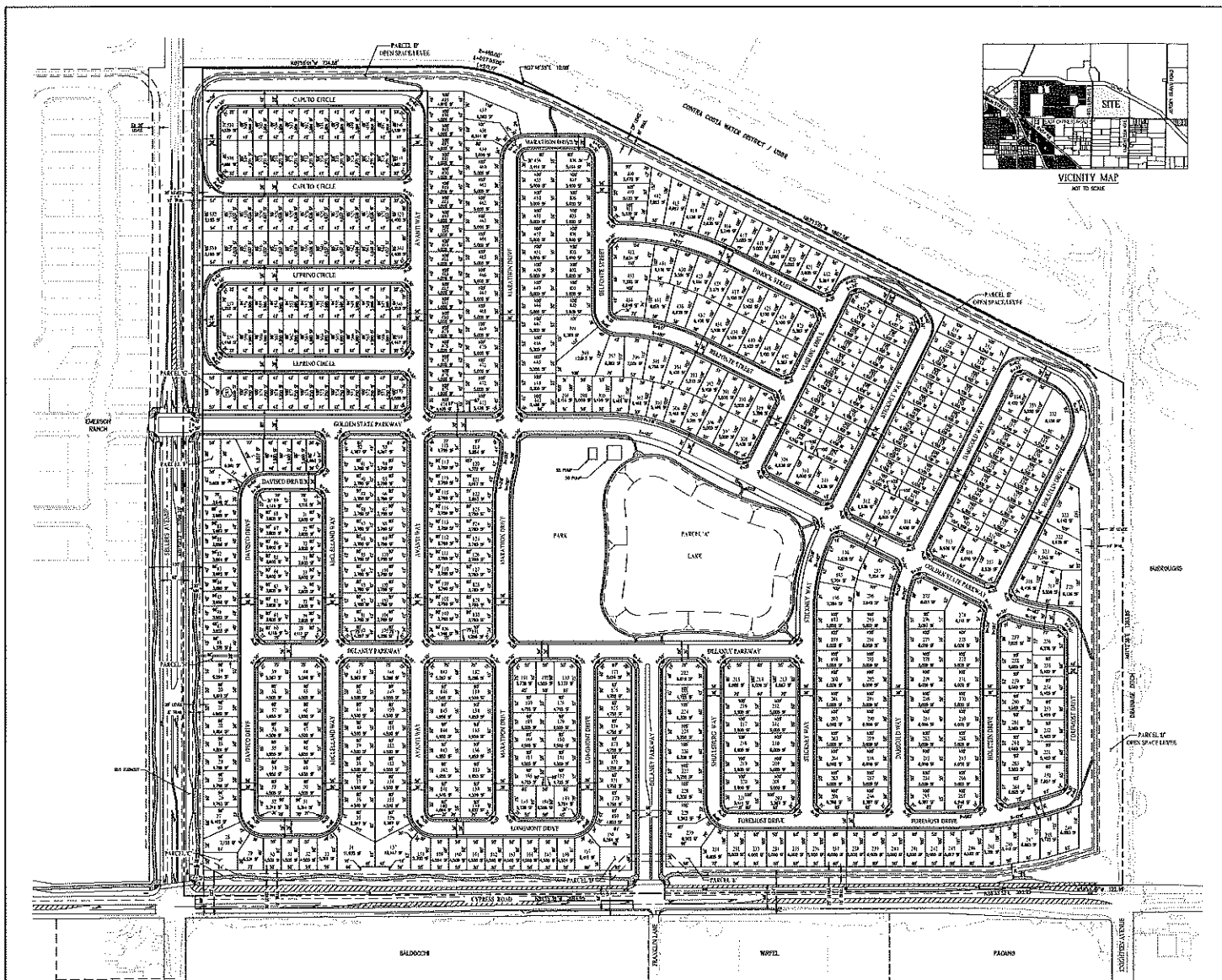
NEIGHBORHOOD	TYPICAL LOT SIZE	# LOTS
NEIGHBORHOOD 1	50' x 100'	96
NEIGHBORHOOD 2	40' x 100'	80
NEIGHBORHOOD 3	50' x 90' x 100'	104
NEIGHBORHOOD 4	50' x 90'	103
NEIGHBORHOOD 5	40' x 90'	158
TOTAL		541

GILBERT PROPERTY
AMENDED FINAL DEVELOPMENT PLAN
 CITY OF OAKLEY CONTRA COSTA COUNTY CALIFORNIA

SCALE: 1" = 100' DATE: AUGUST 17, 2017

Carlson, Barbee & Gosson, Inc.
 CIVIL ENGINEERS & ARCHITECTS
 1015 14TH STREET, SUITE 100
 OAKLAND, CALIFORNIA 94612
 415.778.9300

DATE PLOTTED: 8/17/2017 10:58:00 AM



GENERAL NOTES:

1. **OWNER/PLANNERS:**
 - GENVA HOMES
 - 100 MILLIKEN PLACE SUITE 100
 - CONCORD, CALIFORNIA 94520
 - PHONE: (925) 454-0110
 - WEBSITE: WWW.GENVA.COM
2. **DATE:**
 - CONTRACT SIGNED: 08/14/2017
 - DATE OF THIS TENTATIVE MAP: 08/14/2017
 - DATE OF THIS AMENDED TENTATIVE MAP: 08/14/2017
3. **SALES CONTRACT:**
 - GENVA HOMES & BAYVIEW, INC.
 - 100 MILLIKEN PLACE SUITE 100
 - CONCORD, CALIFORNIA 94520
 - PHONE: (925) 454-0110
 - WEBSITE: WWW.GENVA.COM

4. **LAND AREA SUMMARY:**
 - LOT AREA: 61.00 AC.
 - PARCEL A - PARK & LAKE: 3.33 AC.
 - PARCEL B - OPEN SPACE/PAVE: 7.36 AC.
 - PARCEL C - LANDSCAPE PARCEL: 0.11 AC.
 - PARCEL D - LANDSCAPE PARCEL: 0.11 AC.
 - PARCEL E - LANDSCAPE PARCEL: 0.13 AC.
 - PARCEL F - LANDSCAPE PARCEL: 0.09 AC.
 - PARCEL G - LANDSCAPE PARCEL: 0.01 AC.
 - PARCEL H - LANDSCAPE PARCEL: 0.04 AC.
 - CURVED ROAD: 4.23 AC.
 - STREET RIGHT-OF-WAY: 1.86 AC.
 - STREET RIGHT-OF-WAY: 20.81 AC.
 - TOTAL: 73.00 AC.
5. **NET AC OF LOT:** 50
6. **DENSITY:** 40 UNITS / 100,000 SQ. FT. = 4.0 UNITS / 100,000 SQ. FT.

# LOTS	TYPICAL LOT SIZE	MIN LOT AREA	MAX LOT AREA
100	500 SQ. FT.	3,000 SQ. FT.	10,000 SQ. FT.
100	500 SQ. FT.	3,000 SQ. FT.	10,000 SQ. FT.
100	500 SQ. FT.	3,000 SQ. FT.	10,000 SQ. FT.
100	500 SQ. FT.	3,000 SQ. FT.	10,000 SQ. FT.
100	500 SQ. FT.	3,000 SQ. FT.	10,000 SQ. FT.
100	500 SQ. FT.	3,000 SQ. FT.	10,000 SQ. FT.

7. **LAND USE:**
 - PROPOSED - SINGLE FAMILY RESIDENTIAL
8. **ZONING:**
 - PROPOSED - R1-PLANNED DEVELOPMENT
9. **UTILITIES:**
 - WATER: SINGLE WATER OUTLET
 - SEWER: REMOTE SANITARY DETECTOR
 - GAS & ELECTRIC: PUBLIC GAS & ELECTRIC COMPANY
 - TELEPHONE: CITY OF OAKLEY
 - LIQUID: CITY OF OAKLEY
10. **PROJECT SET BACKS:** SEE SET BACKS SHOWN ON THIS MAP.
11. **SETBACK PAINT STRIPS:** SEE SET BACKS SHOWN ON THIS MAP.

LEGEND

- PROJECT BOUNDARY
- PROPOSED RIGHT OF WAY
- PROPOSED LOT LINES
- PROPOSED CURB
- PROPOSED LOT NUMBER
- PROPOSED LOT DIVISION

GILBERT PROPERTY - SUBDIVISION 9033
AMENDED TENTATIVE MAP
 CITY OF OAKLEY CONTRA COSTA COUNTY CALIFORNIA

SCALE: 1" = 100' DATE: AUGUST 17, 2017

Carlson, Barnes & Wilson, Inc.
 CIVIL ENGINEERS AND ARCHITECTS
 1000 RIVERVIEW AVENUE SUITE 200
 OAKLAND, CALIFORNIA 94612
 (916) 835-1000



- LEGEND**
- PROJECT BOUNDARY
 - - - PROPOSED LOT LINES
 - PROPOSED RIGHT OF WAY
 - PHASE BOUNDARY
 - SUB-PHASE BOUNDARY

**GILBERT PROPERTY
PROPOSED PHASING PLAN
PROPOSED PROJECT SITE PLAN**



CITY OF OAKLEY CONTRA COSTA COUNTY CALIFORNIA
SCALE: 1" = 100'
DATE: AUGUST 8, 2017

Carlson, Barbee & Gibson, Inc.
1000 RIVERVIEW DRIVE, SUITE 100
DUBLIN, CALIFORNIA 94568
www.carlsonbarbee.com

DATE PLOTTED: 8/14/17 10:53 AM
DRAWN BY: J. GIBSON

Exhibit B
Preliminary Phasing Plan
Gilbert Property Development Agreement

This Preliminary Phasing Plan/Conceptual Revised Land Plan ("Plan") depicts one alternative for phasing of the Project Approvals. The intent of this Plan is to improve the economic viability of the project by reducing the proposed final maps to smaller segments and, where possible, to defer infrastructure to later phases. Ultimate Project phasing will be driven by market conditions and may deviate from this Plan. Any changes from this Plan will be discussed in advance with the City Engineer. The Parties acknowledge that changes to this Plan, specifically to the phase boundaries, are likely to occur and have determined that any changes made to the Plan will not require the Development Agreement to be amended. Rather any changes to this Plan are automatically included within or covered by the Development Agreement so long as they follow the intent of the General Requirements.

GENERAL REQUIREMENTS

- All phases shall provide minimum infrastructure including but not limited to:
 - Two point of ingress / egress
 - Looped water system & minimum water pressures for domestic and fire services to the satisfaction of the City Engineer and Diablo Water District
 - Traffic improvements necessary to provide minimum level of service as determined by the City Engineer
 - Storm drain infrastructure sufficient to protect the project from the 100 year design storm event
 - Sewer infrastructure to the satisfaction of the City Engineer and Ironhouse Sanitary District.
 - Joint trench utility infrastructure to the satisfaction of the City Engineer and the various utility companies including PG&E, AT&T and Comcast.
- Prior to construction of the first phase, the ultimate hydrologic and hydraulic study shall be completed and approved for project at build-out.
- An interim hydrologic and hydraulic study shall be submitted and approved for each phase of development.
- An interim force main connection to the existing Cypress Road force main may be constructed, subject to Ironhouse Sanitary District approval, to serve the project until such a time that the ultimate sewer pump on Emerson Ranch is constructed.
- Proposed in-tract roads along phase limits shall be constructed to their full width. Landscaping adjacent to future phases (on the opposite side of the road) shall be constructed with the future phase.

- Landscape and Trails corridors shall be constructed with the adjoining phase. Notwithstanding, the City may choose to allow access to the existing trail along the northern levee at an earlier date.
- If phasing requirements dictate, interim ADA compliant pedestrian pathways shall be constructed as required by the City Engineer / Community Development Director.
- Developer shall construct at least 1 acre of park improvements prior to issuance of the 201st building permit. At least an additional 1 acre of park shall be improved with every 150 building permits so that the entire park site shall be completed along with the 5th Phase. The developer shall maintain the park at their own expense until adequate funds become available from the Community Facility District to support the ongoing maintenance of the improved facility.
- The existing pavement on Cypress Road from Delaney Parkway to Knightsen Avenue shall be rehabilitated including base failure repairs and a thin maintenance overlay or cape seal, whichever is deemed more cost effective by the City Engineer, and restriping along with the 1st Phase.
- Design the geometric alignment (horizontal and vertical) of the Cypress Road frontage improvements from the western project boundary to Knightsen Avenue along with the 1st Phase. The Cypress Road frontage improvements will be implemented in two segments with the first segment being from the western project boundary through the Delaney Parkway intersection and the second segment being from the Delaney Parkway intersection through the Knightsen Avenue intersection. The frontage improvements shall include the north curb and gutter, sidewalk, landscape, 20 feet of pavement (including gutter pan) and required transitions to existing improvements. Westbound traffic will utilize the new frontage improvements and the existing pavement shall be restriped to accommodate eastbound traffic, turn pockets and transitions. The median island and southerly roadway improvements are to be deferred to a future development or capital project.
- Begin construction of the Cypress Road Segment 1 improvements concurrent with Phase 1 and complete the improvements along with that phase. Segment 1 improvements shall include the traffic signal at Delaney Parkway and transitions to existing improvements on the east and west end of the segment, including any necessary improvements to the Sellers Avenue intersection and traffic signal.
- Begin construction of the Cypress Road Segment 2 improvements prior to issuance of the 237th building permit and complete the improvements along with the Phase that building permit is included in. Segment 2 improvements shall include transitions to existing improvements on the east and west end of the segment including any necessary modifications to the Knightsen Avenue intersection and traffic signal.

- In the event that Section 9.B of the Development Agreement becomes effective, begin construction of the Sellers Avenue improvements from Cypress Road through the Golden State Parkway intersection prior to issuance of the 300th building permit and complete the improvements along with the Phase that building permit is included in. The improvements shall be consistent with the tentative map and shall include at a minimum the west curb and gutter, sidewalk, landscaping, 20 feet of pavement (including gutter pan) and required transitions to existing improvements. Sellers Avenue is not currently included in the Traffic Impact Fee Program. If the project is not included in the Fee Program at the time of construction the development shall construct improvements to the geometric centerline of the street.
- In the event that Section 9.B of the Development Agreement becomes effective, the obligation for the Sellers Avenue improvements from Golden State Parkway to the northern project boundary will be a financial contribution made at the time the 6th neighborhood is constructed. The financial contribution should include the construction costs of the developer's frontage improvements from Golden State Parkway to the northern boundary line, including the eastern 20' of pavement, curb, gutter, sidewalk, drainage system, landscape parkway, soundwall, street lighting, striping and signage. The City will use the financial contribution to improve this section of Sellers along with the community park project.

CONCEPTUAL PHASING IMPLEMENTATION

Phase 1-A

Units (Phase):	103 DU
Units (Cumulative):	103 DU
Ingress / Egress:	Delaney Parkway and temporary connection to Sellers Avenue
Sewer:	Ultimate lift station with connection to the Regional Pump on Emerson Ranch
Water:	Looped System with connections at Cypress Road at Franklin Lane and a second connection at either Golden State Parkway or Cypress Road at Sellers Avenue
Storm:	Temporary retention basin
Park:	No improvements
Cypress Road:	Segment 1
Sellers Ave:	No improvements

Phase 1-B

Units (Phase):	44 DU
Units (Cumulative):	147 DU

Ingress / Egress: Delaney Parkway and temporary connection to Sellers Avenue
Sewer: No improvements
Water: Looped System with connections at Cypress Road at Franklin Lane and a second connection at either Golden State Parkway or Cypress Road at Sellers Avenue
Storm: Temporary retention basin
Park: Minimum of 1 acre of park improvements
Cypress Road: No improvements
Sellers Ave: No improvements

Phase 1-C

Units (Phase): 90 DU
Units (Cumulative): 237 DU
Ingress / Egress: Delaney Parkway and temporary connection to Sellers Avenue
Sewer: No improvements
Water: Looped System with connections at Cypress Road at Franklin Lane and a second connection at either Golden State Parkway or Cypress Road at Sellers Avenue
Storm: Ultimate detention basin, pump, and force main
Park: No improvements
Cypress Road: Segment 2
Sellers Ave: No improvements

Phase 2-A

Units (Phase): 60 DU
Units (Cumulative): 297 DU
Ingress / Egress: Delaney Parkway and ultimate Golden State Parkway connection to Sellers Avenue
Sewer: No improvements
Water: Looped system with connections at Cypress Road at Franklin Lane and a second connection at Golden State Parkway
Storm: No improvements
Park: Minimum of additional 1 acre
Cypress Road: No improvements
Sellers Ave: Construct the eastern half of Sellers Avenue from Cypress Road through the Golden State Parkway intersection.

Phase 2-B

Units (Phase): 80 DU
Units (Cumulative): 377 DU

Ingress / Egress: Delaney Parkway and Golden State Parkway
Sewer: No improvements
Water: Looped system with connections at Cypress Road at Franklin Lane and a second connection at Golden State Parkway
Storm: No improvements
Park: Full park improvements
Cypress Road: No improvements
Sellers Ave: No improvements

Phase 2-C

Units (Phase): 204 DU
Units (Cumulative): 581 DU
Ingress / Egress: Delaney Parkway and Golden State Parkway
Sewer: No improvements
Water: Looped system with connections at Cypress Road at Franklin Lane and a second connection at Golden State Parkway
Storm: No improvements
Park: No improvements
Cypress Road: No improvements
Sellers Ave: Make a financial contribution for Sellers Avenue north of Golden State Parkway. This section of the roadway will be completed with the community park project.

Gilbert Property Environmental Impact Report Addendum

I. Introduction

The City of Oakley is the lead agency for this Addendum to the Gilbert Property Environmental Impact Report (State Clearinghouse #2007012075) certified on November 13, 2007 pursuant to City of Oakley City Council Resolution No. 116-07 (the "Gilbert EIR"). The Gilbert EIR was prepared in conjunction with the City's approval of Resolution No. 117-07 on November 13, 2007, which made findings, approved a vesting tentative map (subdivision 9033), a tree permit, and design review for the development of the 120-acre Gilbert Property located at the northeast corner of Cypress Road and Sellers Avenue.

This Addendum is prepared in accordance with the California Environmental Quality Act, Public Resources Code Section 12000 *et seq.* (CEQA), to assist the City in its consideration of the pending Gilbert Property entitlement approvals (the "Project"). The Project would allow for the development of 581 residential lots within the Gilbert Property by reducing the size of 299 of the 506 residential lots within the previously approved tentative map to accommodate the addition of 75 residential lots. All of the proposed Project residential lots will be located within the residential development areas in the approved tentative map and considered in the Gilbert EIR. The Project would not result in any changes to other amenities or infrastructure included in the approved tentative map and considered in the Gilbert EIR.

An agency may prepare an addendum to a certified EIR pursuant to CEQA Guidelines Section 15164 "if some changes or additions are necessary but none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR have occurred." California Public Resources Code Section 21166 and CEQA Guidelines Section 15162 require a supplemental level of CEQA analysis, such as a subsequent or supplemental EIR, only if the City determines, based on substantial evidence in the record, that one or more of the following conditions exist:

- (1) Substantial changes are proposed in the project which will require major revisions to the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

Gilbert Property EIR Addendum

- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

As discussed below, this Addendum concludes that approval of the Project does not trigger need for a subsequent EIR under Section 21166 and CEQA Guidelines Section 15162 because development of the Project will not result in new, or substantially more adverse, significant environmental impacts than those disclosed in the Gilbert EIR. Moreover, as discussed below, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, environmental impacts than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant environmental effects of the project. Accordingly, per Section 21166 and CEQA Guidelines Section 15162, the City may not require a subsequent EIR for the Project.

This Addendum incorporates, by reference, the analysis contained in the certified Gilbert EIR. In accordance with CEQA Guidelines Section 15164(c), this Addendum does not need to be circulated for public review, but will be attached to the Gilbert EIR.

Background

The Project site is located in the City of Oakley, Contra Costa County, California (see Figure 1). The Project site is bounded by the Cypress Grove project, Delta Vista Middle School, Iron House Elementary School, the Emerson property to the west, the Burroughs property to east, Cypress Road to the south, and the Contra Costa Water District/U.S. Bureau of Reclamation Canal (CCWD/USBR canal) to the north.

In 1997, prior to the incorporation of the City of Oakley in 1999, Contra Costa County approved statutory development agreements for the development of 4,500 to 5,000 dwelling units and additional retail and community center uses on approximately 1,500 acres of land that included the Gilbert Property and the adjacent Emerson and Burroughs properties. Approximately 1,200-acres of this area located to the north of the CCWD/USBR Canal and the Project site was subsequently conveyed to public agencies for wetlands restoration and other open space uses through a series of agreements between the State of California, the City, environmental groups and the prior land owners. The properties located to the south of the CCWD/USBR Canal, including the Gilbert Property, were designated for development.

On December 16, 2002, the City adopted the Oakley 2020 General Plan which designated the Gilbert Property and the other southern properties for urban development in accordance with a memorandum of understanding (MOU) between the City and the property owners. The MOU allowed for the development of 1,200 residential units and 10 to 15 acres of commercial development on approximately 271 acres, including the 120-acre Project site, a significant reduction from the 4,500 to 5,000 units allowed under the 1997 County development agreements. The City and the Gilbert,

Gilbert Property EIR Addendum

Emerson and Burroughs property owners entered into development agreements in August 2003 to formalize and secure the rights and obligations created in the MOU, the City General Plan, and the conveyance agreements for the lands located north of the CCWD/USBR Canal.

In 2007, consistent with the existing development agreement between the City and the owners of the Gilbert Property, the City approved a vesting tentative map and other entitlements for the development of 506 residential lots, trails, a park, levees, storm water detention ponds, and the infrastructure improvements necessary to accommodate the new development. The residential development includes five neighborhoods woven together into a comprehensive community through the use of traffic and pedestrian circulation, a centrally located park, a storm water retention pond, coordinated landscape treatments and complimentary architectural styles. An approximately 3-acre neighborhood park would be developed in the center of the community adjacent to a storm water management pond. Trails would be constructed along the north side of Cypress Road, the east side of Sellers Avenue, along the north edge of the property adjacent to the CCWD/USBR Canal and on certain local streets to provide pedestrian circulation to and from the Delta Vista Middle School, the Iron House Elementary School, the neighborhood park and a City park north of the CCWD/USBR Canal. A levee system would be constructed to provide flood protection along the lower-lying portions of the Gilbert Property. Other approved infrastructure includes storm drainage, wastewater and water supply facilities and onsite and offsite roadway improvements.

Previous City actions for the development of the Gilbert Property include the following:

- On July 14, 2003 the City Council of the City of Oakley adopted Ordinance No. 06-03 approving the Gilbert Property Development Agreement (DA 02-13).
- On November 13, 2007 the City Council of the City of Oakley adopted Resolution No. 116-07 making findings and certifying a final environmental impact report (Gilbert Property Final Environmental Impact Report, State Clearinghouse #2007012075) for the development of the Gilbert Property as required by the California Environmental Quality Act.
- On November 13, 2007 the City Council of the City of Oakley adopted Resolution No. 117-07 making findings and approving a vesting tentative map (subdivision 9033), a tree permit, and design review for the development of 506 residential lots and other amenities and infrastructure within the 120-acre Gilbert Property.

Permits, approvals and other actions for the development of the Gilbert Property by federal and state CEQA responsible agencies subsequent to the certification of the Gilbert EIR include the following:

- In March 2017 the U.S. Bureau of Reclamation (USBR) issued a final Environmental Assessment (EA 13-054) and a finding of no significant impact (FONSI 13-054) in accordance with the National Environmental Policy Act (NEPA) for the inclusion of the Gilbert Property into the federal Central Valley Project (CVP) service area of the Contra Costa Water District.
- In July 2015 a Planning Survey Report for the development of the Gilbert Property was prepared accordance with the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan (HCP/NCCP) and the development is a covered activity under the HCP/NCCP.
- On September 30, 2016 the Central Valley Regional Water Quality Control Board issued an order providing certification under Section 401 of the federal Clean Water Act for the fill of 0.82 acre of

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waters of the United States in accordance with Regional General Permit #1 (SPK-2005-00692) issued by the U.S. Army Corps of Engineers and Waste Discharge Requirements under the California Porter-Cologne Water Quality Control Act and State Water Quality Control Board Order 2003-0017-DWQ.

- On February 1, 2016 a wetland delineation for the Gilbert Property site was verified by U.S. Army Corps of Engineers in accordance with the federal Clean Water Act.
- In January 2017 the U.S. Bureau of Reclamation, the U. S. Army Corps of Engineers and the California State Historic Preservation Officer issued a Final Memorandum of Agreement in accordance with Section 106 of the National Historic Preservation Act covering federal actions required for the development of the Gilbert Property.

With the implementation of applicable terms and conditions, no significant impacts or effects would occur from any of the federal and state responsible agency permits, approvals and other actions for the development of the Gilbert Property.

II. Proposed Project

The Project would increase the number of residential lots within the previously approved residential development areas considered in the certified Gilbert EIR by 75 lots to a total of 581 lots. As shown in Figure 2, the new lots would be created within the neighborhood 1, 2, and 5 portions of the development by reducing the size of 299 of the previously approved lots. The Project would not modify or affect any other non-residential elements of the approved tentative tract map, including trails, park, levees, storm water detention ponds, onsite and offsite roadways, and other infrastructure improvements. All of the new residential lots will be located entirely within the boundaries of the residential development areas shown on the approved tentative map and considered in the certified Gilbert EIR.

III. Environmental Topics

The following discussion considers the environmental effects of the Project to determine whether it will result in new, or substantially more adverse, significant environmental impacts than those disclosed in the Gilbert EIR that would trigger need for a subsequent EIR under the CEQA Guidelines. The following discussion also considers whether any new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, shows any new, or substantially more adverse, environmental impacts than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant environmental effects of the project. As discussed above, this analysis relies on, and incorporates by reference, the Gilbert EIR.

As documented below, this Addendum concludes that approval of the Project would not result in any new, or substantially more severe, impacts to the environment than those disclosed in the Gilbert EIR. Further, a review of available records and literature identified no new information of substantial importance that was not known, or could not have been known, at the time of the certification of the Gilbert EIR that would trigger the need for a subsequent EIR under the CEQA Guidelines.

Figure 1 – Project Location

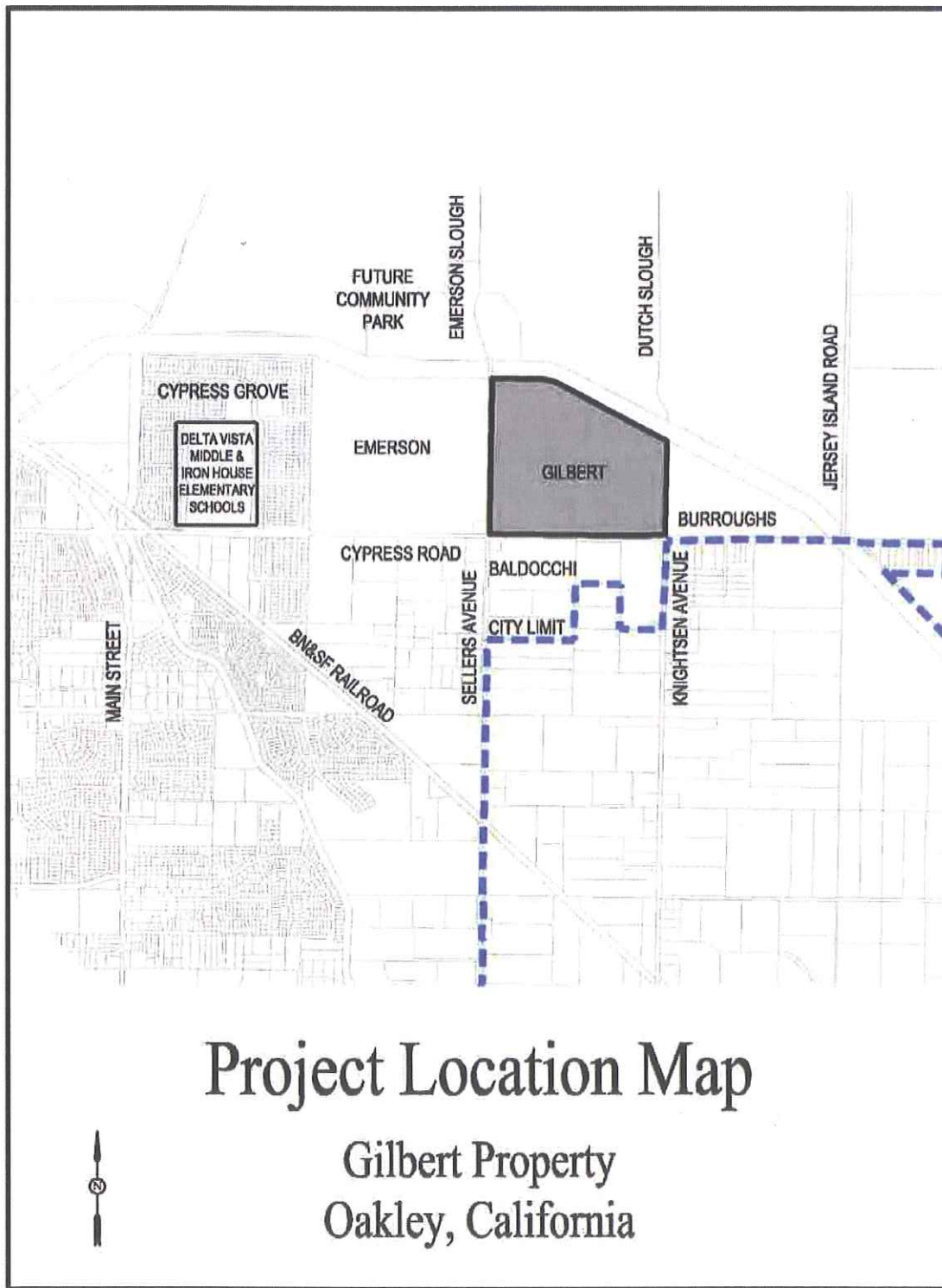


Figure 2 – Proposed Project Site Plan



a. Aesthetics

The Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the development analyzed and discussed in the Gilbert EIR. The reduction in size of 299 of the previously approved lots and the addition of 75 residential lots within the approved tentative map residential development areas would not result in substantial changes to the development analyzed in the Gilbert EIR. Accordingly, the potential aesthetic impacts associated with the Project would be the same as described in the Gilbert EIR with respect to the Gilbert Property. If approved, the Project would be required to implement all applicable mitigation measures set forth in the certified Gilbert EIR and Resolution No. 116-07 with regard to potential aesthetic impacts of the development of the Gilbert Property. The following mitigation measure is carried forward from the Gilbert EIR for this Project to ensure that its aesthetic impacts are reduced to less than significant.

Mitigation Measure 4.2-3 During construction the developer shall install hooded and/or shielded street lights to avoid excessive lighting on adjacent properties, for the review and approval of the Community Development Department.

The implementation of this mitigation measure would reduce aesthetic impacts to less than significant as established by the Gilbert EIR and Resolution No. 116-07. The approval and development of the Project will not result in any new, or substantially more adverse, significant aesthetic impacts than were otherwise disclosed in the Gilbert EIR. Moreover, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, significant aesthetic impacts than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant aesthetic effects of the project. Therefore, the Project does not trigger the need for a subsequent EIR on the basis of its aesthetic effects.

b. Land Use and Agricultural Resources

The certified Gilbert EIR found that the development of the site would be consistent with City zoning, land use plans and policies and would not result in significant impacts to land use, agricultural resources and adjacent agricultural lands and operations. The Gilbert EIR determined that no prime farmland or farmland of statewide importance mapped by the California Farmland Mapping and Monitoring Program exists within the site, and none of the Project area is subject to a Williamson Act or other agricultural conservation contract. The site plan was found to incorporate open space and trails between urban and agricultural uses and landscaping, setbacks, screening or the construction of sound walls, as necessary, to avoid impacts to adjacent land uses. The Gilbert EIR also determined that although the City is entirely within the County Urban Limit Line (ULL) and potentially subject to full development, the City General Plan preserves 65% of the land within the city limits and directs development to just 35% of the City, including the Gilbert Property. The Gilbert EIR found that the proposed Gilbert Property development, and other cumulative development within the ULL resulting from the buildout of the City General Plan, would not result in a significant regional and/or statewide loss to prime farmland, would have a less than significant impact on land use and agricultural resources. No significant land use and agricultural resource impacts were identified in the Gilbert EIR and in Resolution No. 116-07, and no mitigation was required.

The Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the development analyzed and discussed in the Gilbert EIR. The reduction in size of 299 of the previously approved lots and the addition of 75 residential lots within the approved tentative map residential development areas would not result in substantial changes to the development analyzed in the Gilbert EIR. Accordingly, the potential land use and agricultural resource impacts associated with the Project would be the same as described in the Gilbert EIR and no mitigation is required. If approved, the proposed Project would proceed in the manner analyzed in the certified Gilbert EIR and would not change or cause any new or more significant impacts to land use and agricultural resources to a greater extent than identified in the Gilbert EIR. Moreover, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, significant impacts to land use and agricultural resources than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant land use and agricultural impacts of the Project. Therefore, the Project does not trigger need for a subsequent EIR on the basis of its effects to land use and agricultural resources.

c. Transportation and Circulation

The Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the development analyzed and discussed in the Gilbert EIR. The reduction in size of 299 of the previously approved lots and the addition of 75 residential lots within the approved tentative map residential development areas would not result in substantial changes to the development analyzed in the Gilbert EIR. The Project does not propose any changes to the transportation and circulation elements of the project analyzed in the Gilbert EIR, and there have been no substantial changes with respect to the circumstances under which the project is undertaken that require major revisions of the Gilbert EIR. A Traffic Impact Analysis (TIA) was prepared for the Project and is attached as Exhibit 1 of this Addendum. The TIA shows that the approval and development of the Project will not result in any new, or substantially more adverse, significant transportation impacts than were otherwise disclosed in the Gilbert EIR. Accordingly, the potential traffic impacts associated with the Project are the substantially the same as the traffic impacts described and analyzed in the Gilbert EIR. The Project would be required to implement all the applicable mitigation measures set forth in the Gilbert EIR and in Resolution No. 116-07 with regard to potential transportation and circulation impacts of the development of the Gilbert Property. The following mitigation measures are carried forward from the Gilbert EIR and Resolution No. 116-07 for the Project to reduce transportation and circulation impacts to less than significant.

Mitigation Measure 4.4.1 Prior to final map approval, the proposed project would contribute to the mitigation of the above- identified impacts by paying the proposed project's fair share of the cost through the payment of regional traffic fees to the East Contra Costa Regional Fee and Finance Authority (ECCFA) and the City's Transportation Impact Fee.

Mitigation Measure 4.4-3(a) Prior to approval of building permits, the applicant shall contribute its fair share, to be determined by the City at the time of the approval of the building permits, toward the reconstruction of the Main Street/Cypress Road intersection as determined by the City Engineer for the following improvements:

- To provide approximately 600 feet of storage on Main Street for the southbound left-turn and northbound right-turn movements.
- Interconnect all signals.

Mitigation Measure 4.4-3(b) Implement Mitigation Measure 4.4-1.

Mitigation Measure 4.4-4 The project shall include bus stops on the north side of Cypress Road near Sellers Avenue. The final design and location of these bus stops shall be subject to the approval of the Oakley City Engineer prior to approval of final maps. The City Engineer shall coordinate with Tri-Delta Transit as to the placement of the bus stops.

Mitigation Measure 4.4-8 (a) Applicant shall be responsible for the project's fair share of the cost to revise the Main Street southbound approach with two left-turn lanes, one through lane, and one shared through and right-turn lane. The project's fair share funding shall be submitted as determined by the City Engineer prior to the recording of final maps.

Mitigation Measure 4.4-8(b) Implement Mitigation Measure 4.4-1.

The implementation of the above mitigation measures will reduce transportation and circulation impacts of the Project to less than significant as established by the Gilbert EIR and Resolution No. 116-07. As discussed in the TIA (see Exhibit 1), approval and development of the Project will not result in any new, or substantially more adverse, significant transportation or circulation impacts than were otherwise disclosed in the Gilbert EIR. Moreover, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, significant transportation or circulation impacts than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant effects of the project related to transportation or circulation. Therefore, the Project does not trigger need for a subsequent EIR on the basis of its potential transportation or circulation impacts.

d. Air Quality

The Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the development analyzed and discussed in the Gilbert EIR. The reduction in size of 299 of the previously approved lots and the addition of 75 residential lots within the approved tentative map residential development areas would not result in substantial changes to the development analyzed in the Gilbert EIR. Project-related emissions could slightly increase from residential energy use in the additional lots, but energy demand for outdoor maintenance activities would like decrease due to the proposed lot size reductions. In addition, the actual construction, operational and area source emissions of the Project would, in all likelihood, be less than the calculated emission levels presented in the Gilbert EIR due to new regulatory requirements mandating use of cleaner engine fuels and use of more fuel- and emission-efficient engines for today's automobiles and construction equipment, which will result in fewer Project-related air emissions compared to the emissions generated at the time the air quality analyses were conducted for the Gilbert EIR. Consequently, no substantial changes to the project analyzed in the Gilbert EIR are proposed, and there have been no substantial changes with respect to the circumstances under which the project is undertaken that require major revisions of the Gilbert EIR. Accordingly, the potential construction,

operational and area source emission impacts associated with the Project are substantially the same as described in the Gilbert EIR.

In 2010, after the Gilbert EIR was certified, CEQA Guideline Section 15064.4 was adopted pursuant to Senate Bill (SB) 97 to provide guidance to lead agencies for determining the significance of project impacts related to greenhouse gas emissions. Such analysis was not required by CEQA at the time the Gilbert EIR was certified and the Gilbert EIR does not evaluate the greenhouse gas impacts associated with development of the Gilbert Property. However, as determined by the Court of Appeal in *Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal.App.4th 1301, 1319-1320 (“*Concerned Dublin*”), the potential environmental effects of greenhouse gas emissions were known or could have been known well before 2007, when the Gilbert EIR was adopted. According to the *Concerned Dublin* court, since this information was known before Gilbert EIR was adopted, the adoption of new regulations, policies, and guidelines related to the analysis of a project’s potential effects related greenhouse gas emission does not constitute “new information” requiring additional environmental review under Section 21166.¹ In any case, the Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the project evaluated in the Gilbert EIR. Accordingly, the greenhouse gas emissions associated with the development of the Project are not significantly greater than the greenhouse house gas emission impacts associated with development of the Gilbert Property as previously approved by the City and considered in the certified Gilbert EIR.

It is also noted for informational purposes that in 2014, after the Gilbert EIR was certified, the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) adopted “Plan Bay Area,” a sustainable communities strategy prepared pursuant to SB 375 (Public Resources Code Sections 21155.1, 21155.2, and 21159.28). SB 375 directs the California Air Resources Board (CARB) to set regional targets for greenhouse gas reductions from passenger vehicle use. CARB set the Bay Area’s regional greenhouse gas reduction target in 2010 to require a 7% reduction below 2005 levels by 2020 and a 15% reduction below 2005 levels by 2035. Working with this emission reduction target, ABAG and MTC prepared the required SB 375 sustainable communities strategy - *i.e.*, Plan Bay Area. Plan Bay Area establishes a land use and transportation development strategy to accommodate Bay Area population growth through 2040, without expanding existing city boundaries, by focusing 80% of the region’s future housing needs in so-called “Priority Development Areas” located near public transit and employment hubs, thus reducing regional passenger vehicle use. Plan Bay Area’s assumed distribution of housing growth through 2040 is based on ABAG’s Plan Bay Area Forecast of Jobs, Population, and Housing, which includes a locally-based assessment of housing development potential based on general plans, specific plans and zoning ordinances adopted by local governments through July 2013². Plan Bay Area thus assumes the development provided for under the Specific Plan, including the development proposed by the Project. As determined by the Plan Bay Area Environmental Impact Report (SCH# 2012062029), regional development in a manner consistent with Plan Bay Area will achieve the 2020 and 2035 regional greenhouse gas reduction targets established by CARB.³ Since Plan Bay Area assumes development permitted under the City General Plan, and since the Project will be developed consistent with the General Plan, development of the Project is consistent with, and will advance the policy objectives of, the regional greenhouse gas reduction strategy established by Plan Bay Area.

The Project would be required to implement all applicable mitigation measures set forth in the Gilbert

¹ 5 See *Concerned Dublin* at 1320.

² See Plan Bay Area Environmental Impact Report, SCH# 2012062029 (July 2013) at ES-8; *see, also*, Plan Bay Area, Final Forecast of Jobs, Population and Housing (July 2013) at 33.

³ See Plan Bay Area Environmental Impact Report at 1.2-53.

EIR and Resolution No. 116-07 for potential air quality impacts associated with the development of the Gilbert Property. The following mitigation measures are carried forward from Gilbert EIR and Resolution No. 116-07 to reduce the Project's air quality impacts to less than significant.

Mitigation Measure 4.5-1 Consistent with guidance from the BAAQMD, and prior to issuance of a grading permit, the applicant shall incorporate the following mitigation measures into the construction contract documents, which shall be submitted for the review and approval of the City Engineer:

- Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
- Sweep daily (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets;
- Apply non-toxic soil stabilizers to inactive construction areas;
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 mph; Install sandbags or other erosion control measures to prevent silt runoff to public roadways; and
- Replant vegetation in disturbed areas as quickly as possible.

The above measures include all feasible measures for construction emissions identified by the Bay Area Air Quality Management District for large sites.

Mitigation Measure 4.5-5 Implement Mitigation Measure 4.5-1.

As disclosed in the Gilbert EIR and in Resolution 116-07, even with the implementation of mitigation measures, the development of the Gilbert Property would result in significant and unavoidable adverse cumulative air quality impacts. Resolution 116-07 includes a statement of overriding considerations concerning this impact as required by CEQA. Because the Project would be required to implement all applicable mitigation measures set forth in the Gilbert EIR and Resolution No. 116-07 for the development of the Gilbert Property, and the development of the Project is substantially consistent with the development analyzed in the certified Gilbert EIR, the Project would not create new or substantially more adverse significant air quality impacts than those disclosed in the certified Gilbert EIR. Accordingly, the approval and development of the Project will not result in any new, or substantially more adverse, significant air quality impacts than were otherwise disclosed in the Gilbert

EIR. Moreover, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, significant air quality impacts than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant air quality effects of the project. Therefore, the Project does not trigger need for a subsequent EIR on the basis of its potential air quality impacts.

e. Noise

The Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the development analyzed and discussed in the Gilbert EIR. The reduction in size of 299 of the previously approved lots and the addition of 75 residential lots within the approved tentative map residential development areas would not result in substantial changes to the development analyzed in the Gilbert EIR. Accordingly, the potential noise impacts associated with Project are substantially the same as the noise impacts described and analyzed in the Gilbert EIR. The Project would be required to implement all applicable mitigation measures set forth in the Gilbert EIR and Resolution No. 116-07 with regard to potential noise impacts of the development of the Project. The following mitigation measures are carried forward from the Gilbert EIR and Resolution No. 116-07 to reduce the Project's noise impacts to less than significant:

Mitigation Measure 4.6-1(a) The applicant shall construct noise barriers prior to occupancy to reduce noise at exterior use areas adjacent to Cypress Road and Sellers Avenue to 65 dB Ldn or less. The applicant/developer shall include the following mitigation measures on the improvement plans to be approved by the City Engineer prior to the approval of the improvement plans or initiation of any grading or construction activity:

- The barriers shall be constructed solidly over the entire surface and at the base. Openings or gaps between barrier materials or the ground decrease the noise reduction provided by a noise barrier; and
- Suitable materials for barrier construction shall have a minimum surface weight of 3 lbs./ft² (such as one-inch thick wood, masonry block, concrete, or metal).

Mitigation Measure 4.6-1(b) Project-specific acoustical analyses shall be conducted during final detailed design of the project when building elevations and floor plans are available in order to determine how interior noise levels can be reduced to 45 dBA Ldn or lower. The future noise environment at the project site shall require sound-rated construction methods and the provision of forced-air mechanical ventilation so that windows could be kept closed at the occupants' discretion to control noise. Noise insulation features include sound-rated windows, sound-rated doors, and careful attention to exterior wall detailing (including caulking and possible sound insulating upgrades such as resilient channels, or stucco exterior siding). The final detailed design of noise insulation features necessary to maintain interior noise levels at

acceptable levels shall be completed at the time that the final plans are available and prior to the issuance of a building permit.

Mitigation Measure 4.6-3(a) Noise-generating activities at the construction site or in areas adjacent to the construction site associated with the project in any way shall be restricted to the hours of 7:30 am to 5:30 pm, Monday through Saturday. Construction is prohibited on Sundays and City holidays.

Mitigation Measure 4.6-3(b) The applicant/developer shall include the following mitigation measures on the improvement plans to be approved by the City Engineer prior to the approval of the improvement plans or initiation of any grading or construction activity:

- Equip all equipment driven by internal combustion engines with intake and exhaust mufflers that are in good condition and appropriate to the equipment. Unnecessary idling of internal combustion engines should be strictly prohibited;
- Stationary noise-generating equipment, such as air compressors or portable power generators, must be located the greatest distance applicable from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses;
- Utilize “quiet” air compressors and other stationary noise sources where technology exists; and
- Designate a “disturbance coordinator” who would be responsible for responding to any local complaints regarding construction noise. The disturbance coordinator will determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented.

The implementation of the above mitigation measures would reduce the Project’s noise impacts to less than significant, as established by the Gilbert EIR and Resolution No. 116-07. The approval and development of the Project will not result in any new, or substantially more adverse, significant noise impacts than were otherwise disclosed in the Gilbert EIR. Moreover, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, significant noise impacts than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant effects of the project related to noise. Therefore, the Project does not trigger need for a subsequent EIR on the basis of its potential noise impacts.

f. Hazards and Hazardous Materials

The Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the development analyzed and discussed in the Gilbert EIR. The reduction in size of 299 of the previously approved lots and the addition of 75 residential lots within the approved tentative map residential development areas would not result in substantial changes to the development analyzed in the Gilbert EIR. Accordingly, the potential hazards and hazardous

materials impacts associated with approval and development of the Project are substantially the same as the potential hazards and hazardous materials impacts described and analyzed in the Gilbert EIR. The Project would be required to implement all applicable mitigation measures set forth in the Gilbert EIR and Resolution No. 116-07 with regard to potential hazards and hazardous materials impacts. The following mitigation measures are carried forward from the Gilbert EIR and Resolution No. 116-07 to reduce Project impacts related to hazards and hazardous materials to less than significant:

Mitigation Measure 4.7-2(a) Prior to the issuance of a grading permit, the project developer shall provide to the City of Oakley a detailed soils assessment, in the vicinity of the abandoned wells located on the project site, for the review and approval of the City Engineer. If contaminants are not detected in the environmental assessment, further mitigation shall not be required. If contamination is identified, a remediation plan shall be submitted, and all contaminants shall be removed to the satisfaction of the City of Oakley and Contra Costa County Environmental Health Services.

Mitigation Measure 4.7-2(a) Prior to the issuance of a grading permit, the developer shall locate and test for any surface leakage of all former gas production wellheads on the project site pursuant to DOG guidelines and under the supervision of a DOG engineer. If leakages are not detected, further mitigation shall not be required. If leakages are identified, the wells shall be sealed, a remediation plan shall be submitted, and all contaminants shall be removed to the satisfaction of the City of Oakley and Contra Costa County Environmental Health Services. Additionally, the developer shall notify the DOG of planned improvements located within 10 feet of the well to evaluate the need for possible access or engineering controls.

Mitigation Measure 4.7-3 Prior to commencement of grading and construction, the construction contractor, the developer, and a representative from the City's Engineering Department shall meet on the project site and prepare site-specific safety guidelines for construction in the field to the satisfaction of the City Engineer. The safety guidelines shall be noted on the improvement plans and be included in all construction contracts involving the project site.

Mitigation Measure 4.7-4 Prior to issuance of a demolition permit by the City for any on-site structures, the project proponent shall provide a site assessment that determines whether any structures to be demolished contain asbestos and/or lead paint. If structures do not contain asbestos or lead-based paint, no further mitigation is required. If any structures contain asbestos, the application for the demolition permit shall include an asbestos abatement plan consistent with local, state, and federal standards, subject to approval by the City Engineer. If lead-based paint is found, all loose and peeling paint shall be removed and disposed of by a licensed and certified lead paint removal contractor, in accordance with local, state, and federal regulations. The demolition contractor shall be informed that all paint on the buildings shall be considered as containing lead. The contractor shall take

appropriate precautions to protect his/her workers, the surrounding community, and to dispose of construction waste containing lead paint in accordance with local, state, and federal regulations subject to approval of the City Engineer.

Mitigation Measure 4.7-5 The project applicant/engineer shall submit a safety program for the proposed detention basin for the review and approval of the City Engineer prior to the approval of the improvement plans. The safety program shall address the public safety concerns associated with the development of the basin including but not limited to bank stabilization and restricting public access to the basin.

Mitigation Measure 4.7-7(a) When residential structures are developed, an approved fire apparatus access shall be provided to within 150 feet of all portions of the first floor as measured by an approved route around the exterior of the building. Structures not capable of meeting this requirement shall be considered a special hazard and have installed a fire sprinkler system.

Mitigation Measure 4.7-7(b) The East Contra Costa Fire Prevention Department shall, as necessary, ensure the installation of radio repeater towers within the proposed project area. The location and design of any radio repeater towers shall be subject to the review and approval of the City Engineer and Community Development Department.

Mitigation Measure 4.7-7(c) Development of the site should be carried out in accordance with East Contra Costa Fire Prevention Department rules and regulations and the Uniform Building Code regulations adopted by the East Contra Costa Fire Prevention Department.

Mitigation Measure 4.7-7(d) Prior to approval of design review for residential structures, the applicant shall show that all roofs shall be Class A type.

The implementation of the above mitigation measures would reduce the Project's hazards and hazardous materials impacts to less than significant, as established by the Gilbert EIR and Resolution No. 116-07. The approval and development of the Project will not result in any new, or substantially more adverse, significant hazards and hazardous materials impacts than were otherwise disclosed in the Gilbert EIR. Moreover, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, significant hazards and hazardous materials impacts than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant effects of the project related to hazards and hazardous materials. Therefore, the Project does not trigger need for a subsequent EIR on the basis of its potential hazards and hazardous materials impacts.

g. Biological Resources

The Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the development analyzed and discussed in the Gilbert EIR. The reduction in size of 299 of the previously approved lots and the addition of 75 residential lots within

the approved tentative map residential development areas would not result in any changes in the development footprint or to the location and magnitude of any of the biological resource impacts analyzed in the Gilbert EIR. Accordingly, the potential direct, indirect, and cumulative biological resource impacts associated with approval and development of the Project are the same as described and evaluated in the Gilbert EIR. The Project would be required to implement all applicable mitigation measures set forth in the Gilbert EIR and Resolution No. 116-07 with regard to potential biological resource impacts. The following mitigation measures are carried forward from the Gilbert EIR and Resolution No. 116-07 to reduce the Project's biological impacts to less than significant.

Mitigation Measure 4.8-1(a) To the extent feasible implementation of the project shall be designed and constructed to avoid and minimize adverse effects to waters of the United States or jurisdictional waters of the State of California within the project area.

Mitigation Measure 4.8-1(b) A Section 404 permit for fill of jurisdictional wetlands shall be sought, and mitigation for impacts to jurisdictional waters that cannot be avoided shall conform with the USACE "no-net-loss" policy and the USACE Regulatory Guidance Letter No. 02-2 establishing policies and guidance on appropriate mitigation for impacts to jurisdictional waters. Mitigation for impacts to both federal and State jurisdictional waters shall be addressed using these guidelines.

Mitigation Measure 4.8-1(c) Mitigation shall include creation of wetlands at a minimum 1:1 ratio in conjunction with preservation/enhancement of wetlands at a minimum 1:1 ratio, and all temporary impacts resulting from construction access or similar activities shall be revegetated and restored.

Or,

Alternatively, the applicant shall provide the required mitigation either through an in-lieu fee program, purchase of the required acreage in an approved mitigation bank, or an approved Habitat Conservation Plan (HCP).

Mitigation Measure 4.8-1(d) A mitigation plan shall be prepared for mitigation implemented both on-site and off site that provides guidance on managing and monitoring the wetland mitigation habitat. The mitigation plan shall include jurisdictional and non-jurisdictional wetland mitigation. The mitigation plan shall include standards deemed acceptable by the City of Oakley, USACE, RWQCB, and CDFG. Annual reports of the monitoring activities and results shall be provided to the City of Oakley, USACE, USFWS, CDFG and RWQCB.

Mitigation Measure 4.8-2(a) Building structure and yard design, along with construction activities, shall attempt to retain existing protected and heritage trees on the project site to the maximum extent practicable. Prior to the issuance of grading permits, the project developer shall have a tree preservation plan prepared by an ISA-certified arborist to minimize damage to on-site protected and heritage trees during the construction of the project, replace any protected or heritage trees damaged or killed by development of the project, and plant additional

trees as determined by the Community Development Department. The plan shall be reviewed and approved by the Community Development Department prior to issuance of a grading permit, and the plan shall be in compliance with Sections 5-D-3A and 5-D-2-3B of the City of Oakley Zoning Ordinance. The tree preservation plan shall include but not be limited to the following elements:

- The preservation element of the plan shall include but not be limited to installation of protective fencing during construction, appropriate irrigation practices, and inclusion of appropriate tree preservation notes on grading and construction plans. The replacement and new plantings portion of the plan shall include a map showing where the replacement and new trees will be located.
- Where mitigation is determined to be necessary, tree removal shall be mitigated at a minimum 3:1 ratio or other ratio acceptable to the City of Oakley, or an in-lieu fee shall be paid on a per-inch basis as determined by the Community Development Department. The mitigation trees shall be established with appropriate maintenance to ensure long-term self-sustaining survivorship.
- In the event that any protected or heritage tree is damaged during the construction process, the applicant shall comply with subsection 5-D-3A.5(E) and/or 5-D-3B.6(D) and 5-D-3B.6 (E) of the Oakley Zoning Ordinance as applicable, including but not limited to notification of the Community Development Director.

Mitigation Measure 4.8-2(b) Per the Tree Preservation Ordinance Section 5-D- 3B.6(B) and (C), prior to the issuance of any grading or building permit for a property where protected or heritage trees will be removed, the applicant shall deposit cash or other acceptable security with the Community Development Department on a per-tree basis in the amount established by the involved development's conditions of approval of approved applications. As required, the City may hold the deposit for a two-year period to guarantee the health of the trees for a two-year period upon completion of construction. In addition, the applicant may be required to enter into a tree maintenance agreement secured by said deposit/bond by which the applicant agrees to maintain said trees in a living and viable condition throughout the term of agreement. This agreement may be transferred to any new owner of the property for the remaining length of the agreement.

Mitigation Measure 4.8-2(c) The applicant shall obtain the necessary permit for the removal and/or destruction of protected or heritage trees that cannot be avoided during project construction for the review and approval of the Community Development Department.

Mitigation Measure 4.8-3(a) Prior to issuance of a grading permit, the applicant shall conduct wet season surveys per the 1996 USFWS Interim Survey Guidelines for Vernal Pool Branchiopods within potentially suitable habitat on the

Gilbert Property and adjacent off-site during the appropriate season. If vernal pool fairy shrimp is not found during wet season surveys, a second wet season or dry season soil collection and cyst identification shall be conducted. If federally protected branchiopods are not found after completion of protocol-level surveys, then no further mitigation shall be required. If federally protected branchiopods are found during one or more of the surveys, then the following measures shall be implemented.

Mitigation Measure 4.8-3(b) If protected brachiopods are found to occur during protocol surveys on the Gilbert Property, properties that are connected biologically and hydrologically (via ground or surface water) shall also be considered as potentially occupied habitat. Assessment of presence or absence shall be determined on a property-by-property basis, taking into account connectivity of the wetland areas. Project impacts shall be evaluated an analysis of the following:

- Connectivity of aquatic habitats (both ground and surface water);
- Habitat quality measured as potential to support listed shrimp species;
- Potential for cyst (egg) dispersal;
- Adjacent land uses, current and anticipated, and resulting effect on the hydrology of aquatic habitats;
- Threats and encroachment on populations of listed species, including edge effects and associated buffers, and habitat fragmentation;
- If protected brachiopods are found within the boundary of the project site, impacts to occupied or potentially occupied aquatic habitats and an associated upland buffer , to be determined according to the criteria above, shall be avoided to the extent feasible. If avoidance is not feasible, aquatic habitat and the amount of watershed associated with the preserved pools necessary to sustain the existing hydrology of the pool habitat shall be replaced at a 1:1 ratio at a location approved by the City and USFWS. The habitat in the amount specified above shall be acquired, permanently protected, and enhanced through management for the benefit of the species, to compensate for the loss of aquatic habitat on the project site. A plan describing the mitigation and monitoring requirements and performance standards shall be prepared if habitat is preserved or acquired for special-status fairy shrimp species. This mitigation measure shall be coordinated with the plan in Mitigation Measure 4.8-1 (d). Alternatively, the applicant can provide the required mitigation either through an in-lieu fee program, purchase of the required acreage in an approved mitigation bank, or an approved Habitat Conservation Plan (HCP). Take authorization shall be obtained from the USFWS if federally-listed branchiopods are present on-site.

Mitigation Measure 4.8-3(c) If presence of protected brachiopods is confirmed during protocol

surveys, the uppermost layer of soil in seasonally inundated habitat may contain cysts of listed crustaceans as well as seeds of vernal pool plants. Therefore, before these wetlands are filled, the top layer of soil shall be made available prior to the start of project grading to any vernal pool creation bank that requests it, with USFWS approval, for inoculating newly created pools. Soil stockpiled for this purpose shall be shielded from rain with a waterproof cover to ensure that it remains completely dry.

Mitigation Measure 4.8-5(a) A Fish Rescue Plan for the project area shall be prepared that details measures to avoid take of fish during any construction activities within the ordinary high water level of Dutch Slough. To ensure compliance and implementation of the plan, a qualified biologist shall be present during construction and pumping activities.

Mitigation Measure 4.8-5(b) If construction takes place within the ordinary high water level, formal consultation with the NOAA Fisheries, and USFWS shall be required in conjunction with USACE Section 404 permit. If construction takes place below top-of-bank, formal consultation with CDFG as part of the Streambed Alteration Agreement to determine appropriate measures to avoid impacts to special-status fish species. A mitigation plan shall be prepared that includes measures to avoid take of special-status fish during construction activities and post construction water withdrawal activities. At a minimum, the following mitigation measures shall be incorporated into the mitigation plan:

- If entrapment in the siphons, flood gates, pumps, outfalls or other features is determined by the fisheries biologist to cause a potentially significant impact, a fish screen or other structure approved by USFWS, NOAA Fisheries, and CDFG shall be placed on these features to prevent fish entering the diversions system.
- Turbidity and suspended sediment levels in water discharged into Emerson Slough shall not exceed more than 10 percent above ambient levels in these water bodies.
- Waterway construction in Emerson and Dutch Slough shall occur between July 1 and October 1 (or other period requested by the NOAA Fisheries) to work outside of the season in which juvenile salmonids could be present in the system.

Mitigation Measure 4.8-6(a) Pre-construction surveys for silvery legless lizard shall be conducted within the sand mound habitat at the project site and submitted to the City of Oakley for review and approval prior to the issuance of grading permits. If silvery legless lizard is not found, no further mitigation is required. If they are found Mitigation Measure 4.8-6(b) shall be implemented.

Mitigation Measure 4.8-6(b) If silvery legless lizard is documented on the project site, occupied habitat as well as other highly suitable habitat shall be avoided to the maximum extent feasible. If avoidance is not feasible, habitat shall be

replaced at a 1:1 ratio at a location approved by the City and CDFG. Habitat in the amount specified above shall be acquired, permanently protected, and enhanced through management for the benefit of the species, to compensate for the loss of suitable sand dune and mound habitat on the project sites. Alternatively, the applicant shall provide the required mitigation either through an in-lieu fee program, purchase of the required acreage in an approved mitigation bank, or an approved Habitat Conservation Plan (HCP).

Mitigation Measure 4.8-7(a) The following measures shall be implemented to avoid potential take of individual garter snakes during construction:

- All construction activity within potential giant garter snake aquatic habitat shall be conducted between May 1 and October 1. This is the active period for giant garter snakes and if present, potential effects are lessened because snakes are actively moving and can avoid danger.
- Any dewatered areas within the sloughs shall remain dry for at least 15 consecutive days prior to excavating or filling of the dewatered area.
- A qualified biologist shall provide project contractors and construction crews with a worker-awareness program appropriate for giant garter snakes before any work within aquatic habitats or adjacent upland habitats is initiated. This program shall be used to describe the species, its habits and habitats, its legal status and required protection, all applicable mitigation measures, and conditions of any state or federal permits as they relate to giant garter snake. Proof of this instruction shall be submitted to the City.
- During project activities and following construction, all trash shall be properly contained, removed from the work site, and disposed of properly.
- 24-hours prior to construction activities, the project area shall be surveyed for giant garter snake. Survey of the project area shall be repeated if a lapse in construction activity of two weeks or greater has occurred. If a giant garter snake is encountered during construction, activities shall not begin until appropriate corrective measures have been completed or it has been determined that the snake shall not be harmed. Any sightings and any incidental take shall be reported immediately to the USFWS at (916) 414-6600.
- Movement of heavy equipment to and from the project site shall be restricted to established roadways to minimize disturbance.
- After completion of construction activities, any temporary fill and construction debris shall be removed and, wherever feasible, disturbed areas shall be restored to pre-project conditions. Restoration work shall include replanting emergent vegetation.
- All fueling and maintenance of vehicles or other equipment and staging areas shall occur at least 66 feet from any water body. Prior to the onset of work, the applicant shall prepare a plan to allow prompt and effective response to any accidental spills. All

workers shall be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur .

- To control erosion during and after project implementation, the applicant shall implement best management practices, as identified by the Regional Water Quality Control Board. Drainage banks shall be stabilized by compacting additional soil after sediment and vegetation removal to minimize the potential for erosion. Additionally, during sediment and vegetation removal in a channel that still contains flowing water during August, September, and October, a silt fence shall be installed directly downstream of the project site. This will help to prevent silt accumulation downstream of the project site.

Mitigation Measure 4.8-8(a) A qualified biologist shall conduct pre-construction surveys for western pond turtles in all construction areas identified as potential nesting or dispersal habitat located within 1,000 feet of potential aquatic habitat 48 hours prior to initiation of construction activities. If western pond turtle is found during pre-construction surveys, it shall be relocated as necessary to a location deemed suitable by the biologist and CDFG (i.e., at a location which is a sufficient distance from construction activities). This survey shall include looking for turtle nests within the construction area. If a nest is found within the construction area, construction shall not take place within 100 feet of the nest until the turtles have hatched and have left the nest or can be safely relocated with assistance from CDFG.

Mitigation Measure 4.8-8(b) Because attempting to locate pond turtle nests will not result in a realistic probability of detection, after completion of pre-construction surveys, and relocation as necessary, exclusion fencing shall be placed around all construction-sites adjacent to aquatic habitats to eliminate the possibility of nest establishment in uplands adjacent to aquatic areas.

Mitigation Measure 4.8-8(c) If construction activities occur in aquatic areas where turtles have been identified during pre-construction or other surveys, a biological monitor shall be present during disturbance of those aquatic habitats. If any turtle is found, it shall be relocated as necessary to a location deemed suitable by the biologist and CDFG (i.e., at a location which is a sufficient distance from construction activities).

Mitigation Measure 4.8-8(d) A qualified biologist shall provide project contractors and construction crews with a worker- awareness program before any work within aquatic habitats or adjacent upland habitats that are appropriate for western pond turtles. This program shall be used to describe the species, its habits and habitats, its legal status and required protection, and all applicable mitigation measures.

Mitigation Measure 4.8-9(a) Prior to issuance of a grading permit, pre- construction surveys of all potential burrowing owl habitat shall be conducted by a qualified

biologist within the project area and within 250 feet of the project boundary. Presence or sign of burrowing owl and all potentially occupied burrows shall be recorded and monitored according to CDFG and California Burrowing Owl Consortium guidelines. If burrowing owls are not detected by sign or direct observation, construction may proceed.

Mitigation Measure 4.8-9(b) Prior to issuance of a grading permit focused over-wintering surveys of all potential burrowing owl habitat shall be conducted by a qualified biologist within the Gilbert property. Presence or sign of burrowing owl shall be recorded and monitored according to CDFG and California Burrowing Owl Consortium guidelines.

Mitigation Measure 4.8-9(c) If potentially nesting burrowing owls are present during pre-construction surveys conducted between February 1 and August 31, grading shall not be allowed within 250 feet of any nest burrow during the nesting season (February-August), unless approved by the CDFG.

Mitigation Measure 4.8-9(d) If burrowing owl is detected during pre-construction surveys outside the nesting season (September 1-January 31), passive relocation and monitoring may be undertaken by a qualified biologist following CDFG and California Burrowing Owl Consortium guidelines, which involve the placement of one-way exclusion doors on occupied and potentially occupied burrowing owl burrows. Owls shall be excluded from all suitable burrows within the project area and within a 160-foot buffer zone of the impact area. A minimum of a week shall be allowed to accomplish this task and allow for owls to acclimate to alternate burrows. These mitigation actions shall be carried out prior to the burrowing owl breeding season (February 1- August 31) and, until construction begins, the site shall be monitored weekly by a qualified biologist to ensure that burrowing owls do not re-inhabit the site.

Mitigation Measure 4.8-9(e) If burrowing owl or sign of burrowing owl is detected at any time on the project site, a minimum of 6.5 acres of foraging habitat per pair or individual resident bird, shall be acquired and permanently protected to compensate for the loss of burrowing owl habitat. The acreage shall be based on the maximum number of owls observed inhabiting the property for any given observation period, pre-construction survey, or other field visit. The protected lands shall be occupied burrowing owl habitat and at a location acceptable to CDFG and the City of Oakley. The habitat in the amount specified above shall be acquired, permanently protected, and enhanced through management for the benefit of the species, to compensate for the loss of burrowing owl habitat on the project site. Alternatively, the applicant shall provide the required mitigation either through an in-lieu fee program, purchase of the required acreage in an approved mitigation bank, or an approved Habitat Conservation Plan (HCP).

- Mitigation Measure 4.8-9(f)** Before construction activities begin, all construction personnel shall receive training that includes photos of burrowing owl for identification purposes, habitat description, limits of construction activities in the project area, and guidance regarding general measures being implemented to conserve burrowing owl as they relate to the project.
- Mitigation Measure 4.8-9(g)** A monitoring report of all activities associated with pre-construction surveys, avoidance measures, and passive relocation of burrowing owls shall be submitted to the City and CDFG no later than two weeks before initiation of grading.
- Mitigation Measure 4.8-10(a)** The removal of any buildings, trees, emergent aquatic vegetation, or shrubs shall occur from September 1 through December 15, outside of the avian nesting season. If removal of buildings, trees, emergent aquatic vegetation, or shrubs occurs, or construction begins between February 1 and August 31 (nesting season for passerine or non-passerine land birds) or December 15 and August 31 (nesting season for raptors), a nesting bird survey shall be performed by a qualified biologist within 14 days prior to the removal or disturbance of a potential nesting structure, trees, emergent aquatic vegetation, or shrubs, or the initiation of other construction activities during the early part of the breeding season (late December through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). During this survey, a qualified biologist shall inspect all potential nesting habitat (trees, shrubs, structures, grasslands, pastures, emergent aquatic vegetation, etc.) in and immediately adjacent to the impact areas for nests.
- Mitigation Measure 4.8-10(b)** All vegetation and structures with active nests shall be flagged and an appropriate non-disturbance buffer zone shall be established around the nesting tree. The size of the buffer zone shall be determined by the project biologist in consultation with CDFG and will depend on the species involved, site conditions, and type of work to be conducted in the area. Typically, if active nests are found, construction activities shall not take place within 500 feet of the raptor nests and within 100 feet of other migratory birds until the young have fledged. A qualified biologist shall monitor active nests to determine when the young have fledged and are feeding on their own. The project biologist and CDFG shall be consulted for clearance before construction activities resume in the vicinity.
- Mitigation Measure 4.8-11(a)** In order to ensure that nesting Swainson's hawks shall not be affected by construction on the project site or off-site improvement locations, a qualified biologist shall conduct pre-construction surveys according to CDFG and Swainson's Hawk Technical Advisory Committee guidelines (2000). Survey Period I occurs from January 1 – March 20, Period II from March 20 – April 5, Period III from April 5 – April 20, Period IV from April 21 – June 10, and Period V is from June 10

– July 30. Three surveys shall be completed in at least each of the two survey periods immediately prior to a project's initiation and encompass the area within 1/2 mile of the project site. If a nest site is found, then either of the following measures shall be implemented:

Mitigation Measure 4.8-11(b) Trees containing known or potential raptor nest sites that must be removed as a result of project implementation shall be removed during the non-breeding season (September 1 to January 31) to discourage future nesting attempts, on the condition that no Swainson's hawk pair is currently utilizing the nest site. Monitoring evidence that any nests in trees planned for early removal are unattended by reproductive-aged birds must be provided; or

Mitigation Measure 4.8-11(c) If an active Swainson's hawk nest is found sufficiently close (as determined by the qualified biologist and CDFG) to the construction area to be affected by construction activities, a qualified biologist shall determine the extent of a construction-free buffer zone to be established around the nest. Intensive new disturbances (e.g., heavy equipment activities associated with construction) that may cause nest abandonment or forced fledging shall not be initiated within this buffer zone between March 1 and September 1 until it is determined by a qualified biologist in coordination with CDFG that the young have fledged and are feeding on their own.

Mitigation Measure 4.8-12(a) A pre-construction survey for roosting bats shall be performed by a qualified biologist within 30 days prior to any removal of trees or structures on the site. If no active roosts are found, then no further action shall be required. If either a maternity roost or hibernacula (structures used by bats for hibernation) is present, the following mitigation measures shall be implemented.

Mitigation Measure 4.8-12(b) If active maternity roosts or hibernacula are found in trees or structures which are to be removed as part of project construction, the project shall be redesigned to avoid the loss of the tree or structure occupied by the roost to the extent feasible as determined by the City. If an active maternity roost is located and the project cannot be redesigned to avoid removal of the occupied tree or structure, demolition shall commence before maternity colonies form (i.e., prior to March 1) or after young are volant (flying) (i.e., after July 31). Disturbance-free buffer zones as determined by a qualified biologist in coordination with CDFG shall be observed during the maternity roost season (March 1 - July 31).

Mitigation Measure 4.8-12(c) If a non-breeding bat hibernacula is found in a tree or structure scheduled for removal, the individuals shall be safely evicted, under the direction of a qualified biologist (as determined by a Memorandum of Understanding with CDFG), by opening the roosting area to allow airflow through the cavity. Demolition shall then follow at least one night after initial disturbance for airflow. This action shall allow bats to leave during darkness, thus increasing their

chance of finding new roosts with a minimum of potential predation during daylight. Trees or structures with roosts that need to be removed shall first be disturbed at dusk, just prior to removal that same evening, to allow bats to escape during the darker hours.

Mitigation Measure 4.8-14 Implement Mitigation Measures 4.8-1 through 4.8- 12.

The implementation of the above mitigation measures would reduce the direct, indirect, and cumulative biological resource impacts of the Project to less than significant, as established by the Gilbert EIR and Resolution No. 116-07. As discussed in Section I of this Addendum, the Project applicant has obtained coverage under the East Contra Costa HCP/NCCP for the development of the Gilbert Parcel, the U.S. Army Corps of Engineers (USACE) has approved a jurisdictional delineation for the Project site, and development will result in 0.82 acres of impacts to water of the United States that will be covered under a regional permit issued by the USACE, and the Central Valley Regional Water Quality Control Board has issued a Section 401 certification for the USACE regional permit and state Waste Discharge Requirements for the Gilbert Property development. The proposed Project does not result in any changes to the development footprint and impact areas considered in the certified Gilbert EIR. Consequently, the approval and development of the Project will not result in any new, or substantially more adverse, significant biological impacts than were otherwise disclosed in the Gilbert EIR. Moreover, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, significant biological impacts than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant biological effects of the project. Therefore, the Project does not trigger need for a subsequent EIR on the basis of its effects on biological resources.

h. Geology and Soils

The Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the development analyzed and discussed in the Gilbert EIR. The reduction in size of 299 of the previously approved lots and the addition of 75 residential lots within the approved tentative map residential development areas would not result in any changes in the development footprint or to the location and magnitude of any of the geology and soils impacts analyzed in the Gilbert EIR. Accordingly, the potential geology and soil impacts associated with the Project are the same as the geology and soil impacts described and analyzed in the Gilbert EIR. The Project would be required to implement all applicable mitigation measures set forth in the Gilbert EIR and Resolution No. 116-07 with regard to potential geology and soil impacts. The following mitigation measures are carried forward from the Gilbert EIR and Resolution No. 116-07 to reduce the Project's geology and soils impacts to less than significant.

Mitigation Measure 4.9-1 Prior to approval of improvement plans, the project proponent shall conduct a design-level geotechnical study, which shall consider the recommendations in the existing geology report and additional recommendations as needed. The study shall specifically address whether expansive soils are present in the development area and include measures to address these soils where they occur. The recommendations from the geotechnical study shall be incorporated into the design of roadway and infrastructure improvements as well as

foundation and building design for the review and approval of the City Engineer .

Mitigation Measure 4.9-2

Prior to the approval of improvement plans, and after the project grading plans are completed and the approximate building loads are determined, a qualified geotechnical engineer shall determine if remediation measures such as removing and surcharging the compressible materials are necessary to minimize future settlement to acceptable levels. The applicant shall provide the findings of the consolidation analysis to the City Engineering Division for review and approval.

Mitigation Measure 4.9-3(a)

Prior to issuance of a grading permit, the applicant/developer shall incorporate the recommendations of a design-level geotechnical report into the improvement plans. The following measures include, but are not limited to, the options available to reduce site liquefaction potential and/or adverse effects to structures located above potentially liquefiable soils. Once final grading plans are designed, the project's geotechnical engineers will need to determine the appropriate methods of mitigating the effects of liquefaction such as:

- Remove and replace potentially liquefiable soils;
- Strengthen foundations (e.g., post-tensioned slab, reinforced mat or grid foundation, or other similar system) to resist excessive differential settlement associated with seismically-induced liquefaction;
- Support the proposed structures on an engineered fill pad in order to reduce differential settlement resulting from seismically-induced liquefaction and post-seismic pore pressure dissipation; and
- Densify potentially liquefiable soils with an in situ ground improvement technique such as deep dynamic compaction, vibro-compaction, vibro- replacement, compaction grouting, or other similar methods.

Mitigation Measure 4.9-3(b)

If deep dynamic compaction is expected to be implemented as the method of densification or for any other reason, the following measures shall be implemented:

- Geotechnical engineers for the Contra Costa Water District and the Group Member performing Deep Dynamic Compaction (the "DDC Member") shall mutually agree upon acceptable threshold limits for peak particle velocities measured during deep dynamic compaction at the toe of the Canal berm (the "Threshold Limits") along the DDC Member's Project. The sole purpose of the Threshold Limits is to attempt to avoid damage to the canal. The parties are not warranting that peak particle velocities at the toe of the Canal berm along the DDC Member's Project less than said Threshold Limits is safe or would not cause or contribute to Canal damage. In determining Threshold Limits, in addition to

general safety and engineering factors, the District and DDC Member Engineers may also consider the types and amounts of comprehensive general liability insurance coverage provided by the DDC Member and its contractors or sub-contractors, as well as specific design, construction monitoring, and other measures that are developed to protect the Canal's Integrity, stability, and water quality as set forth above. (For example, if the District believes the amounts of comprehensive general liability insurance coverage provided by the DDC Member and its contractors or sub-contractors is insufficient, the Threshold Limits should be reduced accordingly to reflect this fact.) An independent licensed engineer selected by the District (with the concurrence of the DDC Member) shall, at the DDC Member's sole cost and expense, monitor measurements of peak particle velocities at the toe of the Canal berm along the DDC Member's Project during the period that Deep Dynamic Compaction is being performed, and shall submit to the District logs reflecting such measurements on a daily basis during such period.

- To help ensure that the threshold limits are not exceeded, the DDC Member shall commence deep dynamic compaction on those portions of the project site located farthest from the Canal, and thereafter shall proceed with Deep Dynamic Compaction from those portions of the Project toward the Canal. That is, the DDC Member shall always conduct Deep Dynamic Compaction on this Project in a manner that the progression is in a direction toward the canal.
- If the threshold limits are exceeded while deep dynamic compaction is being performed, then the DDC Member shall immediately cease performing deep dynamic compaction within its Project and promptly notify the District. Deep dynamic compaction shall not resume unless and until (i) measures are developed and implemented by the DDC Member to ensure that the threshold limits are not exceeded, and (ii) the DDC Member notifies the District in writing of such measures.

Mitigation Measure 4.9-4

Prior to issuance of a grading permit, the project applicant shall submit, for the review and approval of the City Engineer, an erosion control plan that utilizes standard construction practices to limit the erosion effects during construction of the proposed project. Measures could include, but are not limited to:

- Hydro-seeding;
- Placement of erosion control measures within drainageways and ahead of drop inlets;
- The temporary lining (during construction activities) of drop inlets with "filter fabric" (a specific type of geotextile fabric);
- The placement of straw wattles along slope contours; Directing subcontractors to a single designation "wash-out" location (as opposed to allowing them to wash-out in any location they desire);

- The use of siltation fences; and The use of sediment basins and dust palliatives.

Mitigation Measure 4.9-5 Implement Mitigation Measure 4.9-4.

The implementation of the above mitigation measures would reduce geology and soils impacts of Project to less than significant, as established by the Gilbert EIR and Resolution No. 116-07. The approval and development of the Project will not result in any new, or substantially more adverse, significant impacts to geological and soil resources than were otherwise disclosed in the Gilbert EIR. Moreover, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, significant geology or soil impacts than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant effects of the project to geological or soil resources. Therefore, the Project does not trigger need for a subsequent EIR on the basis of its effects on geological or soil resources.

i. Mineral Resources

The certified Gilbert EIR found that the development of the site would not result in significant impacts to mineral resources because two previously operated onsite gas wells have been abandoned, the owner of mineral rights in the Project area has entered into an agreement restricting surface access to the mineral resources in the Gilbert Property, and gas resources could be accessed from designated drilling locations to the north of the site. No significant mineral resource impacts were identified in the Gilbert EIR and in Resolution No. 116-07, and no mitigation was required.

The Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the development analyzed and discussed in the Gilbert EIR. The reduction in size of 299 of the previously approved lots and the addition of 75 residential lots within the approved tentative map residential development areas would not result in substantial changes to the development analyzed in the Gilbert EIR. Accordingly, the potential mineral resource impacts associated with the Project would be the same as described in the Gilbert EIR and no mitigation is required. If approved, the proposed Project would proceed in the manner analyzed in the certified Gilbert EIR and would not change or cause any new or more significant impacts to any existing mineral resources to a greater extent than identified in the Gilbert EIR. Moreover, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, significant impacts to mineral resources than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant mineral resource impacts of the Project. Therefore, the Project does not trigger need for a subsequent EIR on the basis of its effects to mineral resources.

j. Cultural Resources

The Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the development analyzed and discussed in the Gilbert EIR. The reduction in size of 299 of the previously approved lots and the addition of 75 residential lots within the approved tentative map residential development areas would not result in substantial changes to the development analyzed in the Gilbert EIR. Accordingly, the potential cultural resource impacts associated with the development of the Project are the same as described and analyzed in the Gilbert

EIR. The Project would be required to implement all applicable mitigation measures set forth in the Gilbert EIR and in Resolution No. 116-07 with regard to potential cultural resource impacts. The following mitigation measures are carried forward from the Gilbert EIR and Resolution No. 116-07 to reduce the Project's cultural resource impacts to less than significant.

Mitigation Measure 4.11-2(a) During construction, if any earth moving activities uncover artifacts, exotic rock or unusual amounts of bone or shell, work shall be halted in the immediate area of the find and shall not be resumed until after a qualified archaeologist has inspected and evaluated the deposit and determined the appropriate means of curation. The appropriate mitigation measures may include as little as recording the resource with the California Archaeological Inventory database or as much as excavation, recordation, and preservation of the sites that have outstanding cultural or historic significance.

Mitigation Measure 4.11-2(b) During construction, if bone is uncovered that may be human, the Contra Costa County Coroner and the Native American Heritage Commission in Sacramento shall be notified. Should human remains be found, the Coroner's office shall be immediately contacted and all work halted until final disposition by the Coroner. Should the remains be determined to be of Native American descent, the Native American Heritage Commission shall be consulted to determine the appropriate disposition of such remains.

Mitigation Measure 4.11-3 Implement Mitigation Measure 4.11-2(a) and (b).

The implementation of the above mitigation measures would reduce the cultural resource impacts associated with development of the Project to less than significant, as established by the Gilbert EIR and Resolution No. 116-07. The approval and development of the Project will not result in any new, or substantially more adverse, significant impacts to cultural resources than were otherwise disclosed in the Gilbert EIR. As discussed in Section I of this Addendum, in January 2017 the USBR, the USACE and the California State Historic Preservation Officer issued a Final Memorandum of Agreement in accordance with Section 106 of the National Historic Preservation Act covering federal actions required for the development of the Gilbert Property, which includes additional cultural resource measures. There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, significant cultural resource impacts than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant effects of the project to cultural resources. Therefore, the Project does not trigger need for a subsequent EIR on the basis of its effects on cultural resources.

k. Hydrology, Water Supply and Water Quality

The Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the development analyzed and discussed in the Gilbert EIR. The reduction in size of 299 of the previously approved lots and the addition of 75 residential lots within the approved tentative map residential development areas would not result in substantial changes to the development analyzed in the Gilbert EIR. Accordingly, the potential hydrology and water quality impacts associated with the Project are the same as the potential hydrology and water quality impacts

described and analyzed in the Gilbert EIR. The water demand and supply for the Project may slightly differ from the levels previously estimated due in part to the addition of 75 residential lots within the site. The inclusion of smaller lots within the site would likely offset potential increased water demand by reducing the need for outdoor irrigation. In addition, actual residential and other Project water use may be less than the calculated levels presented in the Gilbert EIR due to new regulatory requirements mandating the installation of more efficient water systems and fixtures in residential and commercial buildings and reduced landscape water use compared with the demand levels at the time the water supply analyses were conducted for the Gilbert EIR. As discussed in the Gilbert EIR, Project water will be supplied by the Diablo Water District. As shown in Exhibit 2 of this Addendum, on August 8, 2017 the General Manger of the Diablo Water District sent a letter to the Project applicant stating that the District has sufficient water supplies to serve the proposed additional 75 residential lots within the Project area. The Project would be required to implement all applicable mitigation measures set forth in the Gilbert EIR and Resolution No. 116-07 with regard to potential hydrology, water supply and water quality impacts. The following mitigation measures are carried forward from the Gilbert EIR and Resolution No. 116-07 for this Project to reduce hydrology, water supply and water quality impacts.

Mitigation Measure 4.12-2

Prior to Improvement Plan approvals the project engineer shall develop a levee maintenance program. The maintenance program shall be submitted for the review and approval of the City Engineer and include the plan for financing and maintenance of the levee system. The plan shall include the following guidelines: Once final grading plans are designed, the project's geotechnical engineers will need to determine the appropriate methods of mitigating the effects of liquefaction such as:

- All pertinent agencies that may have jurisdiction over the repair area shall be consulted. These agencies may include (but are not limited to) the California Department of Fish and Game, the U.S. Fish and Wildlife Service, the Army Corps of Engineers, the Regional Water Quality Control Board, the Contra Costa County Public Works Department, and the Contra Costa County Flood Control District.
- Both an engineering geologist and a civil engineer shall be consulted on significant embankment repairs.
- Soil removal and placement shall be limited to the minimum amount needed to achieve bank stabilization.
- Access roads shall be kept clear of obstructions and maintained in a manner that allows access for maintenance equipment at all times. Access road dimensions and specifications shall conform to guidelines prepared by the City of Oakley.
- The establishment of woody vegetation (e.g. trees or shrubs) can impair the integrity of the levees. Therefore, regular inspection for, and removal of, woody vegetation shall be required.
- Tunnels created by ground squirrels and other animals can also compromise the integrity of the levees. Annual inspection of the levees by a competent professional shall be required to assess the need for remedial repairs and animal control measures.
- Material shall not be placed in a manner that could be eroded by normal or expected high flows.

- Bank stabilization in excess of 500 feet in length or an average of one cubic yard per running foot must be authorized by the City of Oakley or Contra Costa County Flood Control.
- The condition of levee embankments and access roads shall be monitored in detail as part of routine monitoring, as well as during post-flood event inspections. During periodic monitoring visits, personnel shall inspect the entire perimeter of the levees around the project and note evidence of erosion or slope failures on both sides of the levee. Embankments shall generally be free of erosion, rills, slumps, and landslides.

Mitigation Measure 4.12-4(a) Prior to approval of the final map the applicant shall be required to pay a fair share fee as determined by the DWD toward the CIP for water service infrastructure improvements.

Mitigation Measure 4.12-4(b) Each final subdivision map approval shall be conditioned on DWD's issuance of a "Written Verification" that its water supplies are sufficient to serve the subdivision, if required by and consistent with SB 221.

Mitigation Measure 4.12-4(c) Each final subdivision map approval shall be conditioned on the inclusion of the property covered by such map within the CCWD's CVP contractual service area.

Mitigation Measure 4.12-6 Prior to Improvement Plan approvals, the project engineer shall develop a storm drain system maintenance program. The maintenance program shall be submitted for the review and approval of the City Engineer and include the plan for financing and maintenance of the water quality detention basin. The plan shall address aquatic vegetation and vector control, pond bank and inlet structure conditions, and pond sediment removal.

Mitigation Measure 4.12-7 Implement Mitigation Measure 4.12-6.

The implementation of the above mitigation measures would reduce hydrology, water supply and water quality impacts of the Project to less than significant, as established by the Gilbert EIR and Resolution No. 116-07. The approval and development of the Project will not result in any new, or substantially more adverse, significant impacts to hydrology, water supply and water quality than were otherwise disclosed in the Gilbert EIR. As discussed in Section I of this Addendum, and as required by Mitigation Measure 4.12-4(c), in March 2017 the USBR issued a final Environmental Assessment and finding of no significant impact under NEPA for the inclusion of the Gilbert Property within the CVP service area of the Contra Costa Water District. Moreover, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, significant hydrology, water supply or water quality impacts than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant effects of the project related to hydrology, water supply or water quality. Therefore, the Project does not trigger need for a subsequent EIR on the basis of its effects on hydrology, water supply or water quality.

1. Public Services and Utilities

The Project proposes development of the Gilbert Property in a manner substantially consistent with the approved tentative map and the development analyzed and discussed in the Gilbert EIR. The reduction in size of 299 of the previously approved lots and the addition of 75 residential lots within the approved tentative map residential development areas would not result in substantial changes to the development analyzed in the Gilbert EIR. The addition of 75 lots within the site may slightly change certain levels of service for the development, but any additional public service requirements would be subject to the fee and related development-based payments required by the applicable mitigation measures (see below) and the development agreement between the Project and the City. In addition, certain public service and utility demands, such as for wastewater treatment, may be lower than the calculated levels presented in the Gilbert EIR due to new regulatory requirements mandating the installation of more efficient water systems and fixtures in residential and commercial buildings that would result in lower wastewater volumes compared with the demand levels at the time the water supply analyses were conducted for the Gilbert EIR. Accordingly, the potential public service and utility impacts associated with the development of the Project are substantially the same as the potential public service and utility impacts described and analyzed in the Gilbert EIR. The Project would be required to implement all applicable mitigation measures set forth in the Gilbert EIR and Resolution No. 116-07 with regard to public service and utility impacts. The following mitigation measures are carried forward from the Gilbert EIR and Resolution No. 116-07 for the Project to reduce public services and utilities impacts to less than significant.

- Mitigation Measure 4.13-2** Prior to the issuance of building permits, the applicant shall participate in the provision of funding, per ordinance 86-01, to maintain police services through a special police services tax, similar to conditions placed on recent City subdivision approval, for the approval of the Community Development Department.
- Mitigation Measure 4.13-3(a)** Prior to the issuance of building permits, the project proponent shall pay a fair share of costs per ordinance 86-01, for new fire protection facilities and services, consistent with fire impact fees adopted by the City of Oakley.
- Mitigation Measure 4.13-3(b)** Prior to approval of the building plans, the project applicant shall provide proof to the Community Development Department that fire flow requirements shall be met.
- Mitigation Measure 4.13-4** Prior to recordation of final map, the proposed project property owner shall pay appropriate SB50 and AB16 school impact fees.
- Mitigation Measure 4.13-5** Prior to recordation of final map, the proposed project property owner shall pay the remaining park in-lieu fee to facilitate the provision of the community park facilities to be located north of the CCWD/USBR canal.
- Mitigation Measure 4.13-7** Prior to the issuance of building permits, the project proponent shall pay a fair share of costs for new wastewater collection facilities, as determined by the Community Development Department and Ironhouse Sanitary District.

The implementation of the above mitigation measures would reduce public services and utilities impacts of Project to less than significant, as established by the Gilbert EIR and Resolution No. 116-07. The approval and development of the Project will not result in any new, or substantially more adverse, significant public services or utilities impacts than were otherwise disclosed in the Gilbert EIR. Moreover, there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Gilbert EIR was certified, that shows any new, or substantially more adverse, significant public services or utilities impacts than those disclosed in the Gilbert EIR, or that shows that new, or previously identified infeasible, mitigation measures or alternatives would substantially reduce one or more significant effects of the project related to public services and utilities. Therefore, the Project does not trigger need for a subsequent EIR on the basis of its potential public services and utilities impacts.

III. Conclusion

Based on the foregoing, none of the circumstances requiring preparation of a subsequent or supplemental EIR to the Gilbert EIR (as specified in Public Resources Code Section 21166 and CEQA Guidelines Section 15162) exist. The Project proposes no substantial changes to the development proposed for the Gilbert Property that require major revisions to the Gilbert EIR. Furthermore, no substantial changes are proposed or would occur with respect to the circumstances that development of the Gilbert Property would be undertaken that would require major revisions to the Gilbert EIR and no new information that was not known and could not have been known at the time the Gilbert EIR was certified has become available.

Exhibit 1

**Transportation Impact Analysis
Gilbert Property Project
Abrams Associates (July 31, 2017)**



Transportation Impact Analysis
Gilbert Property Project
City of Oakley

Prepared for:
City of Oakley
3231 Main St
Oakley, CA 94561

Prepared by:
Abrams Associates
1875 Olympic Boulevard, Suite 210
Walnut Creek, CA 94596

 **Abrams Associates**
TRAFFIC ENGINEERING, INC.

July 31, 2017

GILBERT PROPERTY PROJECT *TRANSPORTATION IMPACT ANALYSIS*

EXECUTIVE SUMMARY

This traffic impact study describes the existing and future conditions for transportation with and without the proposed mixed-use development. The study presents information on the regional and local roadway networks, pedestrian and transit conditions, and provides an analysis of the effects on transportation facilities associated with the project.

This study also describes the regulatory setting; the criterion used for determining the significance of environmental impacts; and summarizes potential environmental impacts and appropriate mitigation measures. This study has been conducted in accordance with the requirements and methodologies set forth by the City of Antioch, the Contra Costa County Transportation Authority (CCTA), Caltrans, and the applicable provisions of CEQA. Based on this analysis the project would not cause significant impacts at any intersections in the study area and no off-site vehicular traffic mitigations would be required. As discussed in more detail below, the resulting analysis of existing and future transportation conditions is substantially the same for both the approved 506 residential lot project and the proposed 581 residential lot project.

ENVIRONMENTAL SETTING

The Gilbert Property includes 120 acres and is located north of Cypress Road within the proposed 303-acre Dutch Slough Properties area in the City of Oakley. The Gilbert Property was previously approved for residential development consisting of 506 single-family residential units. The currently proposed project would involve an approval that would increase the number of lots by 75 for a new total of 581 single family homes.

Implementation of the project would increase vehicular traffic in the area, which could potentially affect traffic operations, particularly at critical intersections in the area. Figure 1 shows the project location and the study intersections that were included in the analysis. Figure 2 shows the project site plan. A discussion of the existing traffic and transportation conditions in the project study area is provided below.

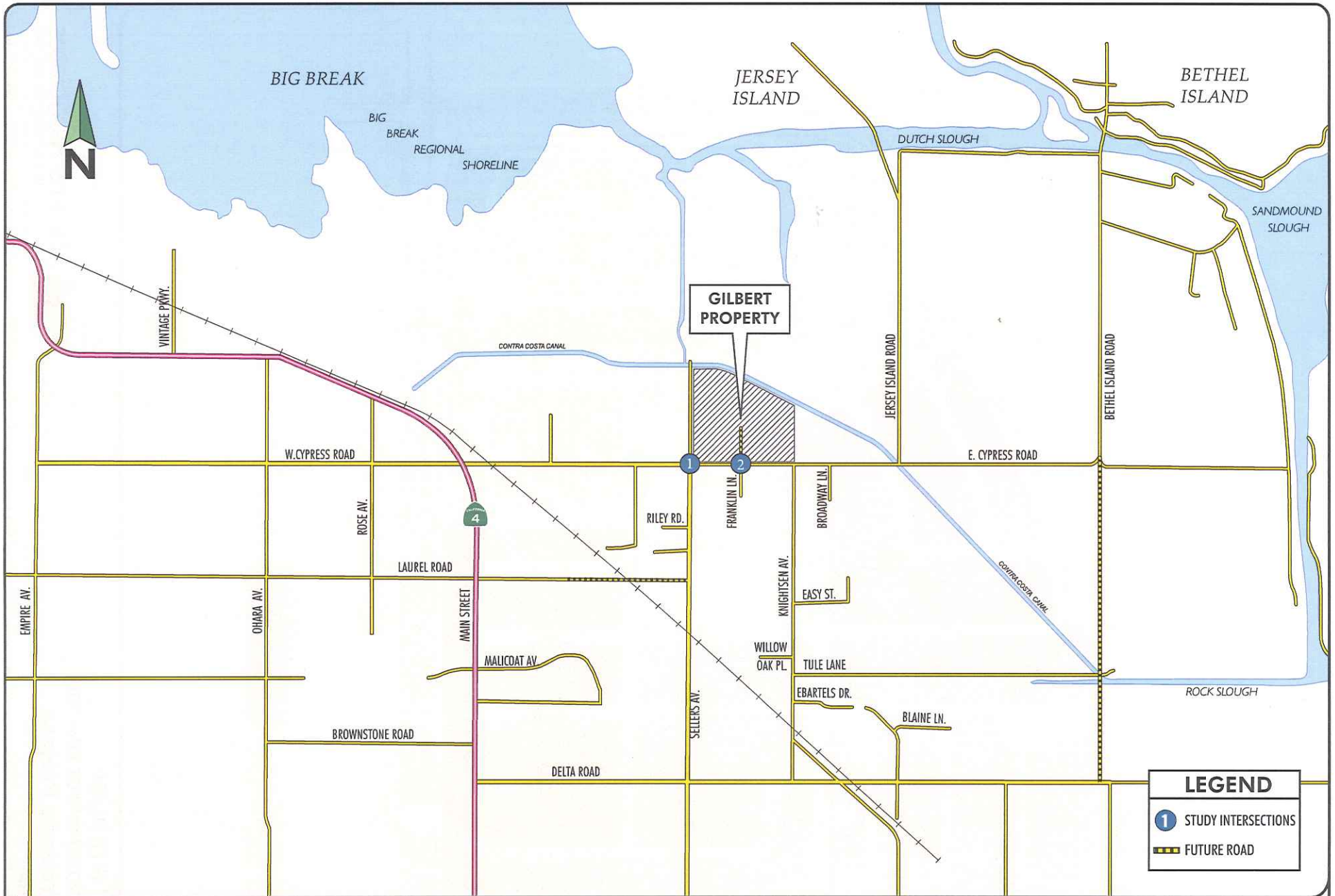
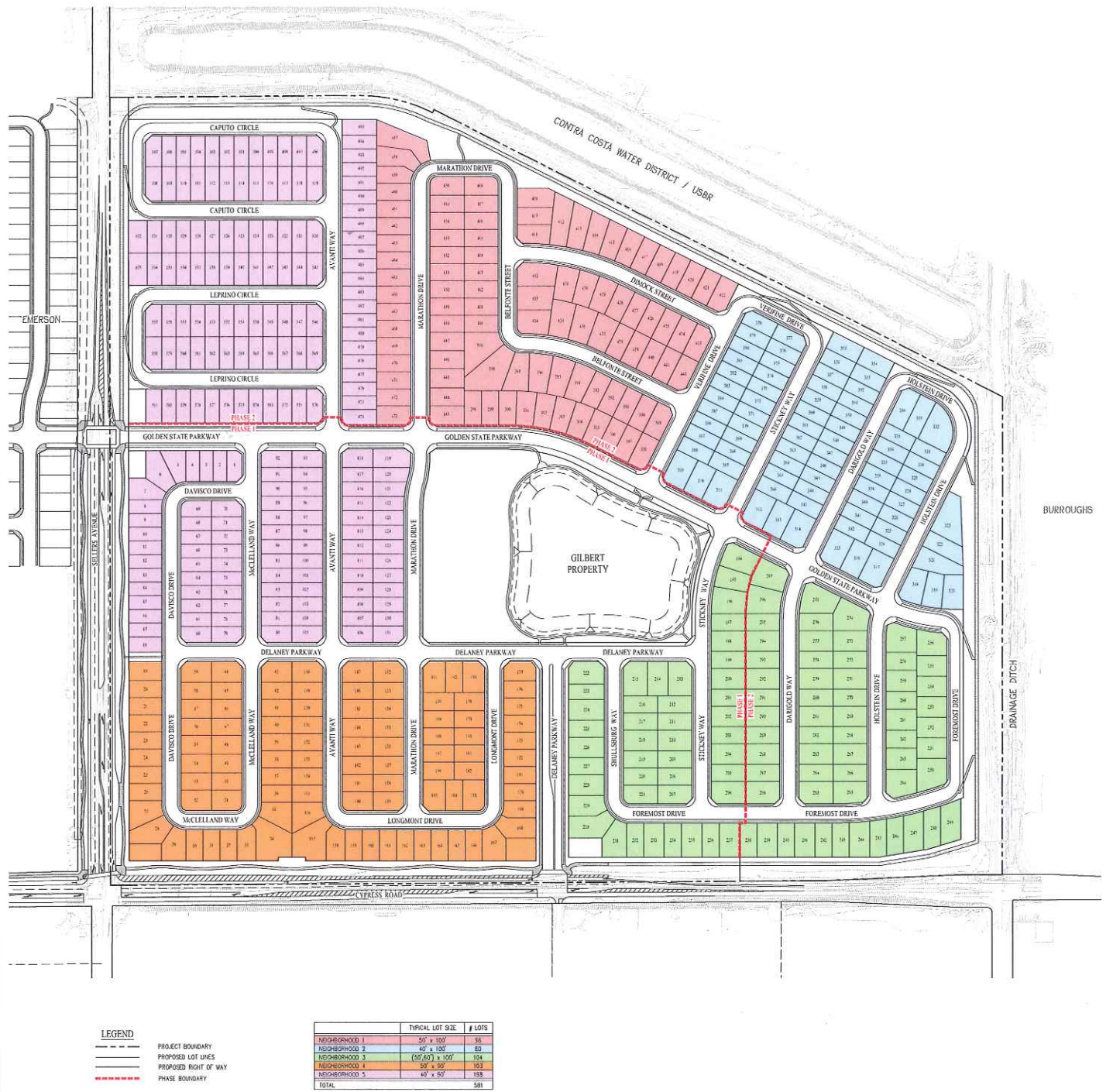


FIGURE 1 | PROJECT LOCATION
TRANSPORTATION IMPACT ANALYSIS
Gilbert Property Project
 City of Oakley



LEGEND
 - - - PROJECT BOUNDARY
 - - - PROPOSED LOT LINES
 - - - PROPOSED RIGHT OF WAY
 - - - PHASE BOUNDARY

	TYPICAL LOT SIZE	# LOTS
NEIGHBORHOOD 1	50' x 100'	36
NEIGHBORHOOD 2	40' x 100'	80
NEIGHBORHOOD 3	(50' 60') x 100'	104
NEIGHBORHOOD 4	30' x 90'	103
NEIGHBORHOOD 5	40' x 90'	138
TOTAL		561

FIGURE 2 | SITE PLAN
TRANSPORTATION IMPACT ANALYSIS
Gilbert Property Project
 City of Oakley

Existing Conditions

Land Use

The project site has historically been used for dairy and agricultural purposes and is located to the east of the approved and partially developed Cypress Grove residential project, the Delta Vista Middle School and the Iron House Elementary School. The Dutch Slough Properties area is bounded on the north and east by the Contra Costa Water District Canal (CCWD/USBR Canal), which segregates the project site from the open space acreage to the north currently owned by the State of California.

Roadways

The following are descriptions of the primary roadways in the study area: State Route 4 (SR-4)/Main Street, Cypress Road, Sellers Avenue, Knightsen Avenue, Laurel Road, and Delta Road.

State Route 4 (SR-4)/Main Street is a two-lane major arterial that carries approximately 25,500 vehicles per day. Main Street is currently the only major north-south transportation corridor in the vicinity of the project that provides direct access from Oakley to the greater Bay Area and a link between Contra Costa County and San Joaquin County to the east. Mixed residential, commercial, and agricultural uses characterize the lands along both sides of SR-4 between Rose Avenue and Laurel Road. Maximum speeds posted on SR-4 in the project vicinity are: 35 miles per hour (mph) west of Rose Avenue, 45 mph between Rose and Bernard Road, and 40 mph south of Bernard Road.

Cypress Road is an east-west, two-lane residential arterial west of SR-4 and a two- to four lane arterial east of SR-4 that is referred to as East Cypress Road. The posted speed limit on Cypress Road is 50 mph east of SR-4 in the vicinity of the project site.

Sellers Avenue is a north-south, two-lane rural road that currently has residential lots south of Cypress Road and farmlands to the north.

Knightsen Avenue is a north-south, two-lane rural road that extends north from Eden Plains Road to terminate at East Cypress Road.

Laurel Road is an east-west two-lane residential collector street with residential and vacant land on both sides. The posted speed on Laurel Road is 45 mph. Laurel Road is located approximately one-half mile south of the project site, parallel to Cypress Road, and is planned to be extended to Sellers Avenue.

Traffic Operations

During the AM peak hour, the primary direction of traffic in the vicinity of the project is westbound as area residents use SR 4 and other roadways to travel to employment in the Bay Area. During the PM peak hour, the primary direction of traffic is eastbound as residents return home. Main Street is currently used as the primary route of travel to the nearest freeway (SR 4). Main

Street also serves a high truck volume that contributes to the congestion along the corridor. As mentioned previously, the Union Pacific (UP) Railroad crosses East Cypress Road about 650 feet east of Main Street. The crossing is currently at-grade and controlled by gates on East Cypress Road. Based on current observations, when trains cross East Cypress Road the eastbound East Cypress Road traffic can back to Main Street and interfere with the regular operations at the East Cypress Road/Main Street intersection, mainly during the PM peak hour. Although East Cypress Road is being improved in the area there are no plans to grade-separate the railroad crossing.

Intersection Operations

Abrams Associates conducted new detailed peak hour turning movement counts on East Cypress Road in March of 2016 for the Cypress Self Storage Project Transportation Impact Analysis.¹ The existing peak hour traffic volumes are shown on **Figure 3** and the existing lane configurations are shown in **Figure 4**. Each project study intersection was analyzed according to the methodology and standards set forth in the “Impacts and Mitigations” section.

Existing intersection operations were evaluated for the weekday AM and PM peak hours at the one existing study intersection and the results are shown in **Table 1**. Please note that the corresponding LOS analysis calculation sheets are presented in the Transportation Impact Analysis Technical Appendix. All project study intersections currently operate at acceptable levels-of-service (LOS) which is LOS D or better according to City and County standards.

Transit Service

Tri-Delta Transit provides transit service in the area, providing three lines connecting Brentwood and the Pittsburg/Bay Point Bay Area Rapid Transit (BART) station. Tri-Delta Transit Route 391 operates during the commute hours on weekdays and Route 392 operates on weekends only. Both routes travel through local streets in Brentwood, Oakley, and Antioch. Route 300 is an express route on SR-4 with only four stops between Brentwood and the BART station. In the vicinity of the project, all three lines have bus stops located at the Main Street (SR-4)/Cypress Road intersection just to the southwest of the project site. However, service is not currently provided on Cypress Road east of SR-4/Main Street.

**TABLE 1
EXISTING INTERSECTION OPERATIONS**

	INTERSECTION	CONTROL	PEAK HOUR	EXISTING		EXISTING PLUS PROJECT	
				Delay	LOS	Delay	LOS
1	SELLERS AVE & E. CYPRESS RD	Signalized	AM	11.2	B	11.8	B
			PM	13.3	B	14.7	B
2	GILBERT ENTRANCE & E. CYPRESS RD	Signalized	AM	N/A	N/A	4.1	A
			PM	N/A	N/A	4.0	A

SOURCE: Abrams Associates, 2017

NOTES: Intersection LOS is based on delay which is presented in terms of seconds per vehicle.

¹ Cypress Self Storage Project Transportation Impact Analysis, Abrams Associates Traffic Engineering, March 23, 2016.

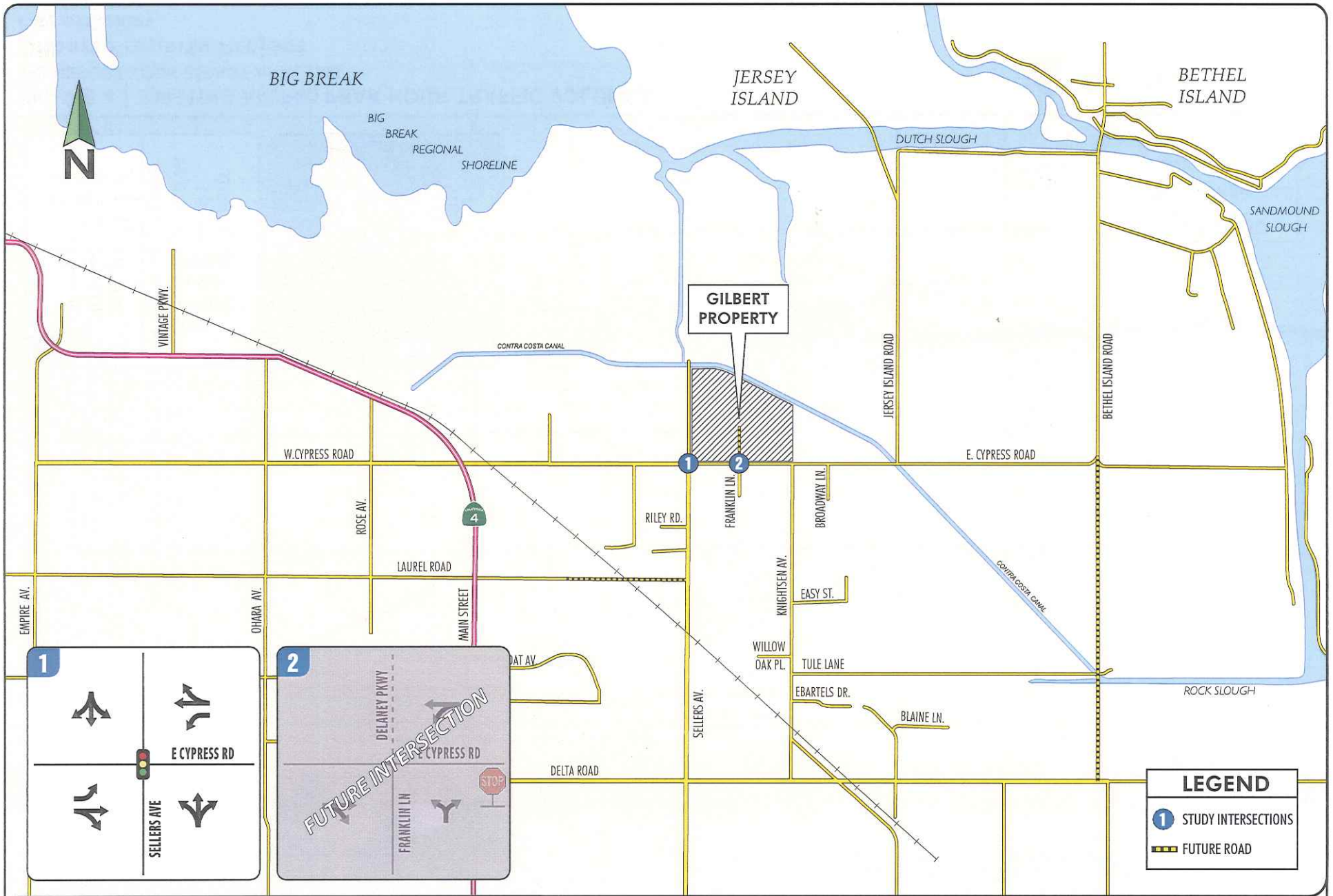


FIGURE 3 | EXISTING LANE CONFIGURATION
 TRANSPORTATION IMPACT ANALYSIS
Gilbert Property Project
 City of Oakley

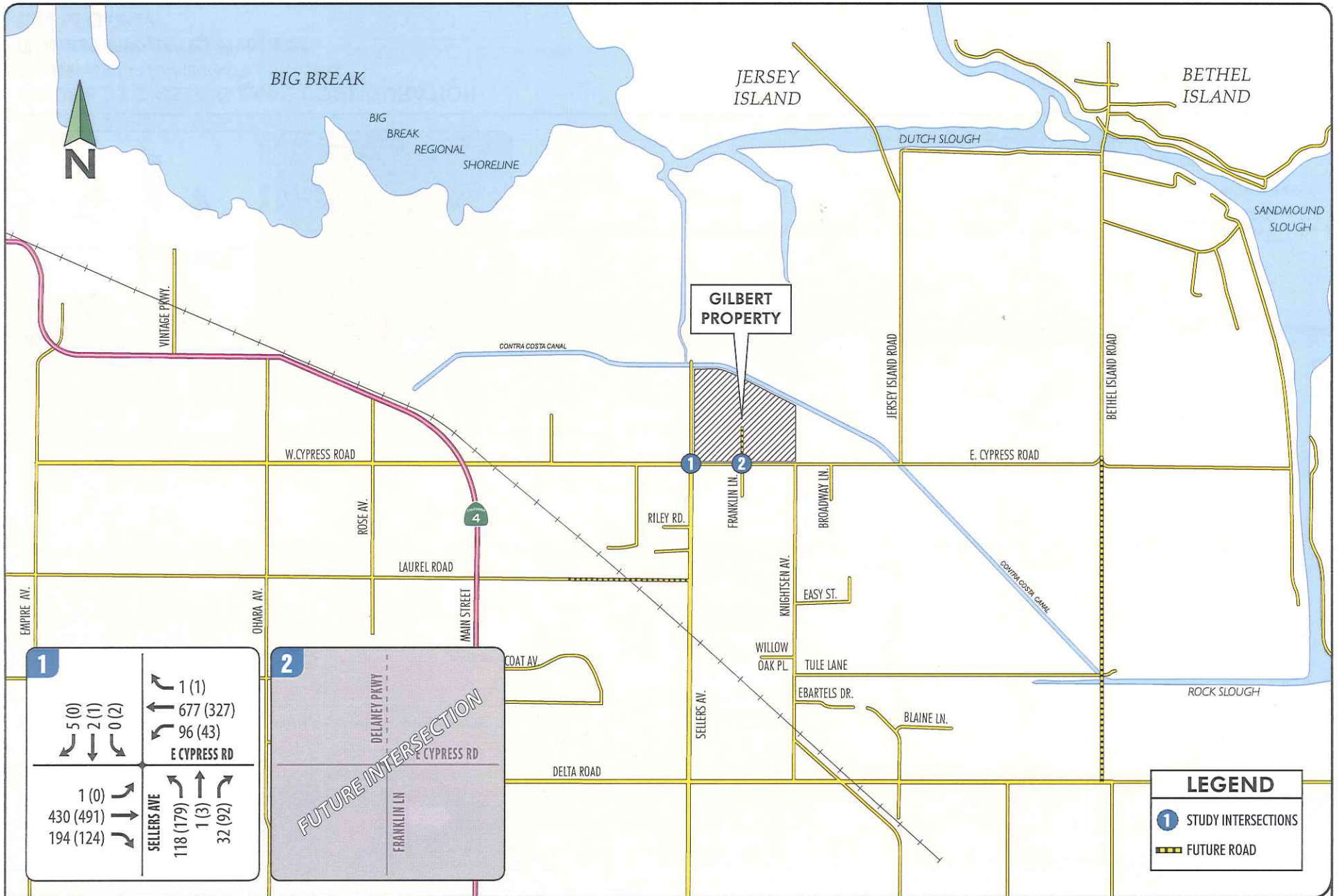


FIGURE 4 | EXISTING AM(PM) PEAK HOUR TRAFFIC VOLUMES
 TRANSPORTATION IMPACT ANALYSIS
Gilbert Property Project
 City of Oakley

Baseline Conditions

In order to provide a more accurate forecast of the impact of the Gilbert Property Project on traffic in the area an analysis was also conducted to determine the traffic that will be added from approved projects that could affect the study area. The adjusted data is based on a complete list of approved projects contained in the East Cypress Road Specific Plan Traffic Study¹. For the purposes of this analysis it was assumed that no more than about 50% of the East Cypress Road Specific Plan development could be constructed and occupied before the proposed project is completed.

Figure 5 shows the Baseline traffic volumes that were used in this analysis. The data was used to analyze the baseline (or "background") traffic conditions from which the effects of the Gilbert Property project will be measured. The baseline represents the traffic conditions that are forecast to exist once already approved projects (and other reasonably foreseeable projects) are completed and occupied.

Baseline Roadway Improvements

Funded roadway improvements that were assumed to be in place under the Baseline conditions include the following:

- Extension of Neroly Avenue from its current terminus east to Main Street.
- Extension of East Cypress Road from Bethel Island Road to Sandmound Boulevard as a four-lane arterial.
- Widening of Main Street/Laurel Road intersection.

Intersections

The two project study intersections would continue to have acceptable conditions (LOS D or better) during the weekday AM and PM peak hours. The corresponding LOS analysis calculation sheets are presented in the Traffic Analysis Appendix.

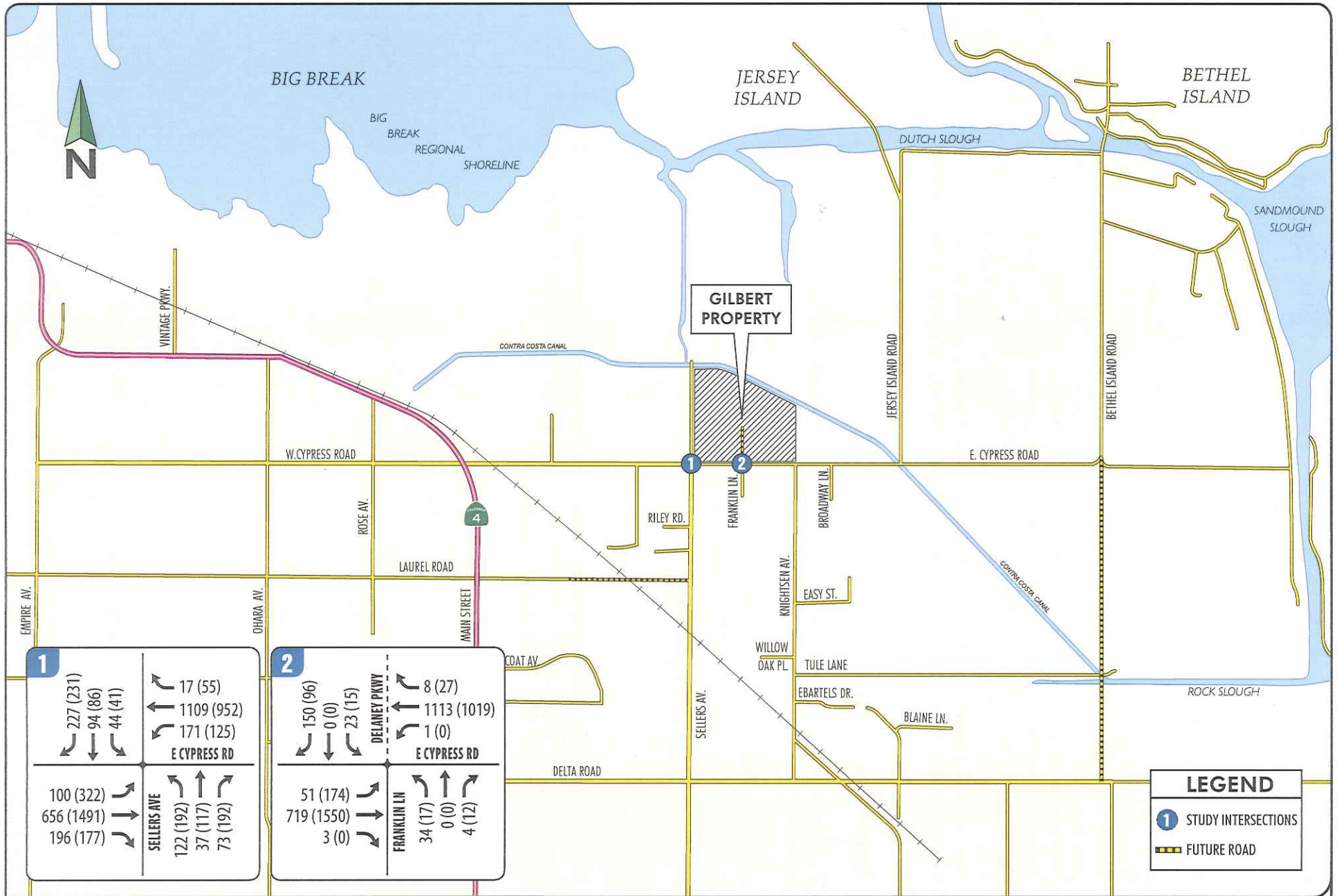


FIGURE 5 | BASELINE AM(PM) PEAK HOUR TRAFFIC VOLUMES
 TRANSPORTATION IMPACT ANALYSIS
Gilbert Property Project
 City of Oakley

REGULATORY CONTEXT

Existing policies, laws and regulations that would apply to the proposed project are summarized below.

State

The California Department of Transportation (Caltrans) has jurisdiction over state highways. Therefore, Caltrans controls all construction, modification, and maintenance of state highways, such as SR-4. Any improvements to SR-4 would require Caltrans' approval.

Contra Costa County Transportation Authority

The Contra Costa Transportation Authority (CCTA) serves as the Congestion Management Agency (CMA) for Contra Costa County. CCTA adopted the county's first Congestion Management Program (CMP) in October 1991. The most recent CMP, referred to as the 2013 CMP Update, represents the sixth biennial update that the Authority has prepared.

Local

General Plan Policies

The Transportation and Circulation Element included in the General Plan is prepared pursuant to Section 65302(b) of the California Government Code, and has been a mandatory component of local General Plans since 1955. The Transportation and Circulation Element is required to address the location and extent of existing and planned transportation routes, terminals, and other local public utilities and facilities. Furthermore, the Transportation and Circulation Element must be consistent with the other elements of the General Plan, accommodating future travel demand and contributing to, rather than inhibiting, the attainment of desired land use patterns in the Land Use Element.

The General Plan identifies several roadway and transit goals and policies that have been adopted to ensure that the transportation system of the city will have adequate capacity to serve planned growth. These goals and policies are intended to provide a plan and implementation measures for an integrated, multi-modal transportation system that will safely and efficiently meet the transportation needs of all economic and social segments of the city and provide for the transport of goods and services within the City. The following applicable goals and policies are from the Oakley 2020 General Plan²:

Roadway and Transit Goals:

Goal 3.1 Provide an efficient and balanced transportation system.

² Oakley 2020 General Plan, City of Oakley, August 30, 2002.

- Policy 3.1.1 Strive to maintain Level of Service D as the minimum acceptable service standard for intersections during peak periods (except those facilities identified as Routes of Regional Significance).
- Policy 3.1.2 For those facilities identified as Routes of Regional Significance, maintain the minimum acceptable service standards specified in the East County Action Plan Final 2000 Update, or future Action Plan updates as adopted.
- Policy 3.1.3 Keep roadway facilities in optimal condition.
- Policy 3.1.5 Encourage a multi-modal circulation system that supports non-automobile travel.
- Policy 3.1.6 Address future roadway needs through both new road construction and management of existing and planned roadway capacity.
- Policy 3.1.8 Mitigate conflicts between new roadway improvements and existing rural roadways when the identified conflicts threaten public health, safety and welfare.

Bicycles and Pedestrians:

- Goal 3.2 Promote and encourage walking and bicycling.
- Policy 3.2.1 Provide maximum opportunities for bicycle and pedestrian circulation on existing and new roadway facilities.
- Policy 3.2.2 Enhance opportunities for bicycle and pedestrian activity in new public and private development projects.
- Policy 3.2.3 Create a bicycle and pedestrian system that provides connections throughout Oakley and with neighboring areas, and serves both recreational and commuter users.

Public Transportation:

- Goal 3.3 Provide adequate, convenient, and affordable public transportation.
- Policy 3.3.1 Design new roadways and facilities to accommodate public transit.
- Policy 3.3.2 Ensure that new public and private development supports public transit.
- Policy 3.3.3 Encourage transit providers to improve transit routes, frequency, and level of service to adequately serve the mobility needs of Oakley residents, including those dependent on public transit.

Neighborhood Traffic Management:

- Goal 3.4 Minimize the intrusion of through traffic on residential streets.
- Policy 3.4.1 Direct non-local traffic onto collector streets and arterials.
- Policy 3.4.2 Maintain traffic speeds and volumes on neighborhood streets consistent with residential land uses.
- Policy 3.4.3 Provide adequate capacity on collector and arterial streets to accommodate travel within the City.

IMPACTS AND MITIGATIONS

Standards of Significance

Based on the adopted policies of CCTA, the City of Oakley, and Contra Costa County a traffic impact would be considered significant if any of the following conditions, or potential thereof, would result from implementation of the proposed project.

- Substantially increased traffic volumes in relation to existing traffic load and capacity of the street system;
- A decline in LOS at a signalized intersection to unacceptable Level E ($V/C = 0.90$) or lower;
- A decline in LOS at an unsignalized intersection to unacceptable level - LOS E (Average Delay = 35 seconds) or lower;
- An unsignalized intersection is forecast to meet the warrants for installation of a traffic signal, as set forth by Caltrans;
- Failure of any street or portion of a street to meet accepted safety and design standards or guidelines;
- Failure to meet adopted alternative transportation policies, plans, or programs.
- Inadequate access for emergency vehicles.

Analysis Methodology

Abrams Associates Traffic Engineering, Inc. has conducted a detailed Transportation Impact Analysis for the Gilbert Property Project. The analysis is intended to quantify the traffic impacts of the project and to address the circulation and roadway improvements needed to mitigate these impacts. The analysis, summarized herein, addresses traffic conditions occurring during the morning and evening peak hours, and the area studied encompasses all of the major intersections that would be affected by the proposed project. This includes all intersections where at least 50 peak hour trips would be added during either the AM or PM peak hour, in accordance with CCTA and Caltrans requirements. The analysis considers the project's impacts on the baseline traffic conditions as well as conditions occurring in the future under the City of Oakley and Contra Costa County General Plans.

Intersections Studied

The following intersections were studied for project-related impacts:

<u>No.</u>	<u>Intersection Name</u>	<u>Traffic Control</u>
1)	East Cypress Road and Sellers Avenue	Traffic Signal
2)	East Cypress Road and Gilbert Entrance (Franklin Lane)	Stop Control (Future Signal)

Levels of Service Evaluations

Levels of service at each of the intersections studied were evaluated to demonstrate how the proposed project would impact the transportation and circulation system. Three near-term and two long-term cumulative scenarios were considered:

- *Existing Conditions* – The current (2017) traffic volumes and roadway conditions were evaluated.
- *Existing-Plus-Approved-Projects (Baseline) Conditions* – This scenario evaluates conditions that would result when adding traffic generated by already approved projects that might affect the study intersections to existing traffic conditions.
- *Baseline-Plus-Project Conditions* – This scenario begins with the conditions determined for the existing-plus-approved-projects scenario and adds traffic that would be generated by the proposed Gilbert Property Project.
- *Year 2040 Conditions* – Future traffic conditions at the study intersections were projected based on Contra Costa County Travel Demand Model” developed by the Contra Costa Transportation Authority (CCTA).
- *Year 2040 Plus Project Conditions* – This scenario begins with the conditions determined for the year 2040 conditions above and adds traffic that would be generated by the proposed Gilbert Property Project.

Already approved projects consist of developments that are either under construction, are completed but fully or partially unoccupied, or that are not yet built but have final development-plan approval from the City. The methodology used assumes that all approved projects are completed and fully occupied in the year 2040 traffic scenarios.

Trip Generation

Trip generation is defined as the number of one-way vehicle trips produced by a particular land use or study site. Trips generated by the Gilbert Property Project were estimated using the rates contained in *Trip Generation, Ninth Edition*, published by the Institute of Transportation Engineers.

Trip Distribution and Assignment

Trip distribution is the process of determining in what proportion vehicle trips will travel between different locations within a traffic study area. Trip assignment is the allocation of vehicle trips to available routes (local streets) between locations in the traffic study area. Traffic was distributed to the roadway system manually based on existing travel patterns. Future traffic generated by approved and buildout developments was distributed and assigned to the local street system using information from the City of Oakley and Contra Costa County General Plans and from the “Eastern Contra Costa County Travel Demand Model,” which takes into account likely peak-hour route choices.

Roadway Improvements Assumptions

Based on information provided to Abrams Associates by the City and the data contained in the East County Travel Demand Model, the long-term scenarios include major improvements to the traffic network including a SR-4 bypass, improvements to Laurel Road, an extension of Laurel Road connecting to Sellers Avenue, and improvements to Sellers Avenue between Cypress Road and Laurel Road. The Year 2040 analyses were prepared based on the assumption that these key roadway improvements in the study area will be fully completed as planned.

Intersection Capacity Analysis

The level of service (LOS) measurement is a qualitative description of traffic operating conditions for intersections and roadways. Levels of service describe these conditions in terms of such factors as speed, travel time, delays, freedom to maneuver, traffic interruptions, comfort, convenience, and safety. Levels of service are given letter designations ranging from A to F, which are defined in **Tables 2 and 3** below. The LOS measurement that is used to determine the significance of any impacts a project might have on traffic and circulation is an intersection's *overall* LOS. Separate methodologies are used to determine levels of service at signalized and unsignalized intersections.

Signalized Intersections

The operating conditions at the signalized study intersections were evaluated using the most recent 1995 update of the Contra Costa County Transportation Authority's CCTALOS Program (Version 2.35). This is the intersection analysis methodology currently required by the CCTA. This program uses the TRB (Transportation Research Board) Circular 212 methodology to analyze the operations at signalized intersections based on the utilization of intersection capacity. The LOS definitions for signalized intersections are included in Table 3.

Table 2
Level of Service for Signalized Intersections

The 2000 HIGHWAY CAPACITY MANUAL methodology for analyzing signalized intersections measures the performance by the control delay per vehicle in seconds. The **CRITICAL MOVEMENT ANALYSIS METHODOLOGY**³, required by the CCTA is described in Transportation Research Board's Circular 212, defines Level of Service (LOS) for signalized intersections in terms of the ratio of critical movement traffic volumes to an estimate of the maximum capacity for critical volume at an intersection. Critical movements at an intersection are calculated by determining the maximum traffic volumes for conflicting traffic movements (i.e., left-turns plus opposing through traffic) per single stream of traffic (by lane). For the Critical Movement Methodology the LOS for intersections is determined by the ratio of critical movement volume to critical movement capacity (volume-to-capacity ratio = V/C) for the entire intersection. Six categories of LOS are defined, ranging from LOS "A" with minor delay to LOS "F" with delays averaging more than 40 seconds during the peak hour.

Level-of-Service		Description
LOS "A"	V/C Range	0.00 - 0.60
	Average Stop Delay (seconds)	0.0 - 10.0
LOS "B"	V/C Range	0.61 - 0.70
	Average Stop Delay (seconds)	10.1 - 20.0
LOS "C"	V/C Range	0.71 - 0.80
	Average Stop Delay (seconds)	20.1 - 35.0
LOS "D"	V/C Range	0.81 - 0.90
	Average Stop Delay (seconds)	35.1 - 55.0
LOS "E"	V/C Range	0.91 - 1.00
	Average Stop Delay (seconds)	55.1 - 80.0
LOS "F"	V/C Range ⁴	
	- Measured	1.00 or less
	- Forecast	1.01 or more
	Average Stop Delay (seconds)	> 80

³ Source: "Planning Level Methodology - Signalized Intersections" Circular 212, Transportation Research Board, Washington D.C., January, 1980

⁴ While forecast demands can exceed maximum capacity, actual measured volumes theoretically cannot. Since traffic inefficiencies arise at capacity demand conditions, the calculated V/C ratios for LOS "F" conditions can be substantially below a V/C of 1.00.

Unsignalized Intersections

For unsignalized intersections the methodology set forth in Chapter 10 of the 2000 Highway Capacity Manual was used. This methodology is based on average total delay (seconds/vehicle). The HCM analysis was conducted using Synchro 8.0 software and the level-of-service calculations are included in the appendix to this report.

As with signalized intersections, there are six levels of service for unsignalized intersections, A through F, which represent conditions from best to worst, respectively. **Table 3** shows the corresponding average total delay per vehicle at unsignalized intersections for each LOS category from A to F.

Table 3
Level-of-Service for Unsignalized Intersections

Level of Service (LOS)	Ave Total Delay (sec/veh)	Traffic Condition
A	< 10	No Delay
B	>10 - 15	Short Delay
C	>15 – 25	Moderate Delay
D	>25 – 35	Long Delay
E	>35 – 50	Very Long Delay
F	> 50	Volume>Capacity

Trip Generation – Gilbert Project

As mentioned previously, the Gilbert Property was previously approved for residential development consisting of 506 single-family residential units. The currently proposed project would involve an approval that would increase the number of lots by 75 for a new total of 581 single family homes. The trip generation rates for this project were based on the most current ITE rates from the ninth edition of the ITE Trip Generation Manual for Single-family Detached Housing (Land Use Code 210) as shown in **Table 4**.

Based on these ITE trip rates, the daily and peak hour project trips have been calculated. At the three proposed entrances the project is expected to generate about 714 vehicle trips per day, with about 56 trips during the AM peak hour and about 75 trips during the PM peak hour. A summary of the estimated trip generation during the AM and PM peak hours is shown on **Table 5**. The project trips forecast to be added to each of the study intersections are shown on **Figure 6**.

Table 4
Trip Generation Rates for the Gilbert Property

ITE Trip Generation Rates (Trips per 1,000 sq ft)							
Development	Daily	AM Peak Hour (8:00-9:00 AM)			PM Peak Hour (5:00-6:00 PM)		
		In	Out	Total	In	Out	Total
Single-Family Detached Housing	9.52	0.26	0.50	0.75	0.63	0.37	1.00

Table 5
Trip Generation for the Gilbert Property

Number of Vehicle Trips							
Development	Daily Trips	AM Peak Hour (8:00-9:00 AM)			PM Peak Hour (5:00-6:00 PM)		
		In	Out	Total	In	Out	Total
Single-Family Detached Housing (75 units)	714	19	37	56	47	28	75
Total Project Trips	714	19	37	56	47	28	75

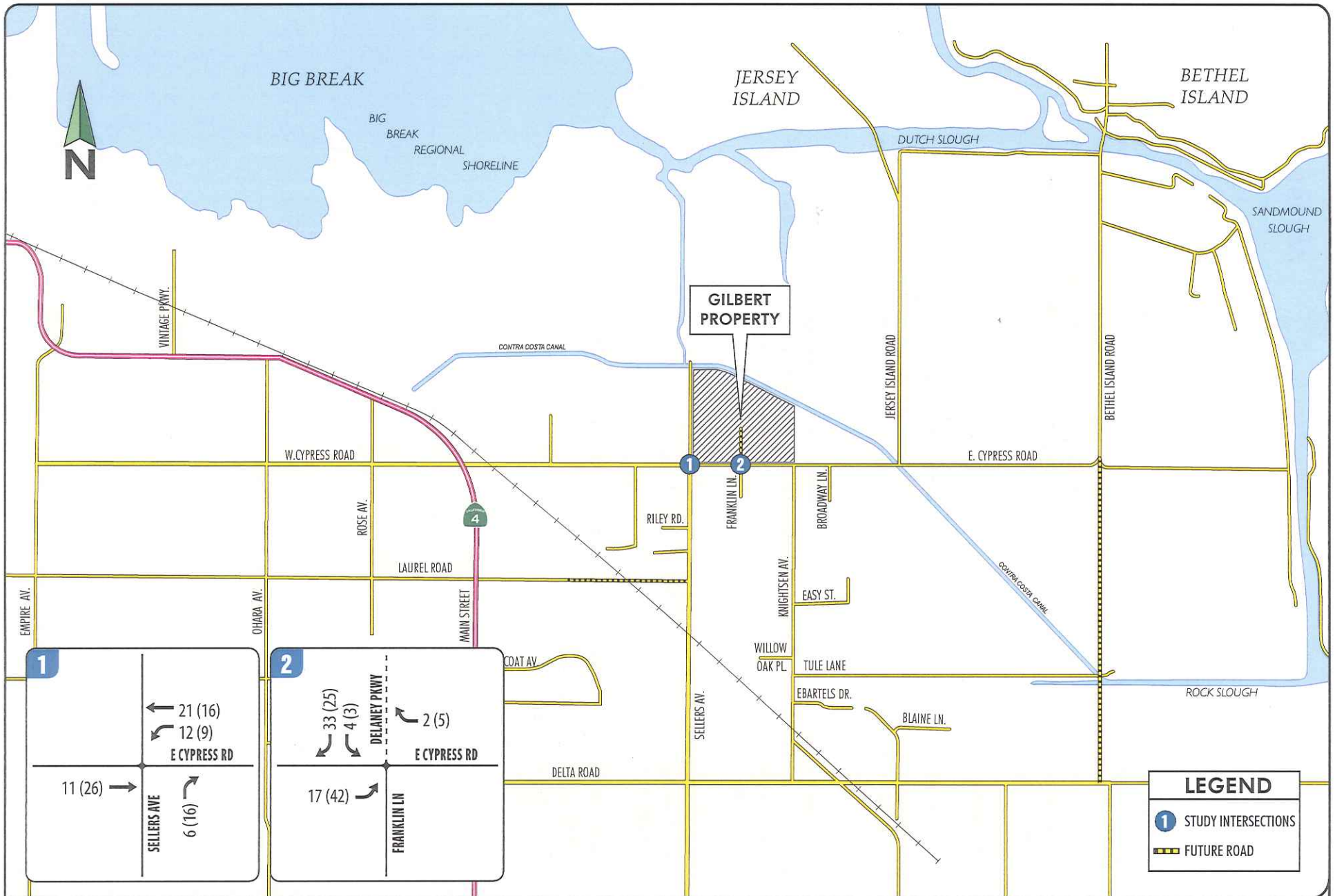


FIGURE 6 | PROJECT AM(PM) PEAK HOUR TRIPS
 TRANSPORTATION IMPACT ANALYSIS
Gilbert Property Project
 City of Oakley

Trip Distribution – Gilbert Project

Figure 7 shows the resulting existing plus project turning movements at each of the study intersections. Although Cypress Road would remain the primary access to the project, in the future a large portion of the traffic from this area is assumed to travel to and from the south on Sellers Avenue to access the SR 4 Bypass via the planned extension of Laurel Road. It should also be noted that it is forecast that approximately 22 percent of the project traffic would be internal trips within the Oakley city limits.

Project Roadway Improvements

Consistent with the Oakley 2020 General Plan, roadway infrastructure would be constructed to meet the needs of new residential neighborhoods and provide access to this portion of Oakley. Street widths would be designed in accordance with traffic studies completed for the area as well as the Oakley 2020 General Plan.

Cypress Road will be improved along the project boundary with a landscaped median, as well as a landscaped corridor with a trail on the north side of the road. The Gilbert Property project would complete the northern half of Cypress Road with three westbound through lanes from Sellers Avenue to the western boundary of the CCWD /USBR right of way.

Sellers Avenue will be constructed as a two lane divided road from Cypress Road north to the project boundary with the CCWD/USBR Right of Way (see Figure 2.4), as adopted by the Development Agreement.

Local streets will be designed and constructed per City of Oakley and Contra Costa County standards.

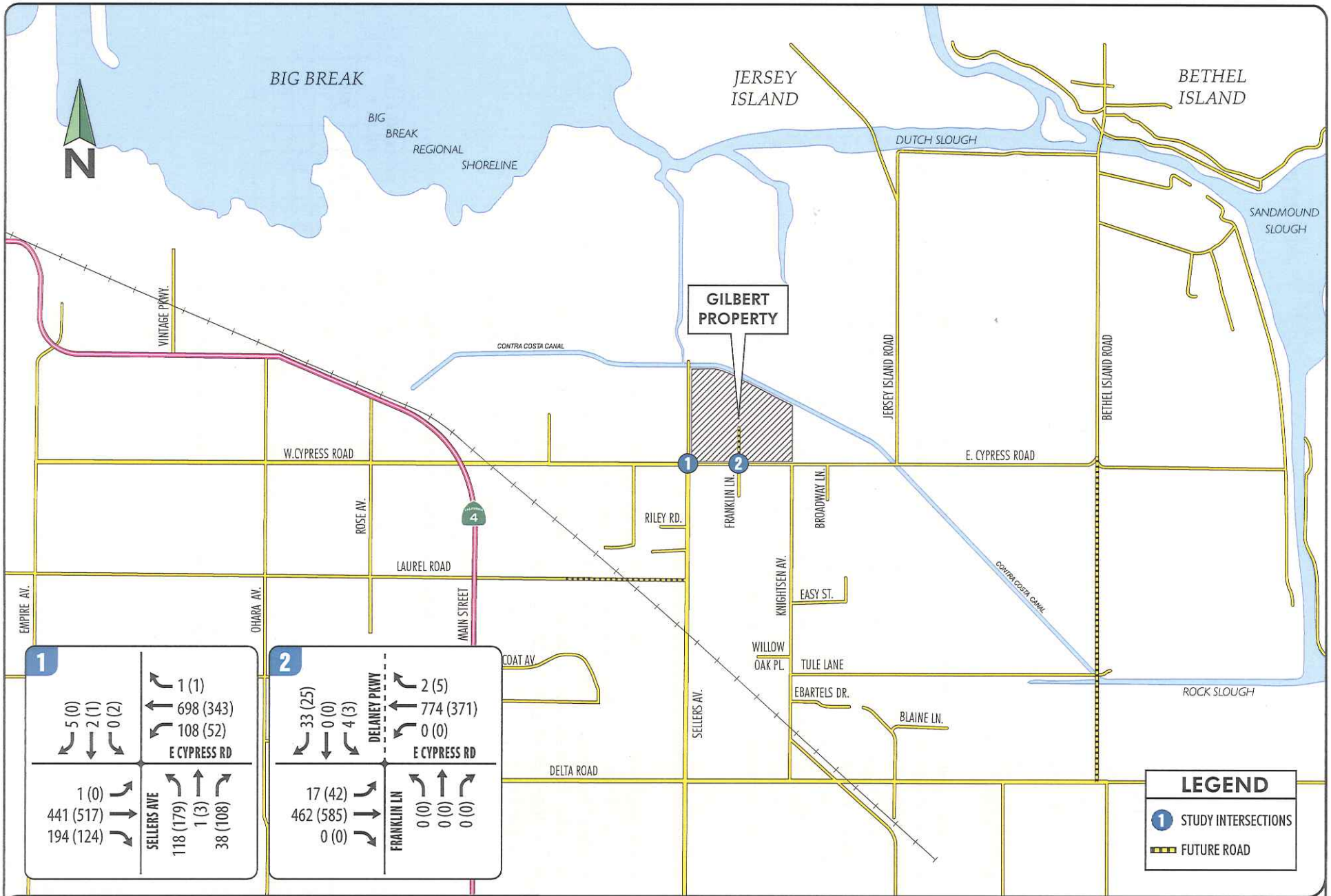


FIGURE 7 | EXISTING PLUS PROJECT AM(PM) PEAK HOUR TRAFFIC VOLUMES
 TRANSPORTATION IMPACT ANALYSIS
Gilbert Property Project
 City of Oakley

Other roadway improvements associated with the Dutch Slough Properties project include the following:

- Transition of Sellers Avenue north to the future community park;
- Installation of new traffic signal at the main entry to the Gilbert Propert.
- Intersection improvements for Franklin Lane and Knightsen Avenue at Cypress Road
- Modification of existing driveways to adjacent properties.

Existing Plus Project Intersection Operations

The existing plus proposed project traffic forecasts were developed by adding project-related traffic to the existing traffic volumes. As noted previously, **Table 1** summarizes the LOS results for the Existing Plus Project weekday AM and PM peak hour conditions (i.e. the existing roadway network). **Figure 7** presents the resulting existing plus project volumes at each of the project study intersections. Please note that the corresponding LOS analysis calculation sheets are presented in the appendix. As shown in **Table 1**, both project study intersection would continue to have acceptable conditions (LOS D or better) during the weekday AM and PM peak hours. Please note the detailed LOS and queuing calculations have been included in the technical appendix to verify there would be no queuing problems expected with addition of traffic from the proposed project.

Baseline Plus Project Intersection Operations

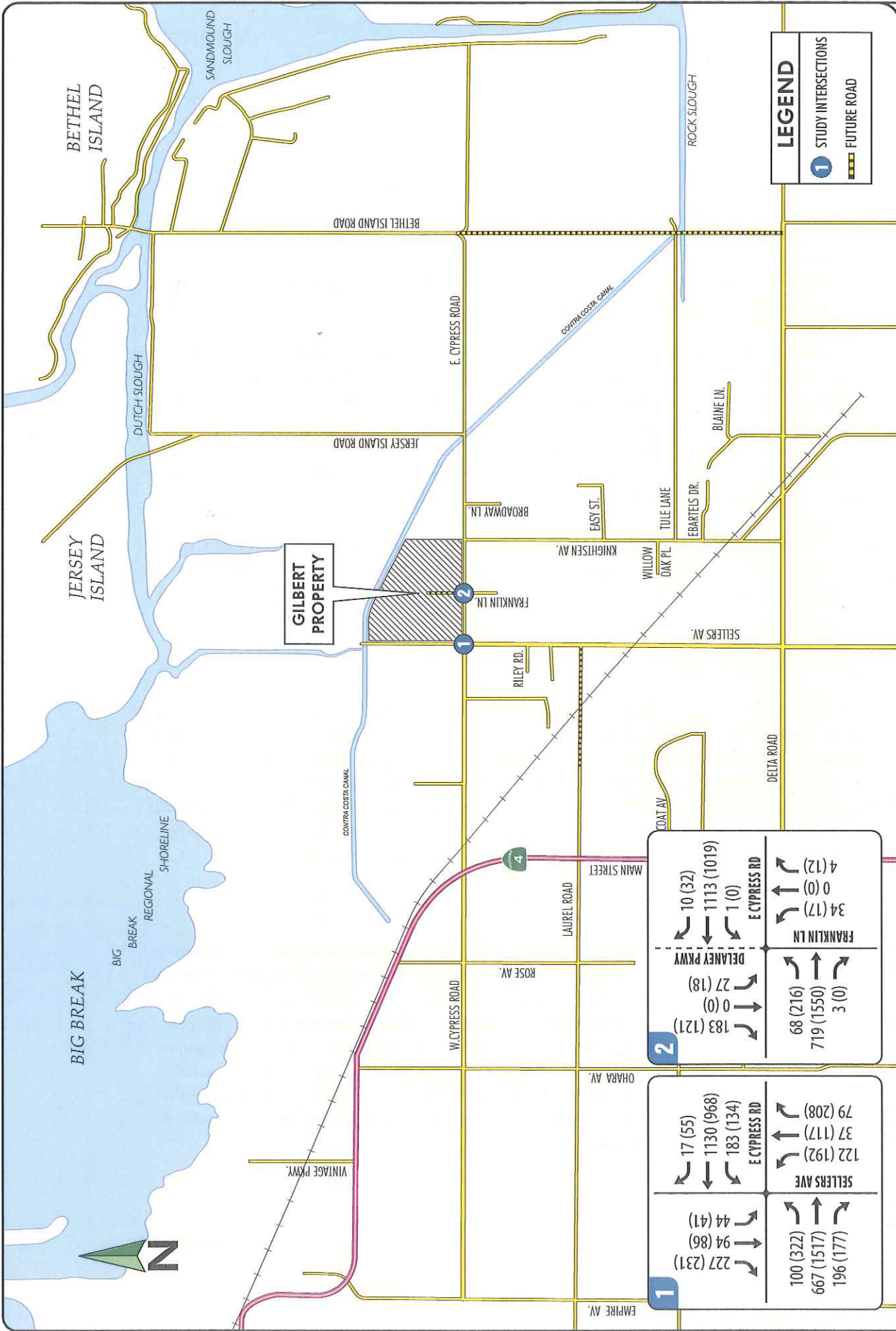
The Baseline plus proposed project traffic forecasts were developed by adding project-related traffic to the baseline traffic volumes. As noted above, **Table 6** summarizes the LOS results for the Baseline Plus Project weekday AM and PM peak hour conditions (i.e. the existing roadway network). **Figure 8** presents the baseline plus project volumes at each of the project study intersections. Please note that the corresponding LOS analysis calculation sheets are presented in the appendix. As shown in **Table 6**, both project study intersections would continue to have acceptable conditions (LOS D or better) during the weekday AM and PM peak hours.

**TABLE 6
BASELINE PLUS PROJECT INTERSECTION OPERATIONS**

	INTERSECTION	CONTROL	PEAK HOUR	BASELINE		BASELINE PLUS PROJECT	
				Delay	LOS	Delay	LOS
1	SELLERS AVE & E. CYPRESS RD	Signalized	AM	27.1	C	27.6	C
			PM	45.6	D	46.6	D
2	GILBERT ENTRANCE & E. CYPRESS RD	Signalized	AM	9.1	A	10.7	B
			PM	8.8	A	10.9	B

SOURCE: Abrams Associates, 2017

NOTES: Intersection LOS is based on delay which is presented in terms of seconds per vehicle.



LEGEND

- ① STUDY INTERSECTIONS
- FUTURE ROAD

2

<p>10 (32)</p> <p>1113 (1019)</p> <p>1 (0)</p> <p>27 (18)</p> <p>0 (0)</p> <p>183 (121)</p>	<p>4 (12)</p> <p>0 (0)</p> <p>34 (17)</p> <p>1 (0)</p>	<p>68 (216)</p> <p>719 (1550)</p> <p>3 (0)</p>
---	--	--

1

<p>17 (55)</p> <p>1130 (968)</p> <p>183 (134)</p> <p>44 (41)</p> <p>94 (86)</p> <p>227 (231)</p>	<p>79 (208)</p> <p>37 (117)</p> <p>122 (192)</p> <p>1 (0)</p>	<p>100 (322)</p> <p>667 (1517)</p> <p>196 (177)</p>
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FIGURE 8 | BASELINE PLUS PROJECT AM(PM) PEAK HOUR TRAFFIC VOLUMES
 TRANSPORTATION IMPACT ANALYSIS
Gilbert Property Project
 City of Oakley

Intersection Signalization Needs

Traffic signals are used to provide for an orderly flow of traffic through an intersection. Many times they are needed to provide side street traffic and opportunity to access a major road where high volumes and/or high vehicle speeds block crossing or turn movements. They do not, however, necessarily increase the capacity of an intersection (i.e., increase the intersection's ability to accommodate additional vehicles) and, in fact, often slightly reduce the number of total vehicles that can pass through an intersection in a given period of time. Traffic signals can also cause an increase in traffic accidents if installed at improper locations.

There are eleven possible tests (called "warrants") set forth by Caltrans (and the Manual of Uniform Traffic Control Devices) for determining whether a traffic signal should be considered for installation. These tests consider criteria such as traffic volumes and delay, pedestrian volumes, presence of school children, and accident history. Usually, two or more warrants must be met before a signal is installed. If the Peak Hour Volume Warrant (Warrant #11) is met at an intersection that is usually a strong indication that a more detailed signal warrant analysis covering all possible warrants is appropriate.

A future traffic signal is already planned at the main project entrance intersection on East Cypress Road. Based on a review of the site plan and surrounding roadways no other unsignalized intersections would meet Caltrans warrants for installation of a traffic signal as a result of project traffic.

Site Access and Circulation

The Gilbert Property residential development would have a signalized primary entrance on Cypress Road at Franklin Lane and a secondary stop controlled entrance on Sellers Avenue. The entrance on Sellers Avenue would be aligned with the entrance to the Emerson Project. The revised site plan should function well and would not cause any safety or operational problems. The project site design has been required to conform to City design standards and would not create any significant impacts to pedestrians, bicyclists or traffic operations. We also reviewed the site plan for truck access and found that that all necessary truck turning movements can be accommodated.

Emergency Vehicle Access

Factors such as number of access points, roadway width, and proximity to fire stations determine whether a project has sufficient emergency access. In this case the proposed project would provide multiple access points from the arterials in the area. Therefore, if one of the roadways is blocked or obstructed, an emergency vehicle could use an alternate route to access the project. All lane widths within the project would meet the minimum width that can accommodate an emergency vehicle; therefore the width of the internal roadways is adequate. A fire station located on East Cypress Road, just east of Bethel Island Road would allow for timely emergency response within the project area. Based on these considerations, there would be no significant impacts associated with the planned emergency vehicle access.

Alternative Transportation Access

This section discusses the pedestrian, bicycle and transit access and circulation within the project site and the consistency with adopted policies, plans and programs. For pedestrian access the roadways within the project would provide sidewalks on at least one side of the roadway. Trails would also be provided on top of the levees surrounding the project site. For bicycles off-street multi-use trails (class I facilities) would be located along the on top of the levees surrounding the project site, and through some of the parks within the site. On-street bicycle lanes (class II) would be provided along both sides of East Cypress Road and Sellers Avenue. Dedicated bicycle facilities would not be provided along the internal roads or local streets within the neighborhoods.

There is currently no transit at the site. However, given the amount of planned development in the area surrounding the project, Tri Delta Transit, the local transit service provider, may decide to provide regular transit service in the area. The arterials and collectors within the project area would provide adequate lane widths to accommodate future transit vehicles and bus pullouts are currently planned for East Cypress Road at Sellers Avenue. In general, the project's current design would not conflict with the City's adopted alternative transportation policies and plans.

Parking

The proposed project is expected to provide a minimum of two off-street parking spaces for each residential unit to ensure consistency with the County requirements. There will also be new on-street parking spaces created along the new internal project roadways. Therefore the proposed project is not expected to create negative parking impacts on the surrounding area.

Cumulative Conditions

Cumulative (2040) Traffic Forecasts

Cumulative traffic forecasts for this study were based on information obtained from the East County Travel Demand Model and the East Cypress Road Specific Plan Traffic Study¹. The resulting Cumulative (no project) traffic volumes at each of the project study intersections are shown on **Figure 9**.

Cumulative (2040) Planned Roadway Improvements

This analysis assumes that several roadway improvements would be constructed in the interim period between the Baseline and Cumulative analysis years. Only roadway improvements with identified funding or identified as mitigation measures under the Baseline conditions were included in this scenario. Please note that some portions of these improvements would be constructed as part of the proposed project. Major roadway improvements that are fully funded and planned to be completed by 2040 include:

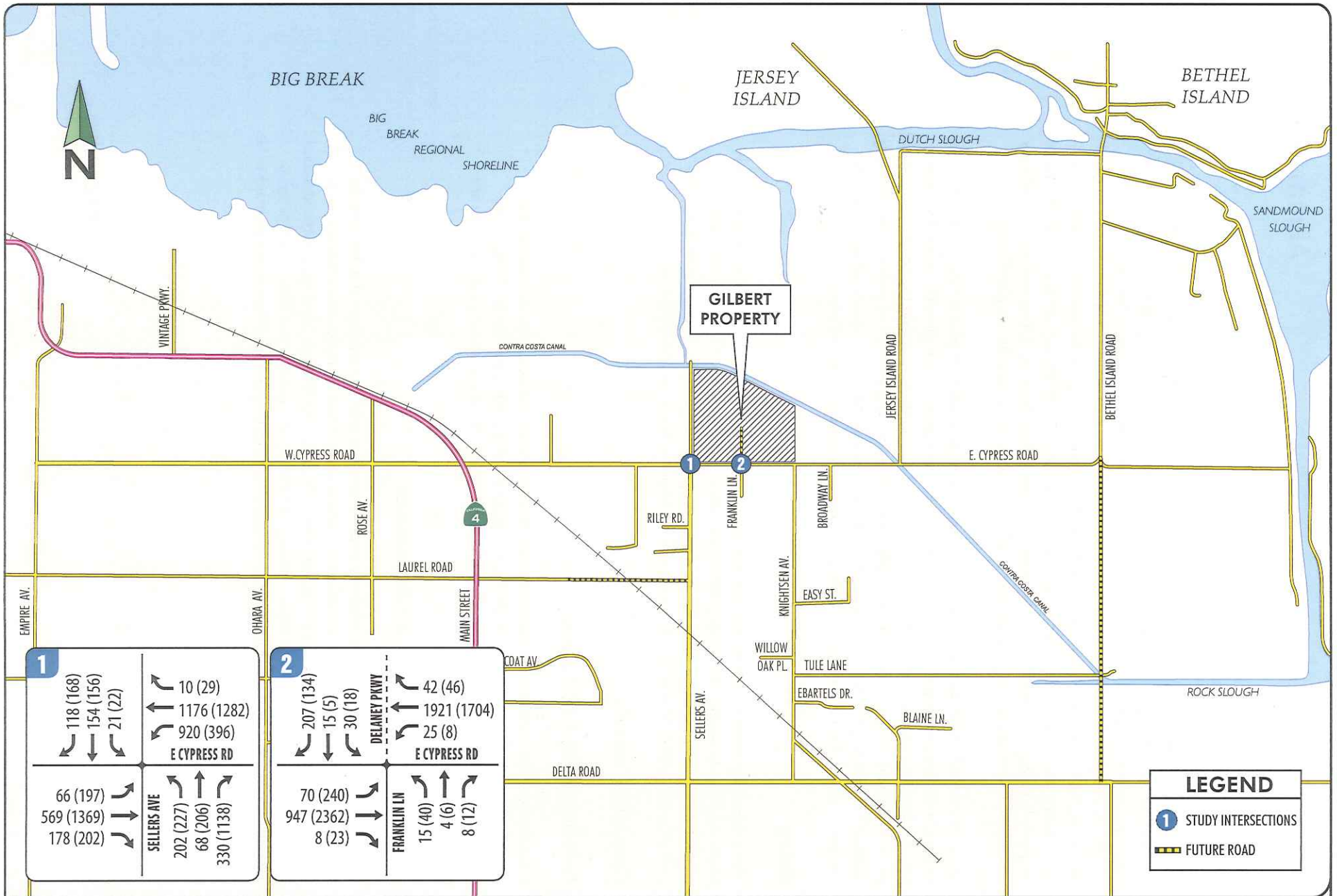


FIGURE 9 | CUMULATIVE AM(PM) PEAK HOUR TRAFFIC VOLUMES
 TRANSPORTATION IMPACT ANALYSIS
Gilbert Property Project
 City of Oakley

- Construction of an interchange at Balfour Road
- Extension of Laurel Road from Empire Avenue to Antioch City Limits
- Completion of a bridge over Rock Slough connecting Bethel Island Road and Byron Highway
- Widening of East Cypress Road to a six-lanes between Sellers Avenue and Jersey Island Road
- Four lane extension of Laurel Road between Union Pacific Railroad and Sellers Avenue
- Widening of Sellers Road to a four-lane arterial between East Cypress Road and Laurel Road
- Widening of Laurel Road to a four-lane arterial between Empire Avenue and Main Street
- Signalization of the intersections of Main Street with Rose Avenue, Brownstone Road, and Delta Road and the intersections of Sellers Avenue with Laurel Road and Delta Road.
- Completion of the Main Street Downtown Bypass

Cumulative (Year 2040) Without Project Scenario

The results of the Year 2040 (No Project) levels of service are summarized in **Table 7**. Under the No Project scenario, the above-listed assumptions were made as to transportation improvements. Based on the information provided by the City and the data contained in the East County Travel Demand Model, the long-term scenarios considered major improvements to the traffic network including the SR-4 Bypass and the extension of Laurel Road to Sellers Avenue. Assuming completion of the proposed transportation network improvements, all study intersections would continue to have acceptable operations with the traffic growth estimated by the year 2040.

Year 2040 With Project Scenario

The Cumulative (2040) traffic volumes with the addition of traffic from the proposed project are shown in **Figure 10**. The resulting levels of service for the “Cumulative plus Project” scenario are compared to the “No Project” scenario in **Table 7**. This scenario assumes completion of the proposed transportation network improvements and provides a conservative review of the traffic operations with and without the full trip generation from the proposed project. As shown in Table 6, all intersections would be forecast to continue to meet the established standards with the addition of project traffic.

**TABLE 7
CUMULATIVE AND CUMULATIVE PLUS PROJECT INTERSECTION OPERATIONS**

INTERSECTION		CONTROL	PEAK HOUR	CUMULATIVE		CUMULATIVE PLUS PROJECT	
				Delay	LOS	Delay	LOS
1	SELLERS AVE & E. CYPRESS RD	Signalized	AM	32.6	C	33.1	C
			PM	50.3	D	52.1	D
2	GILBERT ENTRANCE & E. CYPRESS RD	Signalized	AM	21.7	C	27.5	C
			PM	26.2	C	32.4	C

SOURCE: Abrams Associates, 2017

NOTES: Intersection LOS is based on delay which is presented in terms of seconds per vehicle

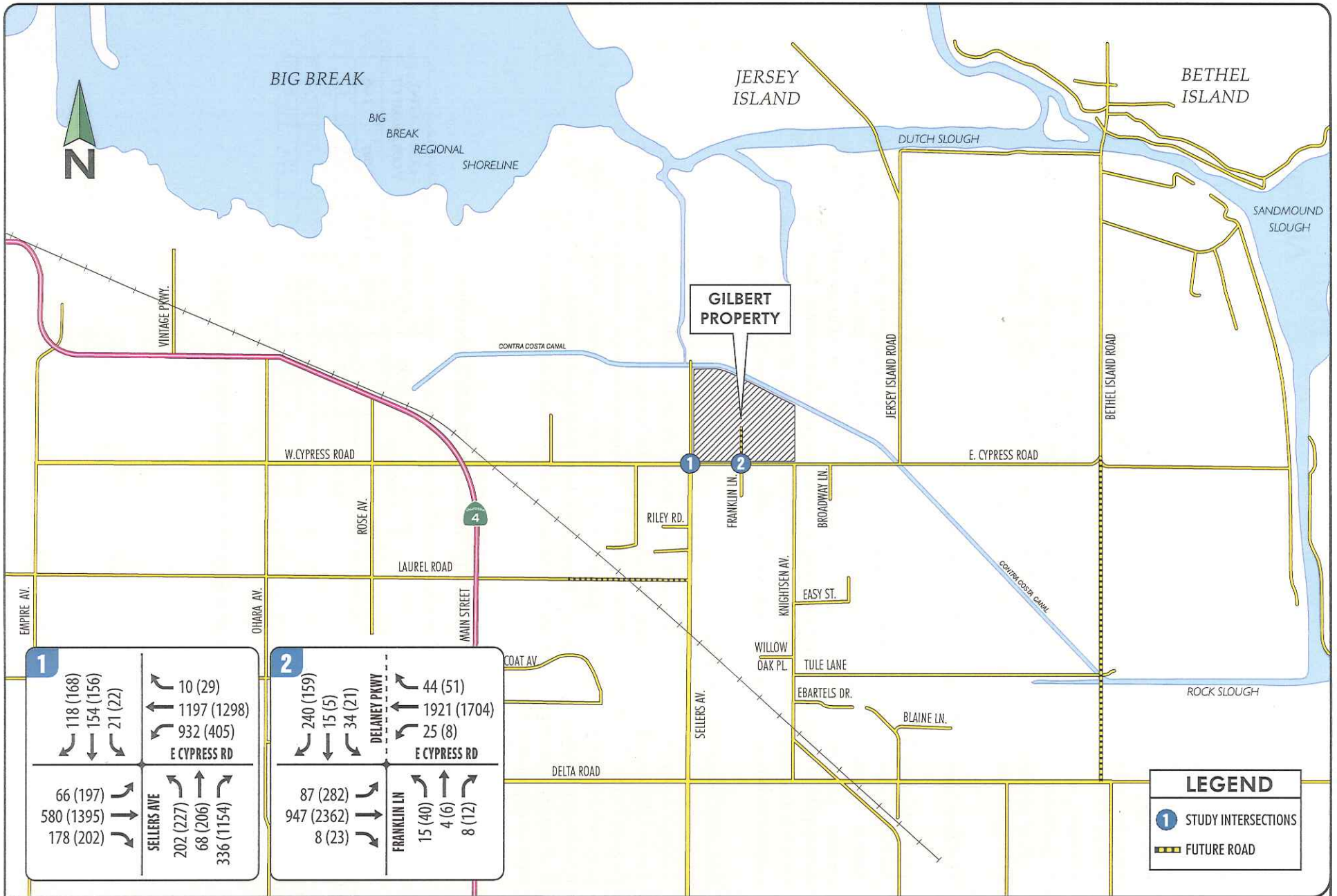


FIGURE 10 | CUMULATIVE PLUS PROJECT AM(PM) PEAK HOUR TRAFFIC VOLUMES
 TRANSPORTATION IMPACT ANALYSIS
Gilbert Property Project
 City of Oakley

CONCLUSIONS AND RECOMMENDED MITIGATION MEASURES

As discussed above, the analysis of the proposed development of 581 residential lots within the Gilbert property would result in substantially the same level of transportation impacts identified in the Final EIR that was approved for the previous 506 unit Gilbert Property project.⁵ The analysis shows that the proposed project would not result in any significant impacts and would not require any additional transportation mitigations. It is assumed the project will implement all of the mitigation measures in the certified Gilbert Property EIR, including the following traffic and circulation mitigation measures:

Mitigation Measure 4.4.1 - Prior to final map approval, the proposed project would contribute to the mitigation of the above- identified impacts by paying the proposed project's fair share of the cost through the payment of regional traffic fees to the East Contra Costa Regional Fee and Finance Authority (ECCFA) and the City's Transportation Impact Fee.

Mitigation Measure 4.4-3(a) - Prior to approval of building permits, the applicant shall contribute its fair share, to be determined by the City at the time of the approval of the building permits, toward the reconstruction of the Main Street/Cypress Road intersection as determined by the City Engineer for the following improvements:

- To provide approximately 600 feet of storage on Main Street for the southbound left-turn and northbound right-turn movements.
- Interconnect all signals.

Mitigation Measure 4.4-3(b) - Implement Mitigation Measure 4.4-1.

Mitigation Measure 4.4-4 - The project shall include bus stops on the north side of Cypress Road near Sellers Avenue. The final design and location of these bus stops shall be subject to the approval of the Oakley City Engineer prior to approval of final maps. The City Engineer shall coordinate with Tri-Delta Transit as to the placement of the bus stops.

Mitigation Measure 4.4-8 (a) - Applicant shall be responsible for the project's fair share of the cost to revise the Main Street southbound approach with two left-turn lanes, one through lane, and one shared through and right-turn lane. The project's fair share funding shall be submitted as determined by the City Engineer prior to the recording of final maps.

The implementation of these mitigation measures would further reduce the proposed project's potential traffic and transportation impacts and ensure they remain less than significant. The analysis indicates the project would not cause any other intersections in the study area to exceed City or Caltrans standards and no additional vehicular traffic mitigations would be required.

In summary, this TIA shows that the approval and development of the project will not result in any new, or substantially more adverse, significant transportation impacts than were otherwise disclosed in the Gilbert Property EIR.

⁵ *Gilbert Property Final Environmental Impact Report*, Raney Planning and Management, Inc., West Sacramento, CA, September 2007.

Project-Specific Impacts and Mitigation Measures

The following is a list of potential transportation impacts of the project. With the implementation of the proposed measures described in this section, all project transportation impacts would be reduced to a less than significant level.

TR-1 Impacts related to bicycle and pedestrian facilities.

Although the proposed project would increase vehicle and pedestrian and bicycle traffic in the project vicinity it is not expected to significantly impact or change the design of any existing bicycle or pedestrian facilities or create any new safety problems for bicyclists or pedestrians in the area.

Mitigation Measure(s)

None required.

TR-2 Impacts related to transit facilities.

The proposed project has the potential to increase patronage on bus lines in the area. However, based on this analysis the project would not result in degradation of the level of service (or a significant increase in delay) on any roadway segments currently being utilized by bus transit in the area and, as such, no significant impacts to transit are expected. The project contribution to key roadway segments in the area would not result in any significant changes to travel speeds. As a result, the project would not be expected to result in any significant impacts to transit service in the area.

Mitigation Measure(s)

None required.

TR-3 Construction activities associated with the proposed project would result in an increase in traffic to and from the site and could lead to unsafe conditions near the project site.

The increase in traffic as a result of construction activities associated with the proposed project has been quantified assuming a worst-case single phase construction period of 24 months.

Heavy Equipment

Approximately ten pieces of heavy equipment are estimated to be transported on and off the site each month throughout the construction of the proposed project. Heavy equipment transport to and from the site could cause traffic impacts in the vicinity of the project site during construction. However, each load would be required to obtain all necessary permits, which would include conditions. Prior to issuance of grading and building

permits, the project applicant would be required to submit a Traffic Control Plan. The requirements within the Traffic Control Plan include, but are not limited to, the following: truck drivers would be notified of and required to use the most direct route between the site and the freeway, as determined by the City Engineering Department; all site ingress and egress would occur only at the main driveways to the project site and construction activities may require installation of temporary (or ultimate) traffic signals as determined by the City Engineer; specifically designated travel routes for large vehicles would be monitored and controlled by flaggers for large construction vehicle ingress and egress; warning signs indicating frequent truck entry and exit would be posted on adjacent roads; and any debris and mud on nearby streets caused by trucks would be monitored daily and may require instituting a street cleaning program. In addition, eight loads of heavy equipment being hauled to and from the site each month would be short-term and temporary.

Employees

The weekday work is expected to begin around 7:00 AM and end around 4:00 PM. The construction worker arrival peak would occur between 6:30 AM and 7:30 AM, and the departure peak would occur between 4:00 PM and 5:00 PM. It should be noted that the number of trips generated during construction would not only be temporary, but should also be less than the proposed project trip generation at buildout. Based on past construction of similar projects, construction workers could require parking for up to 50 vehicles during the peak construction period. Additionally, deliveries, visits, and other activities may generate peak non-worker parking demand of 10 to 20 trucks and automobiles per day. Therefore, up to 70 vehicle parking spaces may be required during the peak construction period just for the construction employees. Furthermore, the Traffic Control Plan will require construction employee parking be provided on the project site or in off-site parking lots to eliminate conflicts with nearby residential areas. The construction of the project can also be staggered so that employee parking demand can be met by using on-site parking. Therefore, the impacts of construction-related employee traffic and parking are considered less-than-significant.

Construction Material Import

The project would also require the importation of construction material, including raw materials for the building pads, the buildings, the parking areas, and landscaping. Under the provisions of the Traffic Control Plan, if importation and exportation of material becomes a traffic nuisance, then the City Engineer may limit the hours the activities can take place.

Traffic Control Plan

The Traffic Control Plan would indicate how parking for construction workers would be provided during construction and ensure a safe flow of traffic in the project area during construction. This analysis assumed construction of the entire project in one phase to identify the potential worst-case traffic effects. If the project is built in phases over time,

the effects of each phase will be the same or less. Each phase will be subject to a Traffic Control Plan and oversight by the City Engineer. The last phase may require added worker parking measures, depending on the circumstances, as there will not be any remaining vacant land for parking. Therefore, the construction activities associated with the proposed project or its individual phases would not lead to noticeable congestion in the vicinity of the site or the perception of decreased traffic safety resulting in a *less-than-significant* impact.

Mitigation Measure(s)

None required.

TR-4 Impacts to freeway operations.

The development of the proposed project would increase the total traffic on SR 4 during both AM and PM peak hours but the increase to the future traffic volumes on any one segment is forecast to be less than 50 trips per hour. In addition, it is our understanding that the project site has already been planned to be developed in the City's General Plan and this has already been assumed in previous cumulative build-out traffic forecasts that have been used in the design of freeway facilities in the area. Therefore, the proposed project would have a *less-than-significant* impact to freeway operations.

Mitigation Measure(s)

None required.

TR-5 Impacts related to site access and circulation.

The proposed project would have one main signalized access intersection on East Cypress Road and one unsignalized driveway on Sellers Avenue. Please note that the level of service and Caltrans signal warrants were carefully reviewed to confirm that a traffic signal would not be required by the project at the proposed driveway on Sellers Avenue. Based on a review of the proposed site plan it was determined that the site circulation should function well and would not cause any safety or operational problems. The project site design has been required to conform to City design standards and the plan is not expected to create any significant impacts to pedestrians, bicyclists or traffic operations. Therefore, impacts related to site access and circulation to the proposed project would be *less-than-significant*.

Mitigation Measure(s)

None required.

TR-6 Impacts regarding emergency vehicle access on and surrounding the proposed project site.

Sufficient emergency access is determined by factors such as number of access points, roadway width, and proximity to fire stations. The land use plan for the proposed project includes a primary entrance on East Cypress Road along with secondary access onto Sellers

Avenue. All lane widths within the project should meet the minimum width that can accommodate emergency vehicles and the final emergency vehicle access plan would be subject to final approval from the Fire Department. Therefore, the development of the proposed project is expected to have *less-than-significant* impacts regarding emergency vehicle access.

Mitigation Measure(s)

None required.

Exhibit 2

**Diablo Water District Correspondence with Project Applicant
Confirming that District Has Sufficient Water Supplies to Serve the Proposed Project
(August 8, 2017)**



Copy Via Email

August 8, 2017

87 Carol Lane
P.O. Box 127
Oakley, CA 94561-0127
925-625-3798
Fax 925-625-0814
www.diablowater.org

Directors:
Edward Garcia
President

Kenneth L. Crockett
Vice President

Howard Hobbs
Enrico Cinquini
John H. de Fremery

*General Manager
& Secretary:*
Mike Yeraka

General Counsel:
Jeffrey D. Polisner

Mr. Michael Evans
Director of Forward Planning
DeNova Homes
1500 Willow Pass Court
Concord, CA 94520

Subject: Water Availability for Gilbert Project, Oakley, CA

Dear Mike:

This letter is to inform you that Diablo Water District has sufficient water supply available to serve the Gilbert project's additional 75 lots.

Sincerely,

Mike Yeraka, P.E.
General Manager