



**CITY OF NEWPORT BEACH
ENVIRONMENTAL QUALITY AFFAIRS
COMMITTEE**

AGENDA

DATE/TIME: MONDAY, December 15, 2003 – 7:00 P.M.

LOCATION: Police Department Auditorium
870 Santa Barbara Drive

Roll Call

Introduction of New Member, Sandra Haskell

1. Minutes of November 17, 2003 (*draft minutes attached*)*
2. Irvine Business Complex (IBC) Subcommittee Report (*draft form report attached*)
3. Discussion to change meeting dates for January 19 and February 16, 2004 (holidays)
4. Report from Membership Subcommittee
5. Report from EQAC Representative to GPUC
6. Report from EQAC Members on GPAC
7. Report on LCP process
8. Council Member Reports
9. Report from staff on current projects
10. Public Comments
11. Future Agenda Items

NEXT MEETING DATE: January ?, 2003
LOCATION: Police Dept Auditorium

*Draft attachments can be found on the City's website <http://www.city.newport-beach.ca.us>. Click on City Council and then click on Agendas and Minutes. The Attachments are also available in the City of Newport Beach Planning Department, 3300 Newport Boulevard, Building C, 2nd Floor



CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

DRAFT Minutes 10-20-03

Minutes of the Environmental Quality Affairs Citizens Advisory Committee held at the City Council Chambers, 3300 Newport Boulevard, November 17, 2003.

Members present

Robert Hawkins, Chairman	Elaine Linhoff
Cris Trapp, Vice Chairperson	Phillip Lugar
Barry Allen	Jim Miller
Brent Cooper	Richard Rivett
Ray Halowski	Dolores Otting
Sandra Haskel	

Staff representatives

Sharon Wood, Assistant City Manager
Niki Kallikounis, Planning Dept. Assistant

Members not present

Steve Bromberg, Mayor	Carol Hoffman
Richard Nichols, Council Member	Tom Hyans
Gary Borquez – RESIGNED	Nancy Raney
Gus Chabre	Marge Pantzar
Laura Dietz	Louis Von Dyl
Thomas Eastmond	Christopher Welsh
Maggie Fitzgerald	Jennifer Winn

Others present

Barry Eaton, Planning Commissioner	Phillip Bettencourt
Captain Fred Bockmiller, potential EDC member	John Benner, St. Mark Presbyterian Church
Scott Barnard, Project Manager consultant, St. Mark Presbyterian Church	

The meeting was called to order at 7:07 p.m.

No quorum present. Meeting began with item 6.

6. Report from Membership Subcommittee

Chairman Hawkins announced that Dolores Otting is now the chairperson of the Membership subcommittee. Dolores Otting reported on the concerns of the Committee and said the subcommittee made a decision to keep a matrix of the membership and attendance. The matrix would also include the subcommittees

11

that people participated in. Discussion ensued regarding recruitment to the committee and suggestions were offered.

7. Report from EQAC Representative to GPUC

No report – a meeting is coming up in December.

Quorum Present.

1. Minutes of October 20, 2003

Motion by Ray Halowski to approve the minutes as written. Seconded by Phillip Lugar.

Motion passed unanimously. Two abstaining.

2. Subcommittee Report on Regent Newport Beach Resort Hotel Notice of Preparation (NOP)

Clarification on several comments in the report was made. Discussion ensued. Some changes were made in the report.

Motion by Phillip Lugar to accept the report and forward to City Council:

Seconded: Ray Halowski

Motion: passed unanimously.

3. Subcommittee Report St. Mark Presbyterian Church Notice of Preparation (NOP0)

Chairman Hawkins commented that the environmental document came to the subcommittee about two and a half weeks ago without pages 18 and 19, which were the crucial traffic discussions. Chairman Hawkins stated that it was his understanding that the City corrected it but is concerned that it may be the case that other members of the public did not get the corrected sections. Chairman Hawkins referred to the subcommittee report, page one, paragraph two and noted the suggestion to re-circulate the NOP for comment in view of those shortages.

The committee reviewed the document. Discussion ensued. Changes were made.

Ms. Wood referred to the recirculation question, and noted that this is a Notice of Preparation and we are saying that we are preparing an environmental impact report and that we are going to do a traffic study. The check list portions that deal with traffic and transportation were included so that you could see which areas are expected to be impacted and will be focused on the EIR and if you did not agree with that, you had the opportunity to comment. Ms. Wood stated that she did not think that it needs recirculation.

Motion to approve report as corrected by Dolores Otting. Discussion ensued. No second. Motion failed.

Substitute Motion by Phillip Lugar to accept the St. Mark report with corrections excluding the second paragraph on page 1:

Seconded: Dolores Otting

Discussion ensued.

Substitute Motion fails.

Motion by Phillip Lugar to accept the St. Mark report with the deletion in the second paragraph of a recommendation that the NOP be re-circulated with corrections:

Seconded: Elaine Linhoff

Discussion ensued.

Motion fails.

Substitute Motion by Dolores Otting to accept the report with the corrections with the recirculation requirement:

Substitute Motion seconded: Cris Trapp

Motion: passed unanimously.

4. Subcommittee Report on Draft EIR for Pacific City, Huntington Beach

Brent Cooper commented that the emphasis the subcommittee took was to focus on what potential impact this project will have on Newport Beach.

Motion by Barry Allen to accept the subcommittee report:

Seconded: Phillip Lugar

Motion: passed unanimously.

5. Subcommittee Report on Supplemental Draft EIR for Centerline

Motion by Elaine Linhoff to accept subcommittee report:

Seconded: Jim Miller

Motion: passed unanimously.

8. Report from EQAC Members on GPAC

Phillip Lugar reported:

- GPAC had a Hoag Hospital presentation
- Discussed the biological resources addendum to the LCP
- GPAC will be getting another traffic study report.

9. Report on LCP Process

Ms. Wood reported that staff is trying to respond to the comments they received from the Coastal Commission's biologist. At the last LCP committee meeting, they decided that once the draft is complete to the satisfaction of the committee, we will begin the formal review process.

10. Council Member Reports

None

11. Report from Staff on Current Projects

Ms. Wood reported the following:

- Newport Tech Center, 500 Superior – Initiated Traffic Study
- South Coast Shipyard – Contract approved for EIR.

12. Public Comments

None

13. Future Agenda Items

- Irvine Business Center
- Discussion to change meeting dates for January 19 and February 16, 2004 because of national holidays.
- December potluck dinner

Chairman Hawkins adjourned the meeting at 9:00 p.m.

MEMORANDUM

To: Environmental Quality Affairs Citizens Advisory Committee ("EQAC")
City of Newport Beach

From: IBC Subcommittee - Environmental Quality Affairs Citizens Advisory Committee
("EQAC")
City of Newport Beach

Subject: Scholle Project, Irvine Business Complex Final Environmental Impact
Report ("FEIR"), and Addendum to FEIR ("Addendum") for Scholle Project
(the "Project")

Date: December 11, 2003

NOTE: WE HAVE NOT RECEIVED THE ADDENDUM TO THE EIR FOR THE SCHOLLE PROJECT. THE CITY OF NEWPORT BEACH HAS ADVISED THAT THE ADDENDUM MAY BE RELEASED BY THE CITY OF IRVINE WITH AS LITTLE AS THREE DAYS NOTICE. WE REVIEWED ABOUT ONE FOOT OF DOCUMENTS IN CONNECTION WITH THE IBC INCLUDING:

1. Portions of the 1992 Final Program EIR (88-ER-0087) for the Irvine Business Complex (Executive Summary, Project Description, Traffic Section and Traffic Study)
2. RD Olson/Legacy Partners. 290 residential units with 7,500 sq. ft. retail. TDR, GPA, ZC, CUP required. (Project scheduled for CC review on Dec. 9). Pending.
3. The Lofts at Von Karman. 116 residential units (93 base units with 20% affordable qualifying for a 25% density bonus of 23 units). GPA, ZC, approved, TT and CUP scheduled for PC on Feb. 2003.
4. Layton-Belling and Associates 55,000 sq. ft. Office Bldg. TDR from 17861 Von Karman to 2300 Michelson Drive. (Within IBC) PC Approved 8/21/03.
5. Essex Apts. 132 units, with 15% affordable. Approved in April 2003, but now in litigation.
6. MetLife Apts. 481 market rate units with in-lieu affordable housing fee contribution. Approved in June 2003.

7. **Schulte/Lakeshore Towers. 7 story, 140,951 sq. ft. office building and expansion of parking structure. Master plan for TDR from One Edwards Way to Lakeshore Towers site (within IBC). Approved in February 2002.**
8. **Two-story, 26,000 sq. ft. office bldg. TDR from 1600 Barranca to 18850 Von Karman (within IBC). Approved in December 2001.**
9. **Von Karman Properties/Larry Armstrong. Two office towers. TDR from 1600 Barranca and One Edwards Way to 17421 Von Karman within IBC. Approved in November, 2002.**

PURSUANT TO DISCUSSIONS WITH THE CITY OF NEWPORT BEACH, THE SUBCOMMITTEE DECIDED TO PREPARE A FORM COMMENT LETTER WHICH CAN BE MODIFIED WHEN THE SCHOLLE DOCUMENT IS RELEASED AND/OR RECEIVED.

We thank the City of Irvine ("City") for considering these comments on the Addendum to the Final Environmental Impact Report for the Irvine Business Complex/Scholle Project which is located at 19000 Jamboree Road at the southeast corner of Jamboree Road and Fairchild Road in the City of Irvine and which borders on the City of Newport Beach to the west and south.

I. Summary of Concerns: Unmitigated Significant Traffic Impacts.

As discussed below, the Program EIR for the Irvine Business Complex concluded that the Project, General Plan Amendment and rezoning of the IBC, would result in significant traffic impacts which could not be mitigated. In connection with this impact, the City adopted a Statement of Overriding Considerations and approved the GPA/Rezoning Project.

The Scholle Project only intensifies these impacts: it transfers substantial amounts of development rights under the Program EIR's provision for Transfer of Development Rights which allows for transfer of trips between sites in the IBC. The transfer sites are north of Interstate 405; the Project site is miles south of I-405, adjacent to State Route 73 and surrounded by the City of Newport Beach.

In addition, within the past two years, the City has considered and/or approved **nine (9) projects**, most of which have transferred development rights from north of I-405 to south of I-405. The City should prepare an EIR to study the cumulative of impacts of these projects and the Project impacts and propose any necessary mitigation.

We recommend that the City reconsider the Addendum and the FEIR, revise the document and prepare another EIR to address the Project's impacts in connection with the John Wayne Airport, State Route 73, various important intersections within the City of Newport Beach and the cumulative

impacts of the Scholle Project combined with other projects related to the FEIR which projects have all transferred development/traffic impact credits south of various related sites and sometimes south of Interstate 405 with direct impacts to the important intersections within the City of Newport Beach.

We make these recommendations for several reasons:

- (1) The traffic impacts of the Scholle Project alone warrant the preparation of a new EIR or a Supplemental EIR;
- (2) The cumulative impacts of various commercial projects in the IBC together with those of the Scholle Project require preparation of a new EIR or a Supplemental EIR;
- (3) The cumulative impacts of various residential projects along Jamboree Road together with those of the Scholle Project mandate preparation of a new EIR or a Supplemental EIR;
- (4) The CEQA Guidelines recent requirements regarding developments within the vicinity of airports require preparation of a new EIR or a Supplemental EIR; and
- (5) Various other impacts of the Scholle Project including impacts on water **quality**, hydrology, natural and protected resources, air quality and other impacts require preparation of a new EIR or a Supplemental EIR

II. The FEIR, the Addendum and Legal Standards.

As the City knows, an EIR constitutes the heart of CEQA: An EIR is the primary environmental document which:

“ . . . serves as a public disclosure document explaining the effects of the proposed project on the environment, alternatives to the project, and ways to minimize adverse effects and to increase beneficial effects.”

CEQA Guidelines section 15149(b). See California Public Resources Code section 21003(b) (requiring that the document must disclose impacts and mitigation so that the document will be meaningful and useful to the public and decisionmakers.)

Further, CEQA Guidelines section 15151 sets forth the adequacy standards for an EIR:

“An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which takes account of the environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of

disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith attempt at full disclosure.”

Further, “the EIR must contain **facts and analysis**, not just the agency's bare conclusions or opinions.” **Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association.** (1986) 42 Cal. 3d 929.

Pursuant to Guidelines section 151654, an addendum to an EIR may be prepared when the lead agency determines that none of the following conditions set forth in Guidelines section 15162:

- (1) “Substantial changes are proposed in the project 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;
- (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 previous 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 of the previous EIR was certified as complete . . . 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;
 - (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 previously 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.”

Guidelines section 15162(a).

However, as discussed below, the Scholle Project raises several of these issues, and we recommend that the City prepare a subsequent EIR or another EIR for the Scholle Project.

Moreover, as indicated above, the City adopted a Statement of Overriding Considerations in connection with IBC Project relating to, among others, traffic impacts. In order to adopt the Statement,

“CEQA requires the decision-maker to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. **If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effect may be considered ‘acceptable.’**”

Guidelines section 15093(a). However, as discussed below, having approved the IBC Project by adopting the Statement, the City proposes now to approve the Scholle Project without preparing an EIR with full environmental analysis and without adopting another Statement.

Also, in connection with areas near airports, a recent amendment to the CEQA Guidelines requires:

“When a lead agency prepares an EIR for a project within the boundaries of a comprehensive airport land use plan or, if a comprehensive airport land use plan has not been adopted for a project within two nautical miles of a public airport or public use airport, the agency shall utilize the Airport Land Use Planning Handbook published by Caltrans’ Division of Aeronautics to assist in the preparation of the EIR relative to potential airport-related safety hazards and noise problems.”

CEQA Guidelines section 15154(a).

III. Introduction: the IBC Program EIR and the Scholle Project.

A. The IBC Program EIR and Master Plan.

1. Introduction: the Need for the IBC Master Plan.

In 1987, the City of Irvine learned something surprising: **the Project entitlements in the IBC exceeded the level studied in the 1989 Supplemental EIR.** As a result, the City enacted an interim urgency ordinance which attempted to limit development in IBC to a level consistent with the “existing and projected transportation system.”

In 1992, the City approved and certified the Program EIR for IBC. The IBC Project site and planning area covers over 2,800 acres with the following borders: on the north, the U.S. Marine Corps Air Station, Tustin; on the south, John Wayne Airport and Campus Drive; on the east, San Diego Creek; and on the west, State Route 55; “Interstate 405 transverses the southern portion of the IBC, and Interstate 5 is located to the north and east. “ The City of Newport Beach borders the IBC Project on the south.

2. The IBC Project and the Program EIR.

The IBC Project and Program EIR divided the planning area into three districts: the multi-use district covered all areas south of Barranca Parkway; the industrial district included areas north of Barranca Parkway as well as areas already entitled or used for industrial purposes; and the “[r]esidential [d]istrict within IBC will be limited to the existing and previously approved projects.” Program EIR, Executive Summary III-9. Among other things, the Program EIR and the IBC Project established: (1) a Trip Budget for each parcel and limited development of the parcel to the Trip Budget; and (2) it created “a mechanism for Transfer of Development Rights (TDR)” and required that each TDR complete a discretionary review process to allow identification of all potential impacts of the TDR, and propose appropriate mitigation.” Program EIR, Executive Summary, III-10.

The Circulation and Traffic section of the Program EIR for the IBC employs a three step model to evaluate traffic forecasts and impacts. The first step is to group intersections within the IBC and measure those intersections by taking a group average. According to the Program EIR, three of the five intersection groups fail to meet the performance criteria in the AM and/or PM peak hours for both the current General Plan and Rezoning land use scenarios . . .” Page IV.A-18.

The southern boundary for Group C, one of the failing intersection groups, is located at the intersection of Jamboree and MacArthur, directly adjacent to the City of Newport Beach, and the proposed Scholle Development project site is located within Group C. The traffic analysis for Group C that was done for the Program EIR shows that this intersection group failed before the additional 9,828 daily trips had been transferred to the Scholle site through the TDR process. The additional 9,828 daily trips further intensifies the problem.

The Program EIR proposes mitigation measures that include roadway improvements. However, the majority of the roadway improvements are proposed for the northern and central portions of the IBC in intersection Groups A and B, while most of the daily trips that have been or are proposed to be transferred are to the southern portion of the IBC in intersection Group C, including the 9,828 daily trips that have been added to the proposed Scholle Development project site.

The second step used to evaluate traffic forecasts in the Program EIR is screenline analysis, which “entails the grouping together of parallel links in the arterial network, and comparing their total assigned traffic volume to their combined roadway capacity.” According to the Program EIR, “[e]ven with the extensive mitigation program, two screenlines continue to exceed the [Average Daily Trip] ADT link volume performance criteria: screenline 3 (V/C = 1.05) [Main Street, which intersects Jamboree just north of I-405] and screenline 4 (V/C = 1.11) [Michelson Drive, which intersects Jamboree just south of I-405]. These findings continue to demonstrate the shortage of north-south capacity within IBC.” Page IV.A-48. The failure of these two screenlines, particularly

at the intersections on Jamboree may have significant impacts to circulation and traffic on MacArthur and Jamboree in the City of Newport Beach, especially in view of the Scholle Project and other projects recently approved by the City of Irvine. Again, the failure of these intersections was determined before the additional 9,828 daily trips had been proposed to be transferred to the Scholle Development project site through the TDR process.

CEQA allows the listing of “relevant past, present and reasonably anticipated future projects” and requires a summary of the projects and a “reasonable analysis of the cumulative impacts of the relevant projects” and an examination of “reasonable, feasible options for mitigating or avoiding the project’s contribution to any significant cumulative effects.” However, the Program EIR simply provides a list of proposed projects within a two-mile radius of the IBC area and fails to provide any analysis of the cumulative impacts or feasible options for mitigating those impacts. More importantly and as discussed below, the environmental documents in connection with the Scholle Project fail to consider seriously the cumulative impacts of other recently approved projects within IBC, most of which result in TDRs to the south of the IBC and near or adjacent to the City of Newport Beach.

The Traffic and Circulation discussion of the Cumulative Impacts section in the Program EIR states that “(d)ue to the nature of the project, the project’s contribution to cumulative traffic impacts is considered significant.” However, the Program EIR defers any mitigation to the proposed traffic mitigation measures and to “individual projects contributing toward the construction of ultimate road configurations adjacent to their properties...” Page V 19-20.

Finally, and most importantly, the Program EIR concludes that “[t]he IBC Rezoning Project will have a significant impact on traffic and circulation within and surrounding the IBC.” Even with the implementation of proposed mitigation measures, “several intersections and road segments within and surrounding the IBC will not meet City performance criteria, which is considered a significant impact as a result of the IBC General Plan Amendment and Rezoning Project.” Emphasis added. Page IV.A-75.

B. The Scholle Project.

As indicated above, the Scholle Development Project is located at 19000 Jamboree Road at the southeast corner of Jamboree Road and Fairchild Road in the City of Irvine, and which borders on the City of Newport Beach to the west and south. The Project is within close proximity of State Route 73. The Project site is currently developed with 12,000 square feet of office space and 23,000 square feet of industrial space; surprisingly, under former entitlements, the Project site is entitled for an additional 103,328 square feet of office.

The Project proposes an additional 413,000 square feet of office space for a total of 425,000 square feet of office space, 54,000 square feet “of health club,” and 7,500 square feet of restaurant uses on the Project site: the total square footage of the Project is 486,500 square feet. The Project is large. By way of comparison, the Conexant Project in the vicinity of the Project but in the City of Newport Beach included 530,000 square feet office complex with two eight to ten story buildings.

Further, in order to develop the Scholle Project, the applicant seeks to transfer of development rights to this site from another site within the IBC.

“[t]o accomplish [the Project], the needed trips would be transferred within the [Irvine Business Complex] IBC through the [Transfer of Development Rights] TDR process. . . . A total of 9,828 daily trips will be transferred from the two sending sites [the Edwards Life Sciences Development complex (Sending Site #1) and the former LA Fitness building (Sending Site #2)], with 564 trips in the morning peak hours and 887 trips in the evening peak hour. The total project is estimated to generate 10,349 daily trips, with 821 trips in the morning peak hour, and 1,013 in the evening peak hour, based upon the Irvine Business Complex (IBC) trip generate rates.”

Scholle Development, Draft Traffic Study, **Page I** (Emphasis supplied).

The Program EIR for the IBC concludes that the Project, IBC, will have significant and unavoidable traffic impacts; accordingly, the City adopted a Statement of Overriding Considerations.

However, the Scholle Development Traffic Study concludes that “the project does not significantly impact any roadway link within the study area.” Among other things, the Traffic Study concludes that the Project, including the transfer of Project traffic, “. . . will not cause any roadway link to deteriorate from an acceptable to an unacceptable Level of Service, and will not impact an already-deficient roadway link by 0.02 or more.” Although the Traffic Study finds that the Project will have a significant long term impact on two to three intersections, the Traffic Study includes an analysis which concludes that this impact is “overstated.”

As for parking, the Traffic Study proposes a parking variance of 389 parking spaces. This variance is “supported” by shared parking for each of the Project uses as well as the Project’s proposed Transportation Demand Management program.

IV. Procedural Issues: The Addendum, Document Availability, and Public Comments.

The Guidelines section 15164(c) states that an addendum “need not be circulated for public review but can be included in or attached to the final EIR . . .” As indicated throughout, we recommend that the City prepare another or subsequent EIR. However, to the extent that the City chooses not to prepare such a document, it should at the very least circulate the Addendum for the Scholle Project should be circulated for public review and comment.

At its heart, CEQA is a process statute: it provides the public with the opportunity to participate in the development and environmental review process. The Scholle Project is an important project which may create significant and unmitigated impacts over and above those recognized in the Program EIR for the IBC. The City should embrace the spirit of CEQA and circulate the Addendum for public review and comment.

V. The Scholle Project: Unmitigated Traffic Impacts and Unmitigated Cumulative Impacts including Traffic Impacts.

A. The Scholle Project Unmitigated Traffic Impacts

As indicated above, the Scholle Project Traffic Study identifies the size of the entire Scholle Project as 532,389 square feet with 425,000 square feet for office uses, 54,000 square feet for health club uses, and 7,500 square feet for restaurant uses. The current uses include 12,000 square feet of office space, 23,000 of industrial space and an additional entitlement of 103,328 for office uses. The current trip budget for the site is only **581 trips with 257 morning peak hour trips and 383 evening peak hour trips.**

The TDR's are huge: almost twenty times the total current trip budget for the site with more than three times the amount of morning peak hour trips and more than three times the amount of evening peak hour trips. The Project proposes to transfer from two sites north of Interstate 405 to the Project site adjacent to State Route 73, the following: **9,828 daily trips with 564 morning peak hour trips and 887 evening peak hour trips. The totals are staggering: the Project will generate 10,349 daily trips with 821 morning peak hour trips and 1,013 evening peak hour trips.**

More significantly, the Scholle Project and Addendum propose to add to or attach to the Program EIR which recognized that the IBC Project would create significant impacts especially with north/south arterials and such impacts would not be capable of mitigation. The Program EIR proposed many traffic improvements in the hopes of ameliorating, but not mitigating below significance, such traffic impacts. Surprisingly, most of those improvements occur in the area of the Scholle Project Sending Sites. That is, the traffic impacts of the Sending Sites are mitigated near the sending sites but the actual traffic impacts through the TDR are transferred south where little or no improvements occur.

In addition, the study area for the Traffic Study is too skimpy for meaningful environmental analysis. As noted above, the Program EIR suffered from a similar myopic malady: the traffic study area was limited to IBC and areas east and north of Campus Ave. That is, although State Route 73 was in the planning stages in 1992 and the IBC is adjacent to this highway, the Program EIR failed to conduct any analysis of the Project's impacts on State Route 73, on-ramps thereto and intersections and roadways south of this route in the City of Newport Beach. Given the conclusion of the Program EIR that the IBC Project would create significant and unmitigated traffic impacts, such a limitation may not be surprising but it falls far short of adequate environmental review.

However, with the somewhat extended study area for the Scholle Project which includes portions of State Route 73, the Addendum appears to go beyond the Program EIR. This extension is unacceptable under CEQA as an Addendum to the Program EIR and the City of Irvine should prepare a new EIR or a Supplement to the Program EIR which documents would be circulated for full and fair public review and comment.

But even the Scholle Project's extended traffic study area is inadequate: the north boundary is State Route 55; and the south boundary is University Ave. However, the study area excludes important arterials and intersections in the City of Newport Beach including the MacArthur Blvd. off-ramp from State Route 73; MacArthur Blvd. including its intersections with Bison Ave., Bonita Canyon Drive, San Joaquin Road and others; Jamboree Road and all intersections west of State Route 73; Irvine Ave. and all intersections west of State Route 73. These are only some of the problem areas.

The Scholle Project analysis and impacts are sufficient for the City of Irvine to scrape the Addendum, prepare a new EIR or Supplement to the Program EIR and propose real and effective mitigation measures for the traffic burdens created by the Scholle Project. Assuming for the sake of argument that the Scholle Project itself is not sufficient for such a new document and analysis, the cumulative impacts of recent TDRs south to areas near the City of Newport Beach, including the Scholle Project, are more than sufficient to warrant a new and full environmental analysis, a new EIR or Supplemental EIR and new mitigation measures.

B. The Scholle Project and Unmitigated Cumulative Impacts.

As indicated above, the City of Irvine has considered or approved over nine(9) development projects in the IBC. These include:

1. RD Olson/Legacy Partners Project which includes 290 residential units with 7,500 sq. ft. retail and requires TDR, GPA, ZC, CUP. This Project is pending.
2. The Lofts at Von Karman which includes 116 residential units (93 base units with 20% affordable qualifying for a 25% density bonus of 23 units) and which is set for consideration by the Planning Commission in early 2004.
3. The 2300 Michelson Project which includes 80,000 square feet of office use, requires TDR from north of Interstate 405 to an area south of Interstate 405, and has been approved by the Planning Commission.
4. Essex Apartments Project which includes 132 units, with 15% affordable and which was approved in April 2003 (now in litigation).
5. MetLife Apartment Project which includes 481 market rate units with in-lieu affordable housing fee contribution and which was approved in June 2003.
6. The Lakeshore Towers Project which includes a 7 story, 140,951 sq. ft. office building and expansion of parking structure, which requires TDR from north of Interstate 405 to immediately south of Interstate 405, and which was approved in February 2002.

7. 18800 Von Karman Office Project which includes two-story, 26,000 sq. ft. office building, requires TDR from north of Interstate 405 to south of Interstate 405, and was approved in December 2001.
8. The Von Karman Properties/Larry Armstrong which includes two office towers, requires TDR from a site on the north edge of IBC to the Project site near Interstate 405, and which was approved in November, 2002.

Clearly the number of these projects, their area and the fact that the Program EIR recognized that the IBC area has significant and unmitigated traffic impacts should give the City of Irvine pause; perhaps the City of Irvine should pause now even before considering the Scholle Project. Most of the above eight (8) projects involve a TDR from the north of IBC southerly. Three of these Projects require TDR's from north of Interstate 405 to areas south of Interstate 405 and very close to the City of Newport Beach.

A brief review of these last three TDRs as well as the Lofts at Von Karman will reveal the significance of these cumulative impacts. First, given the Program EIR's restrictions regarding new residential development, the Lofts at Von Karman is a surprising project. It proposes to: **increase the IBC dwelling unit cap by thirty (30) units, increase dwelling unit intensity from 0-40 units to 0-52 units per acre, and decrease the IBC non-residential square footage cap.** Among other things, the project proposed to rezone the site from IBC Multi-use to residential under a new zoning category. Given the Program EIR's restrictions regarding increased residential as well as the three categories of approved uses, none of these changes could fall under the Program EIR. More importantly, given the change in use, the project at the very least requires some traffic analysis. At worst, it requires preparation of a new

EIR. In combination with the Scholle Project, the cumulative impacts of this project alone should require the City to prepare a new EIR for the Scholle Project.

However, things get worse: the TDR projects are more unsettling. First, at build out, the 2300 Michelson Project will include 80,000 square feet of office use. Currently, the project site includes only 25,000 square feet of office use. The project proposes a TDR of 55,000 square feet of office use from 17861 Von Karman Ave., north of Interstate 405. By the Scholle Project, the transfer numbers are not large but they virtually double the project's current trip budget. Currently, average daily trip totals at the site are 332 trips with 31 morning peak hour trips and 33 evening peak hour trips. The transfer numbers are total daily trips of 757, morning peak hour trips of 72 and evening peak hour trips of 76. The total number of trips is large by comparison: average daily trips of 1,786 with 168 morning peak hour trips and 179 peak hour trips. The trip budget for the site with the TDR reduces this total to a level which the City of Irvine believes may be acceptable. Regardless of this surprising conclusion, the cumulative impacts of this project alone when considered together with the Scholle Project require the City of Irvine to prepare a new EIR.

The Lakeshore Tower Project is similar. Currently, the project site includes 772,500 square feet of office uses in three buildings, 12,100 of restaurant use, and 89,940 square feet of health club use. The proposed project will increase the office space by 140,951 square feet for a total of 913,451 square feet. Currently, the trip budget for the site is large: 19,857 average daily trips with 1,293 morning peak hour trips and 1,833 evening peak hour trips. The project will increase this budget through the TDR as follows: 21,675 average daily trips with 1,465 morning peak hour trips and 2,015 evening peak hour trips. Although the current entitlement is large, the project goes over the top. This is especially true since the IBC Project and Program EIR proposed an HOV on-ramp to Interstate 405 at Von Karman, and no such improvements, neither the Interstate 405 HOV lane nor the Von Karman on ramp thereto, have been built. Notwithstanding the above, the City of Irvine again concluded that the project would have no significant impacts or even significant cumulative impacts. However, even the City of Irvine must agree that this Lakeshore project when considered with the Scholle Project will clearly exacerbate an already bad traffic situation.

It gets worse. In 2001, the City approved the 18800 Von Karman office project with a new two story 26,000 square foot office building. Currently, the project site includes a 19,590 office/industrial building. The project proposes to subdivide the parcel to allow for the construction of a second 26,000 square foot building. The current trip budget for the site is: 265 average daily trips with 41 morning peak hour trips and 43 evening peak hour trips. The project would almost double this demand: 465 average daily trips with 60 morning peak hour trips and 63 evening peak hour trips. As with the other projects, the transfers would come from sites north of Interstate 405.

Some of the above projects are not large, but the cumulative impacts of these project is significant. When the City of Irvine considers these projects together with the Scholle Project, it must determine that the cumulative impacts are significant and require preparation of another document, not merely the Addendum, but an EIR or Supplemental EIR.

C. Statements of Overriding Considerations.

As indicated above, the Program EIR for the IBC Project concluded that the Project would result in significant and unmitigated traffic impacts. Pursuant to CEQA Guidelines section 15093, the City of Irvine adopted a Statement of Overriding Considerations in connection with the IBC Project and its traffic impacts.

The Scholle Addendum appears to incorporate this finding. However, without adequate environmental analysis, the City cannot make the requisite finding. As indicated above, City of Irvine must conduct a thorough review and analysis of the traffic impacts and all available mitigation measures, and then consider the benefits and detriments of the Scholle Project. Without a new EIR or a Supplemental EIR, the City cannot make the requisite findings or conduct the necessary analysis.

D. Additional Considerations.

As indicated above, the CEQA Guidelines 15154(a) requires a lead agency such as the City of Irvine to utilize the Caltrans' Airport Land Use Planning Handbook. Moreover, Guidelines section 15154(b) requires:

“A lead agency shall not adopt a negative declaration or mitigated negative declaration for a project described in subsection (a) unless the lead agency considers whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.”

Here, the City of Irvine proposes to conduct much less environmental analysis than a negative declaration: it seeks merely to piggyback on the Program EIR with the Addendum. However, as the City of Irvine is well aware, the conditions at John Wayne Airport as well as the proposed airport at El Toro have changed significantly. These changes alone together with Guideline section 15154's mandates require the preparation of a new EIR or a Supplemental EIR, and circulation of the document for public review and comment.

In addition, anyone who travels down Jamboree Road in recent months is well aware of the significant residential developments taking place east of Campus Ave. The City of Irvine's efforts to establish an urban village along Jamboree Road are well publicized. Of course, one wonders how this significant residential development can occur in the IBC given the restrictions in the Program EIR regarding residential development. Regardless of that inquiry, such projects will create additional traffic impacts. As with the projects discussed above, the cumulative impacts of these projects when considered with the Scholle Project require preparation of a new EIR or a Supplemental EIR, and circulation of the document for public review and comment.

As discussed above, several of the commercial projects in the IBC propose TDRs from sites north of Interstate 405 to sites south of Interstate 405 and near the City of Newport Beach. However, the other commercial projects identified above also propose to transfer rights from areas in the north of IBC southerly. Yet the Program EIR has proposed numerous traffic improvements in the north of the IBC while traffic impacts are transferred south. Such a result requires additional environmental analysis and preparation of a new EIR or a Supplemental EIR.

Finally, the Scholle Project is adjacent to Upper Newport Bay which is protected wildlife and habitat reserve. The Project will likely create a whole host of Project related impacts both short and long term including impacts on hydrology, water quality, air quality, aesthetics, natural resources and so forth. Because of these impacts alone, the City of Irvine should prepare a new EIR or a Supplemental EIR, and circulation of the document for public review and comment.

VI. Conclusion.

Based upon the above, the City of Irvine should withdraw the Addendum and prepare a new EIR or a Supplemental EIR, and circulation of the document for public review and comment. As indicated above, much has changed in the IBC area since the certification of Program EIR. Further, the cumulative impacts of the Scholle Project as well as the commercial and residential projects in the area warrant preparation and circulation of such a document. Clearly, the requirements of Guidelines sections 15164 and 15162 mandate the preparation and circulation of a new EIR or a Supplemental EIR.

**ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE
2004 MEETING DATES**

**EVERY 3RD MONDAY – 7:00 P.M.
POLICE DEPARTMENT AUDITORIUM**

***January 19**

***February 16**

March 15

April 19

May 17

June 21

July 19

August 16

September 20

October 18

November 15

December 20

***HOLIDAY – CITY IS CLOSED**