



CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

AGENDA

DATE/TIME: Monday, April 19, 2004 7:00 p.m.

LOCATION: Police Department Auditorium
870 Santa Barbara Drive

Roll Call

1. Minutes of March 15, 2004 (*draft minutes attached*)
2. Applicant Presentation on the St. Andrews Presbyterian Church Project, and Report on Draft Environmental Impact Report (DEIR) from the subcommittee (*attachment*)
3. Report on Supplemental Draft Environmental Impact Report (SDEIR) for the Irvine Business Complex, Central Park Project
4. Report from Membership Subcommittee
 - a. Proposed Revisions to EQAC Resolution (*attachment*)
5. Report from EQAC Representative to GPUC
6. Report from EQAC Members on GPAC
7. Economic Development Committee (EDC) Representative's Report
8. Report on LCP process
9. Council Member Reports
10. Report from staff on current projects
11. Public Comments
12. Future Agenda Items
13. Adjournment

NEXT MEETING DATE: May 17, 2004

LOCATION: Police Department 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**

Minutes 03-15-04

DRAFT

Minutes of the Environmental Quality Affairs Citizens Advisory Committee held at the City of Newport Beach Police Department Auditorium, 870 Santa Barbara Drive, on March 13, 2004.

Members Present

Robert Hawkins, Chairperson
Cris Trapp, Vice Chairperson
Steven Bromberg, Council Member
Richard Nichols, Council Member
Barry Allen
Brent Cooper
Laura Dietz
Drellishak, Kenneth
Dwight, Ryan

Sandra Haskell
Carol Hoffman
Phillip Lugar
Dolores Otting
Richard Rivett
Louis Von Dyl
Christopher Welsh
Jennifer Winn

Staff Present

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

Patrick Alford, Senior Planner

Guests Present

Walter Lazicki

Phillip Bettencourt

Members not present

Gus Chabre
Thomas Eastmond
Maggie Fitzgerald

Ray Halowski
Tom Hyans – Sick Leave

The meeting was called to order at 7:00 p.m.

Chairperson Hawkins welcomed the two new members Ryan Dwight and Kenneth Drellishak.

1. Minutes of March 15, 2004

Motion: Barry Allen to approve the minutes as written.

Seconded: Carol Hoffman.

Motion passes unanimously.

2. Local Coastal Land Use Plan report from the LCP Subcommittee

Patrick Alford gave a summary of the Local Coastal Program (LCP) process with Newport Beach and explained the progress of the Coastal Land Use Plan (CLUP) to date. The draft CLUP is going to Planning Commission hearing on Thursday, March 18, 2004.

Discussion of and changes to the subcommittee report ensued.

Motion: Chris Welsh to approve the report with all of the amendments:.

Seconded: Cris Trapp.

Motion passes unanimously.

3. Report from Membership Subcommittee

Dolores Otting commented that there were still three vacancies; two At-large members in Districts 2 and 5, and one Community Association. Chairman Hawkins confirmed that the applications of Merritt Van Sant and Walter Lazicki should be forwarded to Council Members Rosansky and Bromberg for their consideration.

4. Report from EQAC Representative to GPUC – None

5. Report from EQAC Members on GPAC

Phillip Lugar reported on the meeting of March 8, 2004.

5a. Economic Development Committee (EDC) Representative's Report

Chairperson Hawkins reinstated this report on the agenda for this evening and future agendas.

Sharon Wood reported that, at the last meeting, they've started a discussion on Guiding Principles for developing the land use alternatives that they are going to study in the General Plan update and they started with the principles for Economic Development. That discussion is continued to the next meeting on March 17.

6. Report on Local Coastal Program Process

This item was covered when item no. one, the Coastal Land Use Plan report from the subcommittee, was discussed.

7. Council Member Reports

Council Member Bromberg commented on the St. Andrews Church project.

Council Member Nichols commented that Morning Canyon was passed and they are doing an engineering study.

8. Report from Staff on current projects

Sharon Wood reported on the following projects:

- St. Andrews Church – The draft EIR should be released either late this week or early next week.

- St. Mark Presbyterian Church – The draft EIR will probably be released in about a month.
- Marina Park Resort – The draft EIR will probably be released about the end of April.

9. Public Comments

Chairperson Hawkins noted that some subcommittees needed more members to serve. The following members volunteered to serve on the subcommittees below:

- Communications Subcommittee: Carol Hoffman and Richard Rivett.
- St. Andrews Church Subcommittee: Carol Hoffman and Ryan Dwight. Barry Allen was assigned Chairperson.
- St. Mark Church Subcommittee: Laura Dietz. Phillip Lugar was assigned Chairperson.

10. Future Agenda Items

- Staff explanation of Variances and Modifications
- The Irvine Company proposal re: water quality in Pelican Hills
- Presentation on Community Character by Mark eBroedur

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

EQAC DRAFT MINUTES

ST. ANDREWS PRESBYTERIAN CHURCH

SUBCOMMITTEE COMMENTS ON DRAFT OF EIR

In Appendix B are the NOP comment letters. Conspicuously absent is the NOP comment letter made by EQAC. No explanation has been offered to the subcommittee as to why this particular letter was not included in the EIR.

1. Land Use and Planning:

(a) Section 3.2.3 Existing Zoning (page 3-9) - The first sentence incorrectly references the southern portion of the subject property as being zoned R-1 and the northern portion zoned R-@. According to Exhibit 3-6, the reference is reversed.

(b) Section 3.5 Project Phasing (page 3-20) - Under the paragraph entitled "Weekend Church Activities" there is a reference to permit no. 4014 and the dates don't make sense. We assume the effective date is July 5, 2005 and it expires November 6, 2005. Considering the lengthy construction process this permit is likely to lapse before the project is started or completed.

(c) Candidate properties currently being investigated for off-site parking include the Ardell property. Ardell has indicated that their property is not available for an off-site parking agreement with the church.

(d) Section 4.1.1 Existing Conditions (Land Use and Planning) - Housing Element (page 4.1-2) - The last sentence refers to areas available for in-fill development and includes the castaways property that has been developed for over five years.

(e) Recreation and Open Space Element (page 4.1-2) - Bob Henry Park is located in the referenced area.

(f) Page 1-5, Table 1-1, Potential Impact No. 2 - Revise the first sentence by inserting the word "not" as shown in bold "the proposed project is **not** consistent with the Newport Beach General Plan."

(g) Page 8-2, second full paragraph - Delete the second and third sentences that state "amendments to the City's general plan are not unusual and do not represent a radical change to the land use adopted for the site. The City frequently considers amendments to the adopted general plan." These statements understate the importance of general plan amendments and represent more opinion than fact.

(h) Page 9-3, Section 9.3.1 Land Uses and Planning - The second paragraph is unclear and should be revised.

(i) Page 9-3, Section 9.3.1 Land Uses and Planning - The third paragraph concludes that concurrent construction at Newport Harbor High School and the church does not represent any significant cumulative impact because construction impacts are temporary. Temporary impacts may represent an intolerable condition for residents of the area if they last too long or cause severe impacts. Before a conclusion of no significance is reached, a discussion of the duration of concurrent construction activity and severity of the potential inconvenience to residents is necessary. In other parts of the EIR they indicate that the high school plan is already in effect and is expected to last for two years and the "construction schedule" for the proposed project is 11 months.

(j) Page 10-4, Section 10.4.1 No Project/No Development Alternative and page 10-8, Section 10.4.2.7 Elimination/Reduction of Significant Impacts indicate that there is no limitation on religious activities or hours of activities. This statement conflicts with statements elsewhere in the document that indicate the 1985 use permit placed a limit on concurrent activities to be no greater than the sanctuary use (see Section 10.4.3.1). These sections should be corrected if the church does have limitations on overall activities on the site.

2. Air Quality:

(a) Project construction will result in temporary impacts, particularly with respect to demolition and excavation of the parking garage. Fugitive dust will be controlled by water and other stabilizers, based on SCAQMD Rule 403.

(b) The hauling of debris to a disposal site 18 miles away will exceed the SCAQMD threshold established for NOX from the trucks. Until the emission technology with respect to the type of truck being used becomes financially feasible for truck manufacturers, this problem will remain for any and all projects that require hauling of similar debris.

(c) Overall the project draft EIR, pages 4.3-8 states: "The project will not result in a significant local air quality impact" provided all mitigation measures are taken.

3. Noise:

(a) The City ordinance that controls for noise from construction equipment, limits the hours of construction from 7:00 a.m. to 6:30 p.m. Monday through Friday, at 8:00 a.m. to 6:00 p.m. on Saturdays.

(b) Page 4.4-2, third paragraph "ambient noise levels" - There are two potential weaknesses in this study. First, the study was conducted between 10-11:00 a.m. on a weekday. Most residential neighborhoods are relatively quiet during this time period as most people are at work. The time choice to measure, and the limited time of measurement (1 hour) would bias the study to underestimate the ambient noise level for the area. Further, this is not the time frame when the church will be working at peak capacity. Shouldn't measures be taken on a Sunday morning?

(c) Another potential study weakness is that it was conducted during Santa Ana wind conditions that also caused changes in the John Wayne flight path, which is not typical. This factor could bias the study to change ambient noise levels for the area at the time of measurement. This study should be redone.

(d) At page 4.4-8, third paragraph - Indicates that construction noise at some homes may reach as high as 96db. This is a very high level as shown in Exhibit 4.4-3 where the noise is up in the pile driver range. This is a temporary situation, that may be very disturbing to some residents. Maybe it would be wise to notify the homeowners in advance when construction will be close to their homes and the noise levels will be at their peak. This type of mitigation may bring goodwill from the neighbors.

(e) On page 9-6 it indicates that construction noise is exempted by a Newport Beach noise ordinance. Is this correct? Is it correct that construction activities can make as much noise as they want to and neither the City or adjacent residents can complain because such noise is "exempted"? If this is true then it would appear appropriate to notify Harbor High School of this exemption for construction noise so that they will know that such noise that exists during a construction phase will not have to be mitigated by the project proponents. This notice would be important so that those students, staff, and parents of students, might want to take a position on this project. The EIR calls the construction noise a "nuisance". Legally, that appears to be the appropriate term but putting up with construction projects at the school, for 24 months, and construction projects on the subject site for at least an 11-month period of time (the time estimated to build the project) might be considered something more than a "nuisance", as a layman might understand it. Therefore, it is suggested that a special notification of the noise issues be given to the school so that they will be aware of this matter in order to make sure they bring any concerns they might have before the policy makers.

(f) On page 10 there is a discussion about noise generated by 200 daily heavy truck trips on the roadways adjacent to the site and specifically 15th Street. The report indicates that less than 3db increase will exist, when these trucks are traveling on 15th Street adjacent to Harbor High School. This committee does not claim any special expertise in noise but believes that this particular measurement of increased noise of only 3db for 200 heavy truck trips per day is incorrect. The report concludes "the greatest noise level increase will be experienced along 15th Street". The report concludes that because it is only 3db this is less than the "substantial increase requirement" for it to be a significant impact.

(g) The EIR contains a Table 8 on page 15 which shows the sounds created by various activities and indicates that a car passing by in a parking lot at a distance of 50 feet generates 55 to 70db but then concludes that large construction vehicles hauling dirt loads, 200 loads a day, wouldn't be higher than 56.8db in the middle of the classrooms at Harbor High School.

(h) With the proposed expansion of the gymnasium/classroom/fellowship center there is likely to be significantly more activities taking place on this site. This does not appear to be discussed or adequately covered in the EIR. The alternative to sending the matter back for additional studies or information is placing some limitations on the applicant for use at these new facilities so that the various elements in the EIR that are being relied upon by the policy makers will not in fact become just "fiction" because of substantially more intensive use of the site by applicant.

(i) The gymnasium is identified as part of the project but the EIR is not clear on its intended use. If the gymnasium is intended by the applicant for more intensive uses/more frequent uses than the noise element should be reviewed because of this intensification of use.

(j) On page 1-9 it indicates a noise study is being prepared and will be submitted to the City for review prior to issuance of building permits. This should be prepared now and included in the EIR so the policy makers and citizens would have an opportunity to comment before the project is approved (see SUNDSTROM case).

(k) The EIR under "Mitigation Measures" 4.4.5 states that: "There is some potential that the mechanical systems proposed for the project, if not properly designed, could exceed the City's noise ordinance limits." The EIR indicates that a noise study will be prepared and submitted to the City prior to the issuance of building permits. This should be completed before the project is approved by the policy makers and made a part of this EIR. (See SUNDSTROM case.)

(l) Page 4.4-11, Table 4.4-6 - For the roadway segment "Cliff Drive - west of Dover Drive", the two columns are equal at 0.2. Is the church responsible for all the projected growth of noise on that street?

4. Aesthetics:

(a) At page 4.5-8, fourth paragraph, fourth line starting with "surrounding" delete "intensity of", but even then it is not clear what this sentence is attempting to state.

(b) While there are very good color photos of the existing conditions, there are no visual simulations of the proposed changes. Such graphics would assist the reader in concluding, as has the authors of the EIR that there are no visual impacts. While there are no scenic vistas in the area, residents in the vicinity have expressed concerns about the increased intensity of the project and its compatibility with the residential neighborhood. A better graphic representation of the changes would help explain the difference in the bulk between the existing and the proposed uses. Such graphics should be required to aid the decision makers.

(c) Long Term Operational Impact starts on page 4.5-8 - The analysis concludes that the site photometric plan was prepared which indicates that none of the lighting will result in significant off-site intrusion but there is no mitigation measured to insure that the proposed lighting is implemented as represented.

5. Police Protection:

(a) The summary of NOP comments (pages 2-4 and 2-5) states that a "subterranean parking structure could create a magnet for criminal activity" as a major concern of the adjacent residential neighbors. To address this concern the draft EIR lists two criteria to determine if an adverse environmental impact will be created. They are: (1) Increase in demand for law enforcement services to a degree that accepted service standards are not maintained, and (2) Interference with emergency response or evacuation plans. It would appear that this project does not result in the above adverse impacts. However, the draft EIR does not deal with the concern that a magnet for crime may be built. The applicant should be required to design a parking structure that does not become a magnet for criminal activity. The applicant should be required to demonstrate to the policy makers proper design features have been incorporated into the structure to prevent crime. Examples of what might be utilized is open areas in the walls to allow daylight, well lighted underground structure, open and lighted staircases, and surveillance cameras. The applicant should demonstrate that similar features will be incorporated in their parking structure. The police should be asked to supply information on criminal activity in underground parking structures.

6. Traffic and Parking:

(a) The streets around the project are almost all single lane in each direction. With Harbor High School, the across the street neighbor of the project, the traffic is never going to be great, given the size and capacity of the streets. Fortunately, other than the church school (300 students) and church staff and school personnel (118) the traffic generated by the two neighbors generally use the streets at different hours during the day. If the project is approved the EIR anticipates an increase of 320 added car trips on a typical weekday (traffic study, page 21). This figure standing alone would not appear to increase traffic levels in a significant degree. The EIR traffic studies confirm this.

(b) Sunday morning traffic was not analyzed (page 15). The project engineers utilized "CHURCH" as the way to categorize the project. Is this appropriate when the proposed expansion is not the sanctuary but to the remainder of the project?

(c) During the construction phase how does the project intend to enforce the no heavy truck use during peak traffic hours?

(d) During construction what is the proponents plan to allow bicyclists to use 15th Street in a safe manner? After all, this area has heavy bicycle use for Harbor High and Ensign Middle School.

(e) On page 4.2.11 a proposed condition is that the contractor has to submit a traffic control plan prior to the issuance of the demolition permit. That plan should be submitted at this time so that it can be reviewed by the public and the policy makers to determine if it is a reasonable plan before approving this project. The agency's promise and deferral on the mitigating of this significant impact fails to satisfy CEQA requirements. "By deferring environmental assessment to a future date the condition runs counter to the policy of CEQA which requires environmental review at the earliest feasible stage in the planning process." SUNDSTROM v. COUNTY OF MENDICINO (1988) 202 CA3d 296, 308.

(f) Section 4.2.4.2, Long-Term Operational Inputs (page 4.2-17) - The unsignalized intersection of Irvine Avenue and 15th Street will operate at level F in the A.M. at level E in the P.M. The EIR states this is an acceptable condition because this intersection currently operates at these unacceptable levels. The applicant's project will add traffic to this unacceptable condition.

(g) Section 4.2.2, Significant Criteria - Currently, the applicant does not meet the required parking spaces for the existing facilities. After the proposed project is completed the applicant will still not have sufficient parking capacity and will require an ordinance variance (62 spaces short). The applicant should be required to meet parking requirements in order to eliminate one of the significant complaints from the neighboring residential community.

(h) The church has a staff of 118 people (page 3-4 and 3-6). Where are they going to park during construction when the parking lot is removed and the parking garage is under construction?

(i) There are 300 students in the church school. Where are the students in the church school going to park during construction?

(j) Exhibit 4.2-3 Diagrams off street parking in all the residential areas surrounding the site. This provides 626 on street parking places. 462 of those will be occupied on Sunday if no parking is provided on site during construction and if Harbor High School doesn't allow the use of its parking lot because of its own construction activities going on at the same time.

(k) On a typical Sunday now 490 cars were determined to be parked in the church lot, school lot, and on the street during Sunday church activities. The obvious question is where do these 490 cars park during the construction phase of the church when there is no on site parking available? On page 4.2-11 a condition on the project is for the church to submit an off site parking management program during the construction phase. The policy makers should require that program to be provided at this time for viewing by the policy makers to see if it is in fact a practical solution for the parking problem. Such important guidelines should not be left to some consideration after the project is approved but before the issuance of a "demolition permit". That doesn't give the public a chance to comment on the plan unless this is part of the EIR and the documents that the policy makers and public can review prior to any approval of the project. (See SUNDSTROM case.)

(l) Under PARKING on page 4.2-12, the first paragraph, it indicates that construction crews will be shuttled to the site from an off site location and will not be allowed to park on local streets. Where is the "off-site location"? What method is suggested for enforcement of this requirement on construction workers? If a construction worker parks on a local street and then walks to the job site what do you do to him? Many construction workers bring the equipment they need to do their job in their trucks. How does the proponent plan to get the product that they use to perform their jobs to the site if their trucks have to be parked far away and then they as individuals are shuttled to the site?

(m) On page 4.2-12 there is discussion of an alternative parking site as being at the Lighthouse Coastal Community Church. Is there a written agreement between the churches to allow this?

(n) On page 9-2 of the EIR there is a discussion of plans at Harbor High School for significant work to be completed on site and in some instances involving 15th Street and Irvine Avenue within an 18 to 24 month period beginning in approximately May 2004. The EIR goes on to conclude, on page 9-3, that because these projects are temporary these impacts would cease upon the completion of the project. Considering the length of time of the two projects, is it appropriate to burden the residents in the area with not only the construction projects of the school but also the construction projects at the applicant's site at the same time?

(o) The City requires one parking space for each three seats and the church seats 387 people. The proposed parking on site is 400 spaces. The church will therefore be under parked by 62 spaces even with the increased parking being built. In approving this project the policy makers must consider whether allowing such a deficiency in parking to exist is appropriate.

(p) The EIR proposes a parking management program to instruct church members where to park (page 1-7). This "program" is basically telling people where to park off-site. Is it appropriate to allow this project when the parking plan mainly involves using street parking in a residential neighborhood?

(q) St. Andrews is a good neighbor and provides valuable services to the community. However, they're in a basically R-1 neighborhood. The question needs to be asked: Is this just too much to give in this particular location?

(r) The EIR concludes that parking on the city streets will "reduce demand for parking along residential streets" (page 4.2-19 and various other locations in EIR). The streets where the parking is proposed are "residential streets".

(s) Another suggested mitigation for parking is set forth on page 4.2-21 and indicated "with the exception of special or unusual events that now take place at the church, no concurrent use of other assembly areas within the church property that exceeds the approved capacity of 1387 persons will be permitted at any time." Is the applicant willing to allow a condition on the project for this mitigation measure? If so, then it would appear that the sanctuary could not be used for services at any time when any other area of the church property is being utilized for any other purpose at all.

(t) On page 4.2-12 the EIR indicates that the church and the high school have "entered into a temporary agreement that gives the church the exclusive use of parking at the high school." The policy makers should require a copy of this agreement.

(u) The traffic study, at page 35, suggests that when the project is completed, if it is completed as planned, it would now have substantial excess parking capacity available except on Sundays. The traffic study recommends the church therefore issue a greater number of parking permits to the high school to reduce the need for neighborhood street parking by students and staff on school days. The policy makers should request/require of the applicant that such an agreement be made between the church and the school on the basis that it would be of a substantial benefit to the residents in the area.

(v) The traffic study seems to be incomplete in one area. When you have church activities on a weekday for not only the sanctuary are in use, but you have Harbor High School in session, and you have the church school in session plus the other daily activities that are set forth in the church calendar that take place throughout the day. Wouldn't it be appropriate, and of assistance to the policy makers, to have a study done on a weekday of the parking and traffic in the area when the church has a memorial service/funeral at the same time as all the above activities are also taking place?

(w) The EIR on page 4.2-21 indicates that "project implementation. . . will not exacerbate any existing parking deficiencies in the neighborhood." In view of the studies set forth in the EIR this would appear to be an inappropriate finding.

7. Miscellaneous:

(a) LIGHTING - On page 1.11 a lighting study is discussed with an evening inspection to take place prior to the issuance of a building permit. If it is impractical to conduct that study and include that in the EIR (see SUNDSTROM case) isn't that something that should be required to be published to the citizens in the area so that they might attend the inspection to determine what effect the lighting study may have on the residential area?

(b) On page 1-13 the last item indicates that adequate sewer, water and storm drainage facilities are located within the existing street system. The EIR should point out what study they are referring to that indicates that these storm drainage facilities that are located in existing street system are sufficient.

ENVIRONMENTAL QUALITY AFFAIRS CITIZENS ADVISORY COMMITTEE

AUTHORIZATION: The Environmental Quality Affairs Citizens Advisory Committee (Committee) established by Resolution No. 87-14, adopted on January 12, 1987; amended by Resolution No. 88-105, adopted October 24, 1988 and blanket Resolution No. 90-123. Committee restructured by adoption of Resolution No. 98-17, adopted on February 23, 1998 (repeals all other resolutions). Membership revised by adoption of Resolution No. 98-60 on August 24, 1998 (amends Res. 98-17). Appointment of officers clarified by adoption of Resolution No. 2000-10 on January 25, 2000. Membership, Rules, and Purpose and Responsibilities revised by adoption of Resolution No. 2000-90 on October 24, 2000. Membership revised by adoption of Resolution No. 2001-61 on July 10, 2001. Revised by adoption of Resolution No. 2001-73 on August 14, 2001. Membership provisions amended by adoption of Resolution No. 2003-18 on March 25, 2003.

MEMBERSHIP:

- A. Two (2) Council Members.
- B. The Chair (or Chair's designee) of the Economic Development Committee.
- C. Chairperson of Committee shall be a citizen (at large) appointed by the Mayor.
- D. Seven (7) members, one from each City Council district, nominated by the District Council Member and confirmed by the City Council. If a Council Member chooses; he/she may appoint a person who does not reside in his/her District. If a Council Member does not fill a vacancy within sixty (60) days from the date of the vacancy, the Committee may ~~shall~~ recommend two ~~(2)~~ candidates for the City Council's consideration. Candidates recommended by the Committee need not reside in the District in which there is a vacancy.
- E. Seven (7) citizens at large, one nominated by each City Council Member and confirmed by the City Council.

At the request of a Council Member, or if a Council Member does not fill a vacancy within sixty (60) days, the Committee may shall recommend any ~~two (2)~~ candidates for the City Council's consideration.

F. Four (4) members who are on the board of directors of homeowners or community associations, or any other civic or community groups appointed by the City Council from ~~two (2)~~ recommendations from the Committee, if any for each member submitted by the Committee.

G. Three (3) members who have knowledge of CEQA administration or environmental issues of concern to Newport Beach (e.g., water quality, airport noise, traffic), appointed by the City Council from ~~two (2)~~ recommendations from the Committee for each member submitted by the Committee.

Staff: Assistant City Manager or Designee

TERM:

District and at-large members shall have terms that coincide with the terms of the Council Members nominating them. Association and special expertise members shall have terms of four (4) years, and may serve no more than two (2) consecutive terms. All members shall serve at the pleasure of the City Council.

RULES:

A. All members, other than Council Members shall have one (1) vote on the committee.

B. The officers of said Committee shall be comprised of a Chairperson and Vice-chairperson. The Chairperson shall be appointed by the Mayor and the Vice-chairperson shall be elected by the Committee.

C. A quorum shall consist of a majority of the currently appointed members of the Committee, not counting the Council Members.

D. If a member is absent from three (3) ~~three (3)~~ consecutive meetings during a twelve month period without an excused absence, the Chair may declare a vacancy and report this vacancy to the Committee and the Council ~~this fact shall be reported to the Mayor~~. so that replacement of the appointee can be considered.

Reports and recommendations from the Committee shall

be made to staff, the Planning Commission or the City Council. Committee comments on projects by other agencies shall be distributed to such agencies only after the comments are approved by the City Council, or the City Manager if City Council approval is not practicable.

F. Any publications of the Committee shall require authorization from the City Council.

G. Any letter written by a member of the Committee that represents the position of the Committee, or stating any recommendation made, or action taken by the Committee, shall be authorized by the Committee during a duly noticed public meeting. In the event the Committee has, at a duly noticed public meeting, delegated the responsibility for any task to a Subcommittee, the Subcommittee may authorize one or more of its members to perform that task and subject to the Rules applicable to the Committee, prepare and submit comments and/or state the position of the Committee.

H. The Committee, or a Subcommittee designated by the Committee shall interview each candidate or prospective member before recommending that candidate to the City Council. If the Committee is unable to recommend two candidates for any specific membership, the Committee may recommend, and the City Council may appoint, only one candidate for membership.

**PURPOSE &
RESPONSIBILITIES:**

A. To review and submit comments during the public review period (upon publication of the Notice of Preparation (NOP) and/or the Notice of Completion (NOC) with respect to any Environmental Impact Report (EIR) or other environmental documents prepared by the City that have the potential to have a significant effect on the City of Newport Beach and its residents.

~~B. To review and, subject to the approval of the City Council or City Manager, submit, on behalf of the City, comments on any NOP or NOC for an EIR prepared by another public agency for a Project that has the potential to cause significant adverse environmental impacts in the City of Newport Beach.~~

~~C.~~ If requested by the City Council or the City Manager, review and submit comments on any environmental document, including a Negative Declaration or Environmental Impact Report Statement, prepared by the City or any other other public agency for projects that could have a significant adverse environmental impact on the City of Newport Beach. The Committee may review and submit comments on any negative declaration prepared by the City for any project that is not subject to the review and/or approval of any other Board, Commission or Committee without first receiving a request from the City Council or City Manager.

~~CD.~~ To request the City Manager to schedule presentations from City staff relative to activities with the potential to adversely impact the environment.

~~DE.~~ To request the City Manager and/or City Council to schedule a presentation from members of the Committee to the City Council relative to any action of the Committee or any activity that the Committee has determined could have a significant effect on Newport Beach.

~~F.~~ To receive, review, and transmit to the City's community associations (COAs) and homeowners associations (HOAs) information relative to projects that have the potential to have a significant adverse impact on the association(s).

~~G.~~ To receive the City Manager's weekly newsletter (1 copy).

~~H.~~ To recommend to the City Manager subject matter and key questions for inclusion in the City's quarterly newsletter to residents.

MEMORANDUM

To: Mayor Tod Ridgeway and Members of the City Council
City of Newport Beach

From: Environmental Quality Affairs Citizens Advisory Committee
City of Newport Beach

Subject: **Draft Supplemental Environmental Impact Report ("DSEIR") for the Irvine Business Complex, Central Park, Project (the "Project")**

Date: April 14, 2004

Thank you for the opportunity to comment on the DSEIR for the captioned Project located south of Interstate 405, west of Jamboree Road, north of Michelson Road and easterly of Von Karman Ave. at the site formerly owned, operated and known as the Parker-Hannifin site. The proposed DSEIR proposes to supplement the 1992 Program EIR for the Irvine Business Complex ("IBC") (this Program EIR is referred to as the "IBC EIR").

I. Summary of Concerns:

- (A) The DSEIR and the Project include significant changes from the IBC EIR and are inconsistent with the IBC EIR. The City of Irvine (the "City") should prepare a new or subsequent DEIR.
- (B) The Project and its goals conflict with the limitations imposed in the IBC by the IBC EIR.
- (C) The Project will create significant impacts on land use, traffic, water quality, public services and other areas which are not analyzed in the DSEIR.
- (D) The Project will have significant cumulative and growth inducing impacts which are not addressed in the DSEIR.
- (E) The Project's mitigation measures fail to mitigate effectively and adequately Project impacts including traffic and land use impacts.

II. A Supplemental EIR, A Subsequent EIR or a new EIR.

Section 1.2.2 addresses the type and purpose of the DSEIR. The DSEIR notes that the CEQA Guidelines address both a Supplemental EIR and a Subsequent EIR. Section 15162 provides that, when an EIR has been previously prepared, no subsequent EIR need to be prepared unless:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration 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 or Negative Declaration 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 as complete or the Negative Declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (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 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 the DSEIR notes, Section 15163 provides that the Lead Agency, the City of Irvine, may prepare a Supplemental EIR if:

- “(1) Any of the conditions described in Section 15162 would require the preparation of a subsequent EIR; and
- “(2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.”

DSEIR, 1-4.

The DSEIR also notes that:

“Development of the project site with office and industrial uses was assumed in the certified IBC EIR. However, no residential uses were assumed for the site.”

According to the DSEIR, the Project— the Central Park Project including 1,380 residential units, 90,000 square feet of office use, and 19,700 of retail use— is a minor revision of the original use proposed in the Irvine Business Complex.

However, the DSEIR misunderstands the IBC EIR and fails to consider properly the Project changes. The IBC EIR did not consider residential development for the Project site at the time. The IBC EIR stated: “In 1987, the City discovered that the IBC approvals exceed the level studied in the 1989 Supplemental EIR.” The IBC 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.” IBC EIR, Executive Summary III-9. Among other things, the IBC EIR 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.” IBC EIR, Executive Summary, III-10. The IBC EIR recognized: “Projects can use the total allocated AM and PM trips to propose various types of **non-residential land uses.**” IBC EIR, III-10. That is, under the IBC EIR, the Trip Budget and the TDR transfers were for non-residential uses: TDR transfer were not for residential development.

While the IBC EIR limited residential uses to existing or approved projects, the Project proposes to insert additional residential uses in the IBC. While the IBC EIR

limited TDR transfers to non-residential uses, the Project proposes a TDR transfer for a residential development. However, as is clear from the IBC EIR, such residential transfers are not authorized. All of this constitutes a major change in the IBC EIR and the requirements of Section 15162 apply.

Hence, the DSEIR should be revised: the City should either prepare a subsequent or a new EIR for the Project.

III. Section 2: Project Description

The Project description is one of the key parts of any environmental document. As the County of Inyo Court noted long ago,

“Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the 'no project' alternative) and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.”

County of Inyo v. City of Los Angeles (1977) 71 Cal. App. 3d 185, 199. In addition, the CEQA Guidelines section 15124 requires that an EIR describe the project “in a way that will be meaningful to the public, to the other reviewing agencies, and to the decision-makers.” Discussion, Guidelines section 15124.

Section 2.2 addresses the Project and DSEIR objectives. Examples of the Project Objectives includes:

Provide for additional housing opportunities in close proximity to existing employment centers, consistent with the City's Housing Element and local and regional jobs/housing balance policies.

- Create a mixed use development that includes retail shopping, restaurants, office and employment opportunities, and a wide range of housing choices
- Develop this community to be compatible with the City of Irvine's long-range plan for the Irvine Business Complex (IBC). . . .”

These examples show the Project's objectives which conflict with the objectives and provisions of the IBC EIR and which are internally inconsistent as discussed below. As discussed above, the IBC EIR limited residential entitlements to existing and entitled

developments: the Project is neither. Further, the IBC EIR regarded mixed use developments as only shopping, restaurant, office, warehouse and industrial uses: the Project includes residential uses as part of the mixed use Project.

In its reference to the "long range plan for the Irvine Business Complex," the DSEIR is unclear what that long range plan is other than that described and analyzed in the IBC EIR. The DSEIR refers to no other planning document for the IBC. Hence, the public can only assume that the long range plan for IBC is that set forth in the IBC EIR. However, as indicated above, the Project and its objectives are inconsistent with the requirements and conditions set forth in the IBC EIR. Because the Project Objectives include an objective of consistency with the IBC EIR and the Project is inconsistent with the requirements of the IBC EIR, this Project Objective – consistency with the IBC EIR – is internally inconsistent. Because the Project Objectives are internally inconsistent and conflict with the requirements of the IBC EIR, the DSEIR should be revised and rewritten either as a new or subsequent EIR, and circulated for public comment.

Section 2.3 discusses Project Characteristics. The proposed Project as described in this section includes a General Plan Amendment, a Zone Change, Master Plan/Transfer of Development Rights, Tentative Tract Map, a Park Plan and a Development Agreement which would allow development of 1,380 residential dwelling units, 19,700 square feet of retail use, and 90,000 square feet of office. All of these uses require substantial parking. However, the DSEIR addresses only office parking: the office building will include "... a detached parking structure at the southeast portion of the site, adjacent to the Jamboree Road/Michelson Drive intersection. However, the Project description is devoid of discussion of internal circulation for the Project, parking for residential and retail uses, and location of the office building.

Further, Exhibit 2-7 is a map of the proposed land use plan. It shows substantial residential development. An area marked "1" appears to show retail uses and perhaps office uses but the shading covers virtually all printing in that section. Moreover, Exhibit 2-7 does not clearly indicate the location of the office building and its associated parking structure which as indicated above is near the Jamboree Road/Michelson Drive intersection. This is the area which appears to be devoted to retail uses.

IV. Section 3: Environmental Setting.

Section 3 recognizes that, pursuant to CEQA Guidelines Section 15125, an EIR must include a description of the physical environment including the baseline physical conditions and limitations by which a lead agency may determine impact significance. Section 3 discusses various baseline conditions including land use and location as well as assumptions on cumulative impacts.

However, Section 3 fails to discuss the Project's environmental setting as including or affecting the City of Newport Beach. The City of Newport Beach is close to the Project site and will be affected by the Project. The City of Irvine should revise the DSEIR and recast the document as a subsequent or a stand alone EIR, include a discussion of the proximity of the City of Newport Beach in the Project setting, and discuss all impacts and necessary mitigation required to ensure that any such impacts will not be significant.

As to location and land use, although the DSEIR proposes to supplement the IBC EIR, Section 3 fails to discuss the land use conditions developed in the IBC EIR. As indicated above, the IBC EIR restricted residential development to existing or permitted in 1992. The Project is neither. The IBC EIR allowed mixed use, i.e. industrial commercial and other non-residential uses, at the Project site and surrounding areas.

Also, Section 3 notes that the City of Irvine's General Plan designates the site as "Urban and Industrial." Although this is correct, this section incorrectly states that uses for "Urban and Industrial" may include high density residential. This is incorrect: the Project site is "designated as "5.1 IBC Multi-Use," not "5.3 IBC Residential." See DSEIR page 4-55 and Housing Element of the General Plan.

As to Section 3.9, "Assumptions Regarding Cumulative Impacts," this section attempts to comply partially with the requirements of Section 15130 of the CEQA Guidelines. However, for the reasons set forth below, it fails.

First, Section 3.9 attempts to build on the cumulative impacts analysis in the IBC EIR. This analysis contains a discussion of potential projects and their cumulative impacts. Section 3.9, Section 4 and Section 8, all of which attempt to address cumulative impacts, pale by comparison with the IBC EIR discussion of cumulative impacts.

Moreover, Section 3.9 misunderstands the requirements of the IBC EIR:

"... the IBC established an overall trip cap with a parcel specific trip budget mechanism, which allows the developer flexibility in determining specific land uses. The intent of the IBC EIR was to analyze impacts associated with this mechanism, which allows market forces to dictate how and where the trips would ultimately be utilized through encouragement of mixed-use development and implementation of a development rights transfer program. As anticipated in the IBC EIR, several applications have been filed to redevelop existing sites in the IBC from non-

residential uses to high-density, urban style residential development, including the proposed Central Park project.

DSEIR, page 3-8. However, as indicated above, the IBC's trip budget and transfer mechanism was designed for mixed-use developments, i.e. non-residential developments. Applying the IBC EIR mechanism to residential developments was not contemplated or authorized in the IBC EIR.

Notwithstanding the fact that the DSEIR opts to conduct the cumulative impacts analysis through a summary of projections contained in an authorized general plan under CEQA Guidelines Section 15130(b)(1)(B), the DSEIR includes a list of "past, present and probable future projects" under Section 15130(b)(1)(A) as Table 3-2. However, this table is not informative.

The Guidelines Discussion of this Section provides guidance:

"Subsection (b)(1)(B) authorizes a lead agency to limit its analysis of probable future projects to those which are planned or which have had an application made at the time the NOP is released for review. This describes a reasonable point in time at which to begin the cumulative impact analysis. Without this guideline, the cumulative impact analysis may suffer frequent revision as new, incremental projects are identified. If additional projects are identified later, they may be addressed during completion of the final EIR."

"Cumulative impacts analysis must include reasonably anticipated future activities of a project or associated with the project. Whether these activities are addressed in the cumulative impact analysis section or in the impacts associated with the project, as defined, if there is substantial evidence indicating reasonable foreseeable future projects or activities, an EIR must analyze the impacts of those future activities. . . ."

As discussed below, the DSEIR fails to analyze or discuss the cumulative impacts of the probable future projects in conjunction with the Project.

Moreover, Table 3-2 does not include all approved or pending projects. It includes only "Residential Projects." Perhaps, the DSEIR limits this table to residential projects because the Project really is a residential project. Whatever the reason for the limitation, it is improper: numerous projects including residential, office and mixed use have been approved or are pending before the City. The cumulative impacts of all of

these projects together with the Project may have significant impacts on several areas including transportation and circulation.

When the City issues a subsequent or new EIR for the Project, the cumulative impact analysis should identify and analyze the cumulative impacts of all such projects. Moreover, such future cumulative impacts analysis must correctly identify the uses allowed under the IBC EIR, analyze any changes to such uses and the cumulative impacts of such changes, and consider all other appropriate cumulative impacts.

V. Section 4: Environmental Setting, Impacts, and Mitigation.

A. Section 4.1: Air Quality.

B. Section 4.2: Hazards and Hazardous Materials.

The DSEIR indicates that the Project site has experienced soil and groundwater contamination as a result of former site uses. Contamination includes petroleum hydrocarbons, chromium and chlorinated solvents. The DSEIR notes that:

"[T]he elliptically shaped groundwater plume that underlies the central portion of the property has reduced in size and contaminant concentration over time. . . ."

DSEIR, page 4-38. Although the DSEIR fails to identify this plume, it also notes that another plume of chlorinated solvent contamination is entering the property from the northwest. *Id.* The DSEIR recognizes that such contaminants may result in risks including increased cancer risks to construction workers, future residents and future park visitors.

The DSEIR appears to include a project design feature which the DSEIR states will reduce such risks to acceptable levels. The design features include contaminated soils removal, installation of an impenetrable barrier such as a liquid boot and something referred to as shelter in place.

Such features raise several problems. First, given the risk assessment, perhaps alternative uses including non-residential uses should be considered to minimize risks. Second, given that the site suffers extensive contamination and may require the installation of impermeable barriers, it is unclear that such barriers are consistent with other design features which will eliminate, e.g. parking area, and increase pervious surfaces. These two design features— increased pervious surfaces and installation of impervious barriers— conflict. Moreover, given the presence of the contamination, increased percolation due to the presence of increased pervious surfaces may spread existing contamination.

Third, the DSEIR fails to discuss and explain shelter-in-place programs which appears to be an alternative to evacuation when hazardous materials are released. The alternative is simply to stay in doors with doors and windows closed. However, the risk assessment indicates that much of the contaminants may migrate indoors as vapors. The DSEIR fails to discuss the shelter-in-place programs in any detail including issues of communication and notification of residents visitors and commuters, fails to assess their effectiveness in dealing with vapor exposure and fails to discuss alternatives to this program.

In addition, the DSEIR fails to address the hazardous impacts of the Project which will increase vehicular traffic. The DSEIR includes no discussion of such potential impacts from increased vehicular traffic including increased hydrocarbons in runoff and design features or mitigation measures to deal with such impacts.

In addition, the DSEIR does includes records of some businesses which store hazardous materials near the Project site. Appendix E includes only those sites which store hazardous materials at special, high or medium levels, but does not disclose businesses which store low quantities of such materials. Moreover, Appendix E fails to include current records of hazardous materials use and storage: the latest records are May 2001. The Appendix should include a current inventory of all businesses which store any amounts of hazardous materials because contamination continues at the site and the sources of such contamination are not fully identified.

As indicated above, the DSEIR should be revised and issued as a new or subsequent EIR to address the issues raised above. Importantly, that document must consider whether the proposed residential use is appropriate given the contamination and the impacts of vehicular traffic and pervious surfaces on such contamination.

C. Section 4.3: Water Quality.

Section 4.3.1 recognizes that the Project site is tributary to San Diego Creek and Upper Newport Bay, and that San Diego Creek is an impaired water body. Section 4.3.3 states that the current site contains large parking areas and substantial amounts of impervious surfaces. This section states that the Project will include much pervious surfaces and no large parking areas. The DSEIR concludes that Project will improve water quality over the existing use.

However, the Project will bring in more people and more vehicles. The Project and the DSEIR recognize this fact and mitigate it with the transfer of development rights from various sites. However, nothing in Section 4.3 recognizes any impacts on water quality due to increased vehicular traffic.

Further, Section 4.3.3 addresses cumulative impacts of the Project together with proposed projects. The analysis is inadequate. The DSEIR recognizes:

"With respect to water quality, increased urbanization could result in increased pollutants entering San Diego Creek. It is required, at the time of ultimate build-out, that future projects comply with all post-construction water quality standards applicable at that time, and, at a minimum, incorporate structural and non-structural post-construction water quality BMPs to the extent mandated by regulations. . . . This will reduce the potential cumulative water quality impacts to a level of insignificance."

DSEIR, page 4-51.

The analysis raises several concerns. First, the Section 4.3.3 which addresses environmental impacts fails to recognize that the Project will result in increased pollutants entering San Diego Creek due to "increased urbanization." Section 4.3.3 fails to recognize Project impacts which the DSEIR recognizes as cumulative impacts.

Second, the cumulative impacts analysis is too general: the analysis should consider the cumulative impacts of the Project and future projects. However, the analysis simply discusses the ultimate build out with increased urbanization.

Third, the cumulative impacts analysis does not address ultimate build-out of the IBC. It attempts to consider the ultimate build-out of the increased urbanization scenario contemplated by the Project. This fails to comply with the requirements of Guidelines Section 15130.

As indicated above, the DSEIR should be revised, and the City should prepare a new or subsequent EIR which will discuss and address all Project impacts on water quality and a detailed cumulative impacts analysis. If necessary, the EIR should propose adequate mitigation for all such impacts.

D. Section 4.4: Land Use and Planning.

As indicated above, the DSEIR fails to meet the standards for a supplemental EIR. This is specially true for the land use analysis. As indicated above, the IBC EIR limited residential development to existing and approved projects; it did not authorize future residential development. Moreover, the IBC EIR established trip budgets for non-residential sites and the ability to transfer such trips to other non-residential sites. Because the Project is largely residential (see Table 3-2), the Project and the DSEIR are inconsistent with the IBC EIR and the IBC Project analyzed therein.

The DSEIR states: "To ensure that land use compatibility issues were considered while the IBC retained its mixed use character, the City ensures that [thorough] environmental analysis is conducted on project proposals." SEIR Page 4-54. However, the IBC EIR analyzed the environmental impacts of only 3,896 residential dwelling units. The current total number of dwelling units in IBC is 4,954. The addition of 1,380 dwelling proposed by the Central Park project would bring the total number of dwelling units in IBC to **6,334**. This represents an increase of nearly sixty-five percent (**65%**) over the number of residential dwelling units analyzed in the IBC EIR. Given that the IBC EIR limited residential development, such a large increase constitutes changed circumstances and requires the preparation of a new or subsequent EIR, not the DSEIR.

Section 4.4.3, "Environmental Impacts," includes a section titled "Compatibility of Central Park with the Surrounding Area." Here, the DSEIR states that the proposed residential densities of the Central Park project "are similar to the high-density residential products located east of the site." While the residential component of the proposed project is consistent with the existing high-density residential products in the surrounding area, it is not consistent with the IBC EIR.

The DSEIR goes on to state that "all subsequent requests for conversion of non-residential entitlement to residential units have been supported by subsequent environmental documentation which has sufficiently analyzed the CEQA related project impacts." DSEIR Page 4-56-5 7 However, the DSEIR fails to address the environmental documentation for these projects: if each subsequent project that has requested a conversion of non-residential entitlement to residential units (with a current total of 4,954 dwelling units) has been analyzed in a subsequent EIR, it is questionable that a **thorough** environmental analysis has been conducted for each of these projects. Moreover, we are unaware of any environmental document circulated for public comment for any of these projects.

Likely, the Project's increased densities together with the increased densities east of the site may create significant cumulative impacts requiring mitigation. However, the cumulative impacts analysis of land use impacts appears to acknowledge this cumulative impact but provides no mitigation or analysis of the inconsistency with the IBC EIR:

"The gradual redevelopment of the IBC from non-residential uses to high-density, urban style residential and mixed use development, is consistent with the newly developed and developing IBC.

DSEIR, page 4-76. The DSEIR's subjective perspective of the "newly developed and developing IBC" may be correct. However, this gradual redevelopment is inconsistent

with the IBC Project analyzed in the IBC EIR; as redevelopment, it is not authorized by the IBC EIR. Because of this unauthorized redevelopment, the DSEIR is improper. The City should prepare a new or subsequent EIR which fully analyses the cumulative impacts of the redevelopment of the IBC. Indeed, to the extent that the City is redeveloping the IBC, the City should prepare a new Program EIR for the IBC.

Further, the DSEIR concludes that: "Cumulative land use impacts were identified as significant in the IBC EIR." However, because of the redevelopment of the newly developed and developing IBC, the DSEIR's reliance on the IBC EIR's conclusions is improper. The City should prepare a new or subsequent EIR, analyze all cumulative impacts regarding the IBC redevelopment including the Project, and, if necessary, propose adequate mitigation.

Section 4.4.4 addresses mitigation measures. The mitigation measures are simply project design features which includes development standards, Project requirements and the proposed zone change. This is not mitigation. The Project's is inconsistent with the IBC EIR: the land use impacts including cumulative impacts are significant and require mitigation, not project design features.

E. Section 4.5: Noise.

F. Section 4.6: Public Services.

Section 4.6 addresses public services including fire, police, schools, public libraries and related services. As to fire services, the City of Irvine contracts with the Orange County Fire Authority (OCFA) which provides fire protection and emergency medical services (paramedics) to the City and this Project. The DSEIR fails to discuss any cooperative service agreements with other agencies including the City of Newport Beach. Given that the City of Newport Beach is planning to locate fire services in or near the airport area, the DSEIR or its successor document should discuss this resource and the impact of the Project upon it.

As to police services, the DSEIR analyzes growth in requirements for police officers based on an "existing" ratio of 1.13 sworn officers per 1000 residents. However, the Irvine General Plan contains a "desired" ratio of 1.5 sworn officers per 1000 residents. The DSEIR fails to discuss this shortfall and alternatives to handle police services if the optimistic estimates are flawed.

Likewise, the DSEIR is optimistic on its predictions regarding the Project's impact on library services. The Project will put some strain on existing library facilities, but the City of Irvine appears to have plans for library expansion and modernization. However, the DSEIR projections of needs appear to be underestimated based on their projected population of 1,877 persons for this project. This population estimate seems low for a project of 1,380 residential units with families of four or more.

As indicated above, the DSEIR should be revised and reissued as a new or subsequent EIR, and that document should discuss, analyze and propose necessary mitigation to the impacts.

G. Section 4.7: Recreation.

Section 4.7 recognizes that the Project site has no public recreational resources. However, while the Project will draw a substantial number of residents, and office and retail workers to the site, it proposes to provide private parks but no public parks.

The DSEIR also notes that Irvine residents may enjoy substantial regional recreational opportunities including parks and beaches in the City of Newport Beach. However, the DSEIR fails to analyze the Project's impacts on such resources in the City of Newport Beach.

Further, the DSEIR proposes a park plan including one 2.62 acre centrally located park and three 0.33 acre parks distributed around the project (a total of 3.01 acres of parks). This falls well below the City of Irvine standard of 5 acres of parks for each 1000 residents. The DSEIR appears to rely large regional parks with the City of Irvine to satisfy the Project recreational requirements. Further, the DSEIR recognizes that the Project will pay in lieu park fees when park dedication is unavailable.

However, the DSEIR fails to discuss the City of Irvine's specific park code requirements. CEQA requires that the Project's impacts be fully analyzed in the DSEIR and any necessary mitigation discussed and analyzed. However, the DSEIR defers this analysis and mitigation. Indeed, the DSEIR notes that existing codes and policies require:

"In conjunction with approval of the project's conditional use permit, the developer of residential subdivisions shall demonstrate compliance with the City's local park code requirements."

DSEIR, page 4-109. However, the DSEIR states that the City has no standard conditions of approval related to recreation which apply to the Project.

Finally, the Project's proposed parks have limited features. The closest lighted park with extensive fields is the City of Newport Beach's Bonita Creek Community Park which is currently heavily used by residents. As indicated above, the DSEIR should be revised, a new or subsequent EIR developed which addresses these concerns and ensures that the Project will have no significant and unmitigated impacts on recreational resources, including an analysis of impacts on parks with the City of Newport Beach and any appropriate mitigation.

H. Section 4.8: Transportation/Traffic.

The SEIR states that "(t)he proposed project will not result in significant impacts to street segments or intersections within the cities of Tustin and Newport Beach." DSEIR, page 4-135. However, the Traffic Study and the DSEIR do not consider or analyze the Project's potential traffic impacts on State Route 73, on-ramps and off-ramps thereto and intersections and roadways south of SR 73 in the City of Newport Beach, including the intersections of MacArthur Boulevard with Bison Avenue and Bonita Canyon Drive. These roadways and intersections should be included in the environmental analysis for the Central Park project.

The traffic analysis in the IBC EIR employs a three-step model to evaluate traffic forecasts and impacts. The first step groups intersections within the IBC and measures those intersections by taking a group average. According to the IBC 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 . . . @ The failing intersection groups are Groups A, C and E. The IBC EIR goes on to state that the failure of these intersection groups further support the existence of the north-south deficiencies. 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 Central Park project site is located within Group C.

The second step used to evaluate traffic forecasts in the IBC 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 IBC EIR, A[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 may have significant traffic impacts on MacArthur Blvd. and Jamboree Rd. in the City of Newport Beach. The DSEIR recognizes that the Project may create significant traffic impacts on the MacArthur Blvd./Jamboree Rd. and the MacArthur Blvd./Michelson intersections. DSEIR, Tables 4-28 and 4-29.

Further, the DSEIR states that, while the performance criteria for level of service at an intersection or roadway in the City of Irvine is considered unsatisfactory when the intersection capacity exceeds (ICU) 1.00 (LOS E), "(w)here the analysis reports Newport Beach intersection performance, Newport Beach level of service criteria (LOS D) is used." The table following this discussion shows the ICU for LOS D to be 0.81-0.90. However, the DSEIR goes on to say that "(a) project impact occurs when the roadway link or intersection in question exceeds the acceptable LOS, and the

impact of the development is greater than or equal to 0.02. Project mitigation will be required back to 1.00 (within the IBC) or baseline, if the baseline is greater than 1.00." DSEIR, page 4-114. This conflicts with the increased service level required within the City of Newport Beach.

The DSEIR recognizes that one of the thresholds of significance for the Project is whether the Project will "result in inadequate emergency access" or "result in inadequate parking capacity." Unfortunately, the DSEIR contains no analysis of the Project's emergency access requirements or provisions or its parking requirements and capacity.

The DSEIR concludes that any Project traffic impacts "can be mitigated to a level of insignificance. However, as discussed below, Section 5 entitled "Significant Unavoidable Adverse Impacts" appears to recognize that the Project may create significant traffic impacts after mitigation. DSEIR, page 5-1. Indeed, the DSEIR builds upon the IBC EIR, which recognized that the IBC Project had the potential to create significant traffic impacts after mitigation. The Project cannot avoid this finding.

As indicated above, the cumulative impacts analysis considers only impacts at build-out under the City's General Plan. The DSEIR concludes that, with planned or existing traffic improvements, all intersections will operate at acceptable service levels. This conclusion is problematic.

The conclusion does not include existing or approved projects which have required General Plan amendments or other variations. Table 3-2 shows many residential projects for which amendments have been required. In addition, Table 3-2 does not include non-residential developments in the IBC which have also required additional approvals. The cumulative traffic impacts of these Project should be specifically and specially analyzed in the subsequent environmental document.

Also, the DSEIR fails to discuss any planned traffic improvements which may serve to mitigate or reduce traffic at build-out. Further, planned traffic improvements may not occur for a variety of reasons including funding.

Finally, and importantly, the DSEIR's traffic analysis in particular Table 4-25, appears to recognize that the Project will create significant traffic impacts without any transfers of development rights. That is, the Project requires trip transfers from other sites. As indicated above, such transfers for residential developments are not authorized under the IBC EIR.

For all of these problems, the City should revise the DSEIR, publish the document as a new or subsequent EIR and address each and every impact recognized above and provide adequate mitigation.

I. Section 4.9: Utilities and Service Systems.

The DSEIR recognizes that the significance thresholds for utilities and service systems including waste water capacities and solid waste. As to waste water, the DSEIR provide no discussion of any potential impacts. It merely concludes:

"The project will not exceed wastewater treatment requirements and will not result in the construction of new water or wastewater treatment facilities."

This is simply a conclusion. CEQA requires that the environmental document analyze the Project's potential impacts and not merely offer conclusions.

Surprisingly, after considering potential significant impacts on utilities and service systems, the SDEIR concludes that:

"Implementation of the standard conditions of approval listed above will reduce all potential **water** impacts to a level of insignificance.

DSEIR, page 4-174. However, this conclusion creates two problems: First, the DSEIR provides no list of standard conditions of approval for utilities and service systems. Second, Section 4.9 addresses "Utilities and Service Systems," not simply "Water Systems."

As indicated above, the DSEIR should be revised and be re-issued as a new or subsequent EIR. This new document should address the problems in the DSEIR's analysis of utilities and service systems.

VI. Section 5: Significant Unavoidable Adverse Impacts.

As indicated above, the IBC EIR found several significant unavoidable impacts including: circulation and traffic, land use, public services, air resources, water resources and "earth resources." The DSEIR notes this conclusion of the IBC EIR but fails to address its affect on the DSEIR. It states:

"This SEIR has concluded that the Central Park project will neither reduce any of these IBC impacts to a level of insignificance, nor cause any of these impacts to be significantly more adverse or different from those analyzed in the IBC EIR, except potentially with respect to air resources. Accordingly, a Statement of Overriding Consideration will need to be adopted for each of these impact areas."

This is unclear: does it propose adoption of a Statement of Overriding Considerations for each of the areas noted in the IBC EIR or only air resources.

As also indicated above, notwithstanding the DSEIR's characterization of the Project as having no impact on the IBC areas, this is incorrect. As discussed fully above, the Project is a substantial change from the IBC Project and requires preparation of a new or subsequent EIR. Hence, the DSEIR's attempt to rely on findings relating to the IBC EIR is improper. New findings regarding the risk balance and any statement of overriding considerations must be performed. The new environmental document must consider such and conduct these balances independently from the findings of the IBC EIR.

VII. Section 6: Project Alternatives.

Section 6 discusses four alternatives to the Project: the no Project alternative with no additional development; the no Project alternative with existing General Plan designations, the reduced intensity alternative, and the residential only alternative. The DSEIR concludes that three of these are the environmentally superior alternatives: the no Project alternative with no additional development, the reduced intensity alternative, and the residential only alternative. However, the DSEIR rejects each because they fail to implement one or more the Project objectives.

As to the no Project alternative with no additional development, the DSEIR notes that it has fewer environmental impacts but

“... the beneficial impacts associated with new recreational facilities, remediation of contaminated soils, improvements to water quality, and improvements to the jobs/housing balance of the area would not occur.”

DSEIR, page 6-13. However, it is unclear that remediation of contaminated soils and improvements to water quality would not occur: the regulatory entities have the ability to force the responsible parties to cure and/or pay for the problems. As for the jobs/housing balance, the IBC EIR limited such balance by restricting housing to those existing or approved in 1992. The Project conflicts with this IBC goal. As for new recreational facilities, the DSEIR is unclear as to the character of these facilities. If such are simply indoor fitness centers, the market may determine when and where such centers develop. If the DSEIR is referring to outdoor recreational facilities, the DSEIR must fully discuss such amenities so that the public may understand the Project.

As for the residential alternative, the DSEIR finds this to be the superior development alternative but also notes that it fails to create jobs. More importantly, the residential only alternative conflicts with the IBC EIR.

As for the reduced intensity alternative, the DSEIR provides no discussion regarding its comparison or reasons for or against the alternative. The DSEIR notes that the reduced intensity alternative may create fewer impact but it would still create significant and unmitigated air quality impacts. Further, the DSEIR notes that the Project is itself already a reduced alternative.

As indicated above, the DSEIR should be revised and reissued as a new or subsequent EIR. That document should re-consider the alternatives including the no Project alternative as the primary environmentally superior alternative.

VIII. **Section 8: Growth Inducing Impacts.**

Section 8 addresses the Project's potential to create significant growth inducing impacts. The DSEIR recognizes that, among other things, this analysis should include "an assessment of other projects that would foster other activities that could affect the environment" DSEIR, page 8-1. The DSEIR concludes that, except for the site itself, the Project will not have growth inducing impacts. This conclusion is incorrect.

The DSEIR uses a matrix of issues from an unknown source. These include: whether the Project will remove obstacles to growth; whether the Project will result in the need to expand public services to maintain the desired level of service; whether the Project will have economic effects that could result in other activities that may significantly affect the environment; and whether the Project is precedent setting. Although the DSEIR concludes that:

1. The Project will remove obstacles to development on the site, it will not generally remove such obstacles.
2. The Project will not create significant growth in demand for public services.
3. The Project will directly encourage economic activities, but, because of the balanced plan, i.e. the mixed use character, such effect will be minimized.
4. The Project will not be precedent setting in that all changes are limited to the site.

In this analysis on growth inducing impacts of the Project, the DSEIR fails to consider the limitations on the IBC created by the IBC EIR. As noted above, the IBC EIR limited residential development to existing or approved developments as of 1992. However, the DSEIR notes several residential projects approved since the IBC EIR.

See Table 3-2. However, the Project dwarfs these projects: it is more than three times as big as many of the Table 3-2 projects.

Because of its size, the Project will remove obstacles for development in the IBC generally and set a precedent. Indeed, as indicated above, the DSEIR states design features and adopted standards will minimize adverse effects of the Project. However, those standards will not be project specific; the standard will apply to the entire IBC planning area.

In addition, the City of Irvine, its Council and Planning Commission, have conducted a series of meeting in connection with development standards for IBC. The Project will be part of that overall effort. Thus, the Project will remove such obstacles.

As for growth in demand for public services, the large size of the Project will itself create a significant demand on public services. This demand is significantly different from the demands of the existing uses. The Project will encourage such demands.

As for economic impacts, the NOP for the Project considered a pedestrian bridge over Jamboree Road to allow for pedestrian traffic to the retail opportunities across Jamboree Road. That proposal recognized the economic impacts of the Project and its affects off-site. The fact that the pedestrian bridge is no longer part of the Project does not mean that the Project will not create impacts off-site.

As we have indicated above, the DSEIR should be revised, and re-issued as a new or subsequent EIR. The section on growth inducing impacts should consider the full scope and nature of the Project, and its impacts to the surrounding area and the IBC in general.

IX. Section 9: Impacts Found Not to be Significant.

Section 9 discusses impacts which were "screened" out due to the Initial Study for the Project. This section notes that this screening is appropriate because the IBC EIR is a "full-scope" EIR and these impacts were generally addressed in that document. However, the Notice of Preparation did not inform the public that the City intended to rely on the IBC EIR for this screening effort.

Significantly, the DSEIR includes no analysis of the Project's potential aesthetic, biological, geology and soils and other impacts. Perhaps the most significant omission is analysis of the Project's aesthetic impacts. The Project proposes to demolish the existing building and change use to residential/mixed use, which is currently not permitted at the site. At a minimum, the DSEIR should discuss height, design, appearance, parking and parking structures, size of buildings including office

buildings and so on. The DSEIR contains nothing which gives the public or decision makers any idea of the aesthetics, size, shape or mass of the Project.

The DSEIR is inadequate. The City should prepare a new or subsequent EIR which is a "full scope" EIR so that the public and decision makers may understand the full nature, scope and impacts of the Project.

X. Section 10: Mitigation Monitoring Program.

Section 10 concerns the Project's mitigation monitoring program which will ensure compliance during Project implementation and may allow for flexibility due to changes in the Project during the review process. Several problems arise in connection with the mitigation measures and the mitigation monitoring program.

First, as to mitigation measures, many such measures simply defer the nature and character of the mitigation until some future event, e.g. precise mitigation of hazardous materials impacts including risk assessment is deferred until some time prior to issuance of building permits. Virtually all mitigation measures are deferred until some future event, e.g. issuance of grading or building permits.

As noted above, CEQA does not authorize deferral of mitigation measures. The DSEIR should contain precise and specific mitigation measures so that decision makers and the public may understand the nature and extent of the impact, the nature and effectiveness of the mitigation measure, and the effectiveness of the mitigation monitoring program. The DSEIR has none of these specifics.

As to the mitigation monitoring program, it is worse: because the mitigation measures are deferred, the precise character of the monitoring program is unknown. Indeed, the entire analysis consumes one (1) page. Given that the over twenty-five (25) mitigation measures cover thirteen (13) pages, the minuscule size of the program is apparent and inadequate.

As before, the DSEIR should be revised: a new or subsequent EIR should be issued and address these and other topics.

XI. Conclusion.

Thank you for the opportunity to comment on this important and precedent setting Project and its DSEIR. For the reasons set forth above, the City should revise the DSEIR, re-issue the document as a new or subsequent EIR with a "full scope" analysis, address all impacts raised above and in the public comment period for the DSEIR, and propose adequate mitigation therefor.