

Responses to Comments on Environmental Impact Report

Harbor Pointe Senior Living Project (PA2015-210)

SCH No. 2016071062

Prepared for

City of Newport Beach
Community Development Department
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December 2018

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(PA2015-210)

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December 2018

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1.0 INTRODUCTION AND SUMMARY

1.1 INTRODUCTION

The purpose of this document is to present public comments and responses to those comments received on Draft Environmental Impact Report (Draft EIR) for the Harbor Pointe Senior Living Project (State Clearinghouse Number 2016071062, PA2015-210). The City of Newport Beach is the Lead Agency on the Project.

The Draft EIR was circulated for a 50-day public review and comment period beginning August 10, 2018 and ending September 28, 2018. During the public review period, the City of Newport Beach received a total of 82 written comment letters from State, regional and local agencies, organizations, and individuals on the Draft EIR. Two “form letters” were signed and sent by a number of residents at Baycrest Court. The first “form letter” (Form Letter 1) provides comments on the Draft EIR topics. The second “form letter” (Form Letter 2) provides more general comments on the proposed Project such as rezoning, property values, and quality of life. Each “form letter” is addressed separately in Sections 3.5 and 3.6. Written responses, included in this document, have been prepared to all comments received during the comment period regardless of whether such comments raised significant environmental issues or were general in nature.

During the public review of the Draft EIR, a Planning Commission Study Session was held on September 13, 2018 at the City of Newport Beach. At the Study Session a total of 23 verbal comments were received. These comments are included and addressed in Section 3.8 of this Responses to Comments document. The verbal comments are addressed by topics/issues raised by the commenters.

As required by Section 15132(d) of the California Environmental Quality Act (CEQA) Guidelines, this Final EIR responds to comments regarding “significant environmental points raised in the review and consultation process”. This Response to Comments document provides revisions and clarifications to the Draft EIR, as appropriate. In keeping with the requirement of Section 21092.5 of the *California Public Resources Code*, which requires the lead agency to provide a copy of the written response to each public agency that commented on the Draft EIR, the City of Newport Beach will send copies of the Responses to Comments not only to the public agencies that commented, but also to all parties that commented on the Draft EIR. This will be done at least ten days prior to the City Council certifying the Final EIR.

The Final EIR consists of three folders. This includes (1) the Draft EIR; (2) the Technical Appendices; and (3) the Responses to Comments. The Responses to Comments document, is divided into four sections: Section 1.0, provides the introduction; Section 2.0 provides a list of commenters on the Draft EIR; Section 3.0 provides responses to comments received on the Draft EIR; and Section 4.0 provides clarifications and modifications to the text of the Draft EIR, as appropriate. The changes to the Draft EIR are shown in *red italics* text and deletions are shown in ~~red strikethrough~~ text.

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2.0 LIST OF COMMENTERS

In accordance with the State CEQA Guidelines Section 15132, the following is a list of public agencies, organization, and individuals that submitted comments on the Draft EIR. The comments included letters and e-mail correspondence. Comments have been numbered and are contained in Section 3.0 of these Responses to Comments. Each comment letter is followed by responses to address the comments. The responses are numbered to correspond to the comment letter brackets. Verbal comments received at the Planning Commission Study Session are listed in Section 3.8 and are addressed by topic/issue. As indicated in Section 1.0, the two “form letters” are numbered as “Form Letter 1” and “Form Letter 2”.

No.	Commenter	Date of Correspondence	Follows Page Number
Written Comments			
<i>State Agencies</i>			
1	Governor’s Office of Planning and Research (OPR)	September 25, 2018	3-10
<i>Regional and Local Agencies</i>			
2	City of Irvine (COI)	September 11, 2018	3-14
3	Irvine Ranch Water District (IRWD)	September 19, 2018	3-16
<i>Organizations</i>			
4	Gabrieleño Band of Mission Indians—Kizh Nation (GBMI-KN)	August 17, 2018	3-20
5	California Cultural Resources Preservation Alliance, Inc. (CCRPA)	September 1, 2018	3-24
<i>Individuals (Comments on the Draft EIR)</i>			
6	William Blakeney (WB)	August 21, 2018	3-28
7	Lyle & Margaret Brakob (L&MB)	September 10, 2018	3-30
8	John R. Talbot	September 28, 2018	3-34
9	Christina Larkins (CL)	September 28, 2018	3-42
10	Brad Larkins (BL)	September 28, 2018	3-44
11	June & Malcolm Carter (J&MC)	September 28, 2018	3-46
12	Jim Mosher (JM)	September 28, 2018	3-54
13	Rodger & Julie Lowery (R&JL)	September 28, 2018	3-56
<i>Form Letter 1:</i>			
14	Christine Keegan (CK)	September 27, 2018	3-70
15	Ross & Teresa Watanabe (R&TW)	September 27, 2018	3-72
16	Patti Lampman (PL)	September 27, 2018	3-74
17	Rhonda Watkins (RW)	September 27, 2018	3-76
18	Carol A. McLean (CAM)	September 27, 2018	3-78
19	Taria Parris (TP)	September 27, 2018	3-80
20	Karen Larsen (KL)	September 27, 2018	3-82
21	Steven & Shauna Land (S&SL)	September 27, 2018	3-84

No.	Commenter	Date of Correspondence	Follows Page Number
22	Lyle & Margaret Brakob (M&LB)—Cover letter	September 27, 2018	3-86
23	Lyle & Margaret Brakob (M&LB)—(Form Letter 1 - 1 of 7)	September 27, 2018	3-88
24	Lyle & Margaret Brakob (M&LB)—(Form Letter 1 - 2 of 7)	September 27, 2018	3-90
25	Lyle & Margaret Brakob (M&LB)—(Form Letter 1 - 3 of 7)	September 27, 2018	3-92
26	Lyle & Margaret Brakob (M&LB)—(Form Letter 1 - 4 of 7)	September 27, 2018	3-94
27	Lyle & Margaret Brakob (M&LB)—(Form Letter 1 - 5 of 7)	September 27, 2018	3-96
28	Lyle & Margaret Brakob (M&LB)—(Form Letter 1 - 6 of 7)	September 27, 2018	3-98
29	Lyle & Margaret Brakob (M&LB)—(Form Letter 1 - 7 of 7)	September 27, 2018	3-100
30	Richard Sidkoff (RS)	September 28, 2018	3-102
31	Laura Minarsch (LM)	September 28, 2018	3-104
32	Christine Osaki (CO)	September 28, 2018	3-106
33	Randal McKellar (RMK)	September 28, 2018	3-108
34	Whitney Barbarics (WB)	September 28, 2018	3-110
35	Christopher & Katrina Headle (C&KH)	September 28, 2018	3-112
36	Robert Martin (RM)	September 28, 2018	3-114
37	Alana Shapiro (AS)	September 28, 2018	3-116
38	Kirk Snyder (KS)	September 28, 2018	3-118
39	James A. Caswell (JAC)	September 28, 2018	3-120
40	Suzanne Gee (SG)	September 28, 2018	3-122
41	Julie Ahlert (JA)	September 28, 2018	3-124
42	Dale Ransom (DR)	September 28, 2018	3-126
43	Mima Ransom (MR)	September 28, 2018	3-128
Individuals (Comments to Planning Commission—Study Session)			
44	Richard Sidkoff (RS)	August 26, 2018	3-132
45	Taria Parris (TP)	August 27, 2018	3-134
46	Donna & Bruce McMeikan (D&BM)	August 28, 2018	3-140
47	Wende Lichon (WL)	August 29, 2018	3-142
48	Nicole Brunelle (NB)	August 30, 2018	3-144
49	Andrea Kane (AK)	August 31, 2018	3-146
50	Wendy Haigh (WH)	September 4, 2018	3-148
51	Arlene Cartozian (AC)	September 5, 2018	3-150
52	The Wakelings (TW)	September 6, 2018	3-152
53	Carol McDermott (CMD)	September 7, 2018	3-154
54	Michael & Kristina Kiper (M&KK)	September 9, 2018	3-156
55	Paula K. Hurwitz (PKH)	September 10, 2018	3-158
56	Suzanne Gee (SG)	September 12, 2018	3-162
57	Christine Borak (CB)	September 12, 2018	3-164
58	Kirk Snyder (KS)	September 12, 2018	3-166

No.	Commenter	Date of Correspondence	Follows Page Number
Form Letter 2:			
59	The Brakobs (TB)	August 20, 2018	3-172
60	Elizabeth Pearson (EP)	August 24, 2018	3-174
61	Charlotte & Ryan Miller (C&RM)	August 27, 2018	3-176
62	Christine Osaki (CO)	August 27, 2018	3-178
63	Tim Skeber (TS)	August 28, 2018	3-180
64	Barry & Sharina Ross (B&SR)	September 4, 2018	3-182
65	Teresa & Ross Watanabe (T&RW)	September 10, 2018	3-184
66	Jeanette Bianchini (JB), signed by David Rivadeneyra	September 10, 2018	3-186
Individuals (Post Planning Commission Study Session)			
67	Paula Hurwitz (PH)	September 14, 2018	3-190
68	Karen Larsen (KL)	September 15, 2018	3-192
69	Andrea Kane (AK)	September 17, 2018	3-194
70	Donna McMeikan (DMM)	September 19, 2018	3-198
71	Laura Minarsch (LM)	September 19, 2018	3-202
72	Cathy Schwartz (KS)	September 19, 2018	3-204
73	Michael W. Smith (MWS)	September 19, 2018	3-206
74	Anne & Craig Ima (A&CI)	September 22, 2018	3-208
75	Cara Weichman (CW)	September 22, 2018	3-210
76	Rodger & Julie Lowery (R&JL)	September 24, 2018	3-212
77	Peggy Kerr (PK)	September 26, 2018	3-214
78	Nancy Buck (NB)	September 26, 2018	3-216
79	Linda Wooters (LW)	September 26, 2018	3-218
80	Pat Peters (PP)	September 28, 2018	3-220
81	Maureen Peters (MP)	September 28, 2018	3-222
82	Jessica & Ryan Schleiger (J&RS)	September 28, 2018	3-224
Verbal Comments*			
Individuals (Planning Commission Study Session)			
1	Marshal Hugo	September 13, 2018	3-227
2	Dave O'Keefe	September 13, 2018	3-227
3	Rhonda Watkins	September 13, 2018	3-227
4	William Blakeney	September 13, 2018	3-227
5	Lyle Brakob	September 13, 2018	3-227
6	Mike Smith	September 13, 2018	3-227
7	Andrea Kane	September 13, 2018	3-227
8	Dale Ransom	September 13, 2018	3-227
9	Chris Webb	September 13, 2018	3-227
10	Patty Lampman	September 13, 2018	3-227
11	Karen Santaniello	September 13, 2018	3-228

No.	Commenter	Date of Correspondence	Follows Page Number
12	Ann Janes	September 13, 2018	3-228
13	Dave Tax	September 13, 2018	3-228
14	Aaron Rios	September 13, 2018	3-228
15	Michael McDonald	September 13, 2018	3-228
16	Charlotte Miller	September 13, 2018	3-228
17	Chris Larkins	September 13, 2018	3-228
18	Scott Hyde	September 13, 2018	3-228
19	Donna McMeikan	September 13, 2018	3-228
20	Stephen Wulfestieg	September 13, 2018	3-228
21	Peter Dugan	September 13, 2018	3-228
22	Doug Pancake	September 13, 2018	3-228
23	Patricia Blakeney	September 13, 2018	3-228
* The verbal comments are addressed by topic/issue.			

3.0 RESPONSES TO COMMENTS

Consistent with Section 15088 of the State CEQA Guidelines, the City's responses to comments received are provided below. The responses are numbered to match the bracketing on the comment letters. Comment letters are categorized by State, regional and local agencies, organizations, and individuals. Within each category, the comment letters and responses to those letters are provided chronologically.

3.1 TOPICAL RESPONSES

A number of comments that were received during the public review process addressed the same topical issues. To avoid repetitiveness in the responses to these comments, Topical Responses have been prepared to address these common concerns. Where applicable, the responses to comments reference the appropriate Topical Response. Below is the list of topical responses:

- General Plan Amendment/Zone Change
- Transportation/Traffic

3.1.1 GENERAL PLAN AMENDMENT/ZONE CHANGE

The majority of the comment letters on the Draft EIR expressed opposition to the proposed General Plan Amendment for the site changing the existing land use designation of CO-G (General Commercial Office) to PI (Private Institutions). The comments also cited a concern for the Zone Change, indicating that rezoning the site would have a number of adverse impacts. These impacts include setting precedence for future re-designation; attracting undesirable uses to the site should the proposed Project fail; and adversely impacting the overall environment in the area.

As detailed throughout the Draft EIR, and particularly in Section 3.0, Project Description and Section 4.8, Land Use and Planning, the proposed Project is within PC-32, which is intended to provide a range of land uses, including residential, recreational, commercial, professional, institutional, hotel, and office uses. Specifically, the Project site is located in Area 5 of PC-32, which is intended for commercial uses, facilities for shopping goods, convenience goods and services, food services, and recreation for the community. Permitted uses include restaurants, bars, theaters, and nightclubs. Permitted uses subject to a Conditional Use Permit (CUP) include automobile washing; health clubs; helistops; mini-storage facilities; public utility exchanges and substations; retail businesses; service businesses; animal clinics and hospitals; administrative and professional offices; automobile parking lots and structures; commercial recreation; nurseries and garden supply stores; day nurseries; financial institutions; public/private utility buildings and structures; self-service laundry and dry cleaning facilities; accessory structures and uses necessary and customarily incidental to the above uses; and any other uses that, in the opinion of the City of Newport Beach Planning Commission, are of a similar nature.

In light of concerns expressed, the proposed Amendment No. PD2015-005 to the existing Area 5 of the PC-32 would only allow for Residential Care Facility for the Elderly (RCFE) (assisted living and memory care for seniors) and amend the land use and development standards for the Project

site. The proposed revisions also include increasing the floor area from 8,000 square feet for restaurant use or 70,000 square feet for office use to 85,000 square feet for RCFE and modify the parking requirements to reflect the applicable parking for the proposed use. The 53-space requirement is based on Newport Beach Municipal Code (NBMC) Section 20.40.040 requirement of one space for every three beds, which equates to a total of 40 required spaces for the Project (120 beds). The Project would provide an additional 13 spaces resulting in a total of 53 parking spaces (49 standard spaces and 4 accessible or barrier-free spaces).

The amended text of PC-32 in track changes is included in the Planning Commission Staff Report as part of the Resolution No. PC2018-033 (Exhibit D) and posted on the City's website at www.newportbeachca.gov/planningcommission.

3.1.2 TRAFFIC

A number of comments on the Draft EIR indicated that the proposed Project would increase traffic in the neighborhood. The comments question the conclusion of the Draft EIR that a senior living project would result in fewer trips compared to the restaurant. Section 4.11, Transportation/Traffic, of the Draft EIR provides an analysis based on a Traffic Memorandum (trip generation evaluation) prepared by Urban Crossroads, the City's independent traffic consultant, to evaluate the Project's projected net new trips and determine if additional analysis is required pursuant to the City of Newport Beach's Traffic Phasing Ordinance (TPO). Based on the City's TPO requirements, a Transportation Impact Analysis (TIA) would not be required if a project generates less than 300 net new average daily trips. The TPO allows for trip credit to be applied to all existing uses on a site, and the trip generation credits are based on the square footage of the existing use. The Project would not exceed the criterion of 300 net new trips; therefore, it was determined that preparation of a TIA was not required. As demonstrated in Section 4.11, Transportation/Traffic, of the Draft EIR, the proposed Project would result in 312 daily trips compared to 738 daily trips for the existing restaurant. Thus, applying the credit from the existing use, the Project would result in 426 fewer trips than the existing use. While a number of comments question the validity of the reduced trips in light of the 24 hour/7days a week (24/7) nature of the proposed facility, regardless of the hours of operation, a restaurant generates more trips compared to a senior living facility. The analysis, reviewed and accepted by the City Traffic Engineer, used the Institute of Transportation Engineers' (ITE's) 2017 *Trip Generation Manual*, 10th Edition rates for the existing (restaurant) and proposed RCFE uses, as described under methodology in Section 4.11, Transportation/Traffic, of the Draft EIR. The trips associated with the existing restaurant are not actual trip counts and are based on trip rates for this type of use.

Construction activities at the Project site would lead to new truck trips, construction equipment trips, and construction crew vehicle trips that would replace the existing traffic volumes in the Project area, associated with the existing restaurant. Construction vehicles are expected to enter and leave the Project site during the 12- to 14-month construction phase during working hours (i.e., 7 a.m. to 6:30 p.m. during the week and 8 a.m. to 6 p.m. on Saturdays). For each construction phase, the daily construction traffic volumes are anticipated to be less than the current site traffic that would be eliminated when the Project construction activity begins. Construction phase of the proposed Project consists of demolition, excavation/grading, and construction, the most intense being the construction phase. During this phase a maximum of 106 daily trips would result, which is substantially less than the existing daily trips of 738 for the restaurant. However,

temporary delays in traffic would occasionally occur due to heavy vehicles traveling at lower speeds than general traffic. These short delays would occur outside the peak hours on an occasional basis. To facilitate the movement of construction traffic and to minimize potential disruptions, a Construction Management Plan would be prepared and approved by the City in accordance with the City requirements and followed during construction.

Additionally, memory care residents would not drive, and it is likely that up to five percent of the assisted living residents may drive. Work shifts would be staggered such that there would be a total of 10 to 20 employees at any given time, and only during change of day and night shifts a total of 30 employees would be present at the facility. Other drivers to the facility would include visitors from time to time, trash collectors, vendors, and other deliveries.

Thus, in light of the reduction in trips, the limited number of trips from the proposed facility would not cause significant impacts at the site and surrounding area. The proposed Project would not impact the performance of circulation system components, including the surrounding intersections.

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3.2 STATE

One letter was received from the State. The comment letter is listed below.

- Governor's Office of Planning and Research (OPR)—September 25, 2018

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EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH



KEN ALEX
DIRECTOR

September 25, 2018

RECEIVED BY
COMMUNITY
DEVELOPMENT

OCT 01 2018

CITY OF
NEWPORT BEACH

Benjamin Zdeba
City of Newport Beach
100 Civic Center Dr
Newport Beach, CA 92660

Subject: Harbor Pointe Senior Living Project
SCH#: 2016071062

Dear Benjamin Zdeba:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on September 24, 2018, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Letter 1: Governor's Office of Planning and Research (OPR)

Comment Letter Dated September 25, 2018

- OPR-1 The comment letter indicates that no state agencies have submitted comments by the close of the review period and acknowledges that the City has complied with the State Clearinghouse review requirements for the Draft EIR, pursuant to CEQA. No further response is required.

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3.3 REGIONAL AND LOCAL AGENCIES

Two letters were received from regional and local agencies.

- City of Irvine (COI)—September 11, 2018
- Irvine Ranch Water District (IRWD)—September 19, 2018

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September 11, 2018

Sent via USPS and
email: bzdeba@newportbeachca.gov

Mr. Benjamin Zdeba
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, CA 92660

**Subject: First Screencheck Review of the Draft Environmental Impact Report
for Harbor Pointe Senior Living Project at 101 Bayview Place (SCH No.
2016071062)**

Dear Mr. Zdeba:

City of Irvine staff received the Draft Environmental Impact Report (EIR) for the subject project. The proposed project is a 101-unit assisted living and memory care facility on approximately 1.5-acres as follows:

- Demolish and remove existing approximate 8,800 square-foot, single-story restaurant (i.e., Kitayama), associated parking and improvements on the site; and
- Develop an 84,517 gross square-foot, three-story, 101-unit (120 bed) assisted living and memory care facility with associated ancillary uses and subsurface parking.

Thank you for the opportunity to review and comment on the Draft EIR for Harbor Pointe as referenced above. Although the City of Irvine has no comments on the proposed project at this time, staff would appreciate the opportunity to review any further information regarding this project as the planning process proceeds.

If you have any questions, I can be reached at 949-724-6395, or by email at mchao@cityofirvine.org.

Sincerely,

Melissa Chao
Senior Planner

ec: Kerwin Lau, Manager of Planning Services
Bill Jacobs, Principal Planner
Sun-Sun Murillo, Project Development Administrator
Lisa Thai, Supervising Transportation Analyst

Letter 2: City of Irvine (COI)

Comment Letter Dated September 11, 2018

- COI-1 The comment provides an overview of the proposed Project and indicates that the City of Irvine has no comment on the Draft EIR at this time. The City requests that if additional information regarding the Project becomes available during the planning process, they would appreciate review of the new information. The comment is noted and will be forwarded to the decision makers. As the comment letter does not raise any issues pertaining to CEQA, no further response is required.

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September 19, 2018

Benjamin Zdeba, ACIP
Associate Planner
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, CA 92660

Re: NOA – Draft EIR for Harbor Pointe Senior Living Project

Dear Mr. Zdeba:

Irvine Ranch Water District (IRWD) has received and reviewed the draft Environmental Impact Report (DEIR) for the proposed Harbor Pointe Senior Living Project. IRWD offers the following comments.

The DEIR states the proposed Harbor Pointe Senior Living Project (Project) will be at 101 Bayview Place in the city of Newport Beach. The proposed Project will consist of the demolition of an existing 8,800 square foot restaurant and the development of a three-story, 101-unit (120-bed) assisted living and memory care facility. Additionally, the proposed Project's facility would include living rooms, dining rooms, fitness room, spa/salon, laundry and housekeeping. The DEIR further states that the proposed Project would require modifications to both on-site and off-site utility connections and improvements including domestic water, wastewater collection and disposal.

IRWD is the water service provider for this proposed Project site. Any modifications necessary to the domestic water service should be coordinated with IRWD. Water demand estimates for existing, and future conditions will need to be coordinated with IRWD. An evaluation of potential impacts to potable water systems associated with the proposed Project may be required. Please contact Eric Akiyoshi, Principal Planner at (949) 453-5552 to further discuss these requirements.

Mr. Benjamin Zdeba
NOA-Harbor Pointe Senior Living Project DEIR
Page 2

IRWD appreciates the opportunity to review and comment on the DEIR. If you have any questions or require additional information, please contact the undersigned at (949) 453-5325 or Jo Ann Corey, Environmental Compliance Specialist at (949) 453-5326.

} 3

Sincerely,



Fiona M. Sanchez
Director of Water Resources

Cc: Eric Akiyoshi, IRWD
Jo Ann Corey, IRWD

Letter 3: Irvine Ranch Water District (IRWD)

Comment Letter Dated September 19, 2018

- IRWD-1 The comment reiterates the Project description. No response is required.
- IRWD-2 The comment indicates that any modifications to the domestic water service and water demand estimates for existing and future conditions should be coordinated with IRWD, as the water service provider. It further adds that an evaluation of potential impacts to potable water systems may be required.

The comment is noted. As indicated in Section 4.12, Utilities and Service Systems, of the Draft EIR, using IRWD's water generation factor of 45 gallons/thousand square feet/day (gal/ksf/day), the proposed Project would result in an estimated water demand of approximately 3,803 gal/ksf/day on average. Given the existing restaurant's water use of approximately 1,232 gal/ksf/day, the projected net increase in water demand from the proposed Project would be approximately 2,571 gal/ksf/day. Additionally, based on coordination with and correspondence from IRWD, as the water provider for the Project, the water demand of the proposed facility could be accommodated with the existing IRWD infrastructure, and IRWD has sufficient capacity to meet the water demand of the proposed Project. Furthermore, IRWD has issued a Conditional Water and Sewer Will Serve Letter, indicating that IRWD would have adequate domestic water supplies to accommodate the Project.

Additionally, the Project would coordinate with the IRWD upon modifications to the estimated water demand, through a requirement or standard condition.

- IRWD-3 The commenter appreciates the opportunity to review and comment. The comment is noted, no response is required.

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3.4 ORGANIZATIONS

A total of two comments were received from organizations. The comment letters are listed below:

- Gabrieleño Band of Mission Indians—Kizh Nation (GBMI-KN)—August 17, 2018
- California Cultural Resources Preservation Alliance, Inc. (CCRPA)—September 1, 2018

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GABRIELEÑO BAND OF MISSION INDIANS - KIZH NATION

Historically known as The San Gabriel Band of Mission Indians / Gabrielino Tribal Council

recognized by the State of California as the aboriginal tribe of the Los Angeles basin

Letter 4

City of Newport Beach
100 Avacado Ave
Newport Beach, CA 92660

August 17, 2018

Re: AB52 Consultation request for Harbor Pointe Senior Living Project

Dear Benjamin Zdeba,

Please find this letter as a written request for consultation regarding the above-mentioned project pursuant to Public Resources Code § 21080.3.1, sub d. (d). Your project lies within our ancestral tribal territory, meaning belonging to or inherited from, which is a higher degree of kinship than traditional or cultural affiliation. Your project is located within a sensitive area and may cause a substantial adverse change in the significance of our tribal cultural resources. Most often, a records search for our tribal cultural resources will result in a "no records found" for the project area. The Native American Heritage Commission (NAHC), ethnographers, historians, and professional archaeologists can only provide limited information that has been previously documented about California Native Tribes. For this reason, the NAHC will always refer the lead agency to the respective Native American Tribe of the area. The NAHC is only aware of general information and are not the experts on each California Tribe. Our Elder Committee & tribal historians are the experts for our Tribe and can provide a more complete history (both written and oral) regarding the location of historic villages, trade routes, cemeteries and sacred/religious sites in the project area.

Additionally, CEQA now defines Tribal Cultural Resources (TCRs) as their own independent element separate from archaeological resources. Environmental documents shall now address a separate Tribal Cultural Resource section which includes a thorough analysis of the impacts to only Tribal Cultural Resources (TCRs) and includes independent mitigation measures created with Tribal input during AB-52 consultations. As a result, all mitigation measures, conditions of approval and agreements regarding TCRs (i.e. prehistoric resources) shall be handled solely with the Tribal Government and not through an Environmental/Archaeological firm.

In effort to avoid adverse effects to our tribal cultural resources, we would like to consult with you and your staff to provide you with a more complete understanding of the prehistoric use(s) of the project area and the potential risks for causing a substantial adverse change to the significance of our tribal cultural resources.

Consultation appointments are available on Wednesdays and Thursdays at our offices at 910 N. Citrus Ave. Covina, CA 91722 or over the phone. Please call toll free 1-844-390-0787 or email admin@gabrielenoindians.org to schedule an appointment.

*** Prior to the first consultation with our Tribe, we ask all those individuals participating in the consultation to view a video produced and provided by CalEPA and the NAHC for sensitivity and understanding of AB52. You can view their videos at: <http://calepa.ca.gov/Tribal/Training/> or <http://nahc.ca.gov/2015/12/ab-52-tribal-training/>*

With Respect,

Andrew Salas, Chairman

Andrew Salas, Chairman

Albert Perez, treasurer

PO Box 393, Covina, CA 91723

Nadine Salas, Vice-Chairman

Martha Gonzalez Lemos, treasurer

www.gabrielenoindians.org

Christina Swindall Martinez, secretary

Richard Gradias, Chairman of the Council of Elders

gabrielenoindians@yahoo.com

Letter 4: Gabrieleño Band of Mission Indians—Kizh Nation**Comment Letter Dated August 17, 2018**

GBMM-KN-1 The comment indicates that this letter is a written request for consultation for the proposed Project. The comment further indicates that the site is within the Gabrieleño Band of Mission Indians—Kizh Nation ancestral tribal territory, and as such, it would result in substantial adverse change in the significance of the tribal cultural resources. The comment is noted. Section 4.12, Tribal Cultural Resources, of the Draft EIR provides a detail discussion of the significance of the area and the Project's potential impacts. Based on the record search conducted, there are no resources on the Project site currently listed on the California Register of Historic Resources (CRHR). While eight cultural resources sites have been previously recorded within one-half mile of the site, none was located within a quarter-mile of the Project site and would not be affected by Project activities. Additionally, based on the record search at the South-Central Coastal Information Center (SCCIC), there is no information available indicating that there are significant tribal resources on site, pursuant to criteria set forth in subdivision (c) of Public Resource Code Section 5024.1. The discussion acknowledged Mr. Salas' letter indicating "when the Native American Heritage Commission states there are 'no records of sacred sites in the project area' the Native American Heritage Commission (NAHC) will always refer lead agencies to the respective Native American Tribe because the NAHC is only aware of general information and are not the experts on each California Tribe." However, based on coordination to date, Native American representatives have not provided information supporting that the site contains resources that are considered significant to a California Native American tribe. Although the discussion in Section 4.12, Tribal Cultural Resources, of the Draft EIR acknowledges that this portion of Orange County was inhabited by Native American tribes, to date a limited number of archaeological resources important to Native Americans have been identified near the Project site, and there is a lack of evidence of known resources on the site. Therefore, the City's assessment was that the impacts would be less than significant.

Regarding consultation, AB 52 requires that the tribes ask the lead agency to be contacted for consultation. Then, the lead agency must contact those tribes to initiate consultation prior to determining the type of CEQA documentation that is applicable to the project. AB 52 allows tribes 30 days after receiving notification to request consultation. The lead agency then has 30 days to initiate consultation. The City has fulfilled the above requirement, and as detailed in Section 4.12, the staff spoke with Mr. Salas regarding his knowledge of known tribal cultural resources in the area. As a follow up to the discussion, on May 23, 2016, the City sent Mr. Salas exhibits of the Project site and offered to schedule an on-site meeting. Mr. Salas responded reiterating his interest in onsite monitoring. Further consultation was suspended to allow for redesign of the proposed Project to be more responsive to the concerns expressed by the community at the scoping meeting.

The City reached out to Mr. Salas on June 18, 2018, to provide an update on the proposed Project and status of the process. The City had telephone conversations with Mr. Salas and Mr. Matthew Teutimez, the Tribal Biologist, and through a series of email correspondence, the City indicated due to the lack of presented evidence of known resources at the Project site, the City's assessment is that the impacts would be less than significant. Mr. Salas provided reference to a 1985 EIR prepared for John Wayne Airport, which indicated that a general sensitivity for cultural resources in the area exists but did not provide documentation regarding specific resources and did not address the Project site.¹

Therefore, in light of the City's multiple requests and correspondence regarding consultation in accordance with AB 52 requirements, the City has been interested and willing to have a consultation and open dialogue with the tribes. However, a meeting never occurred. Therefore, in accordance with AB 52 requirements, the City has fulfilled its responsibility by reaching out to the tribes on multiple occasions.

- GBMM-KN-2 In response to the comment that CEQA now defines Tribal Cultural Resources (TCR) as a separate section, it should be noted the Draft EIR does include a TCR section (Section 4.12), which provides a summary of the TCR consultation process between the Gabrieleño Band of Mission Indians-Kizh Nation and the City of Newport Beach. As identified in the section, based on the disturbed nature of the site and lack of known resources, no significant impacts to TCR were identified. However, in response to concerns expressed in this letter, the text under Threshold 4.12-1 on page 4.12-8 of Section 4.12, Tribal Cultural Resources, is hereby revised to read as follows (*red italics* shows the additional text and ~~red strikethrough~~ show the deletions):

Although no impact *to TCR* has been identified, in recognition of the tribe's concerns *and to ensure no potential impacts would occur, a Native American monitor shall be retained by the Applicant when construction activities occur in native soils. In the event that TCRs are discovered, the Native American monitor shall be included in the consultation on the recommended next steps.* ~~if requested, the Project Applicant would be required to allow representatives of cultural organization, including Native American tribes (i.e., Gabrieleno Band of Mission Indian-Kizh Nation) to access the Project site on a volunteer basis to monitor grading and excavation activities.~~

Additionally, the text of the Impact Conclusion on page 4.12-8 of Section 4.12, Tribal Cultural Resources, is hereby revised to read as follows (*red italics* shows the additional text and ~~red strikethrough~~ show the deletions):

Impact Conclusion: *The Project has a low potential to cause a substantial adverse change in the significance of a tribal cultural resource, as defined by Section 21074 of the Public Resources Code. Given the disturbed nature of the site*

¹ In 1985 tribal cultural resources was not an environmental topic evaluated under CEQA.

and the limited resources identified to date and the lack of evidence of known resources onsite, the impacts would be less than significant, pursuant to Threshold 4.12-1, and no mitigation is required. However, to further ensure no potential impacts would occur, a Native American monitor shall be retained by the Applicant when construction activities occur in native soils. ~~the Native American tribes could access the Project site on a volunteer basis during construction activities to monitor grading and excavation.~~

- GBMM-KN-3 The comment requests consultation with the City staff to discuss potential adverse change to the significance of the Gabrieleño Band of Mission Indians—Kizh Nation cultural resources. Please refer to Response GBMM-KN-1 for a detailed discussion of the consultation process that took place and was included in Section 4.12 of the Draft EIR.

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California Cultural Resource Preservation Alliance, Inc.

An alliance of American Indian and scientific communities working for
the preservation of archaeological sites and other cultural resources.

P.O. Box 54132
Irvine, CA 92619-4132

September 1, 2018

Benjamin Zdeba, Associate Planner
City of Newport Beach

Re: Draft Environmental Impact Report for Harbor Pointe Senior Living Project

Dear Mr. Zdeba:

Thank you for the opportunity to review the above-mentioned Draft Environmental Impact Report. Since the structure and parking lot were constructed after the passage of CEQA it is assumed that archaeological investigations were conducted prior to the development. Therefore, based on the results of the literature and records search at the South Central Coastal Information Center (SCCIC), we concur that the project site has a low potential for the presence of buried archaeological resources and support mitigation measure RR CUL-1, pg. 4.3.11.

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We do wish to express our concern regarding the lack of cultural sensitivity in the unfortunate wording of statement on pg. 4.3-13 that based on implementation of Sections 7050.5-7055 of the California Health and Safety Code, "Impacts pertaining to disturbance of human remains would be less than significant and no mitigation is required; however, the following regulatory requirement RR CULT-2 would apply to the project." The disturbance of pre-contact human remains represents a significant impact for Native American descendants and mitigation involves the respectful treatment of the remains as provided in the 7050.5-7055 provisions of the Health and Safety Code.

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Sincerely,

Patricia Martz, Ph.D.
President

Letter 5: California Cultural Resource Preservation Alliance, Inc.

Comment Letter Dated September 1, 2018

- CCRPA-1 The comment concurs with the Draft EIR conclusion that the Project site has low potential for the presence of buried archaeological resources and supports the regulatory requirement (RR CULT-1) based on the results of the literature and records search. The comment is noted and will be forwarded to the decision makers, no additional response is required.
- CCRPA-2 The comment expresses concern over the “lack of cultural sensitivity” in the wording of the statement on page 4.3-13 of Section 4.3, Cultural Resources, of the Draft EIR stating that impacts regarding disturbance of human remains would be less than significant and no mitigation is required. The comment is noted; however, the intent of the statement is not to undermine the importance of disturbance of pre-contact human remains, it is simply a CEQA conclusion. Subsequent to the referenced sentence, the discussion references the proposed regulatory requirement RR CULT-2 to precisely require compliance with the appropriate sections of the *California Health and Safety Code*. The text and discussion preceding RR CULT-2 also references Sections 7050.5-7055 of the *California Health and Safety Code*, as indicated in this comment and details the required and standard protocol should human remains be discovered during ground disturbance or excavation:

Sections 7050.5–7055 of the *California Health and Safety Code* describe the general provisions for the handling of human remains. Specifically, Section 7050.5 of the *California Health and Safety Code* describes the protocols to be followed in the event that human remains are accidentally discovered during ground disturbance or excavation. If human remains are found during excavation, construction activities must stop in the vicinity of the find and in any area that is reasonably suspected to overlie adjacent remains until the County Coroner has been notified, the remains have been investigated, and appropriate recommendations have been made for the treatment and disposition of the remains. In addition, the requirements and procedures set forth in Section 5097.98 of the *California Public Resources Code* would have to be implemented. If the Coroner, with the aid of the qualified Archaeologist, determines that the remains are prehistoric, the Coroner will contact the NAHC. The NAHC shall be responsible for designating the most likely descendant (MLD), who will be responsible for the ultimate disposition of the remains.

Therefore, in light of the adherence to the *California Health and Safety Code* and referencing its protective measure, the statement referenced in the comment, is a CEQA conclusion and no disrespect or cultural insensitivity is meant by that statement.

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3.5 INDIVIDUALS (COMMENTS ON THE DRAFT EIR, ADDRESSED TO CITY STAFF)

A total of 31 comment letters on the Draft EIR were received from individuals, addressed to the City staff. Of the 31 comment letters, 8 letters were prepared independently, and the remaining 23 are “form letters” (Form Letter 1) that are identical and present the same comments/issues. To avoid repetition, a detailed response to Form Letter 1 is provided up front and then referenced in the responses to the subsequent Form Letter 1 comments:

- William Blakeney (WB)—August 21, 2018
- Lyle & Margaret Brakob (L&MB)—September 10, 2018
- John R. Talbot (JRT)—September 28, 2018
- Christina Larkins (CL)—September 28, 2018
- Brad Larkins (BL)—September 28, 2018
- June & Malcolm Carter (J&MC)—September 28, 2018
- Jim Mosher (JM)—September 28, 2018
- Rodger & Julie Lowery (R&JL)—September 28, 2018

The following is a list of commenters that have submitted the “form letter” (Form Letter 1):

- Christine Keegan (CK)—September 27, 2018
- Ross & Teresa Watanabe (R&TW)—September 27, 2018
- Patti Lampman (PL)—September 27, 2018
- Rhonda Watkins (RW)—September 27, 2018
- Carol A. McLean (CAM)—September 27, 2018
- Taria Parris (TP)—September 27, 2018
- Karen Larson (KL)—September 27, 2018
- Steven & Shauna Land (S&SL)—September 27, 2018
- Margaret & Lyle Brakob (M&LB)—September 27, 2018 (cover letter and multiple letters addressed to Planning Commissioners)
- Richard Sidkoff (RS)—September 28, 2018
- Laura Minarsch (LM)—September 28, 2018
- Christine Osaki (CO)—September 28, 2018
- Randal McKeller (RMK)—September 28, 2018
- Whitney Barbarics (WB)—September 28, 2018
- Christopher & Katrina Headle (C&KH)—September 28, 2018
- Robert Martin (RM)—September 28, 2018

- Alana Shapiro (AS)—September 28, 2018
- Kirk Snyder (KS)—September 28, 2018
- James A. Caswell (JAC)—September 28, 2018
- Suzanne Gee (SG)—September 28, 2018
- Julie Ahlert (JA)—September 28, 2018
- Dale Ransom (DR)—September 28, 2018
- Mima Ransom (MR)—September 28, 2018

RECEIVED BY
COMMUNITY
DEVELOPMENT

Letter 6

AUG 28 2018

CITY OF
NEWPORT BEACH

8/21/2018

The Kitayama / Bayview redevelopment project .

From:

William Blakeney

ernestb14@yahoo.com

In response of:

The letter of notice of Availability of draft environmental impact report for Harbor Pointe Senior living project.

SCH NO. 2016071062

(PA2015-210)

To:

Every person it may concern.

SUBJECT, Water / The City of Newport Beach California, stewardship, conservation and protections from over development and excessive use of our second most important natural resource, WATER.

The commercial business known as Kitayama / restaurant, has requested a change in zoning from Commercial Office, (CO-G) to - Private Institution, - (PI). The restaurant location is, 101 Bayview Place, N. P. B, Ca. 92660.

At the present is a one story restaurant, 8,800 square foot building.

The redeveloped proposal is for a assisted living / memory care building consisting of - 84,517 square foot, three story structure. The building will house 101 living units consisting of 120 beds. Other accommodations will consist of living room, dining room, grill, fitness room, spa salon, theater, library, roof garden, community store, community lab, activity room, medication rooms, and support offices, labs, mail room, laundry room and maintenance facilities. Also, included will be, employee parking, guest parking, maintenance drop off and truck entrance with parking, including outdoor dining and exterior courtyards for entertaining.

There are many obvious impactful environmental changes that are going to occur if this new building is allowed to be constructed. Just to mention a few of the most obvious would be the increase in traffic and vehicle movement do to a 24/7 type environment compared to a 12 hour restaurant operation at the present. Another major impact would be the 24/7 parking accommodations for guest, employees and Dr. / patient, delivery, parking. Any and all overflow parking will impact the adjoining residential neighborhood that, at present, barely accommodates the residence. A third consideration, is the increase in noise pollution that will add significantly to the already strained airport noise that local residents endure during daylight hours, such sounds as, fire trucks, ambulances, police, backing up delivery trucks and any exterior building alarm sounds that come with all assisted living accommodations.

However my most ardent concern is an environmental impact, that, for some reason, is not mentioned in any of the studies, that I have seen so far, in zoning reviews. That study is the environmental impact on our second most important resource, WATER.

WATER is the one resource we have that is finite and limited in its availability. WATER is the only natural resource we have that the state and city governments have put a monetary fine and a limit on in its use and consumption. All residents of Newport Beach have been told to reduce WATER consumption by 20%, when Governor Jerry Brown proclaimed a fine for excessive use in 2017. Many environmentally conscientious Newport residence have gone through the expense of removing their lawns and replacing them with stones and some sort of succulent plant, in some cases they have removed all greenery including any plants. The majority of citizens have followed the rules watering only twice or once a week and sacrificing there beautiful lawns by replacing them with gravel and cement. Newport beach has more than its fair share of high-rise hotels and commercial buildings that, in themselves, use excessive amounts of water, most of which is not governed by the state or city. For example, two blocks from the KITAYAMA restaurant are large office buildings and at least one high-rise hotel. The

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hotel alone in my estimation, uses more water in one week than the entire Santa Ana Heights residential neighborhood in one month. Unlike any city resident, (the residents get a report card in every monthly bill , that shows are water usage and how much we have been over charged if any), any hotel guests can run tap-water and shower water without restraints continuously for their stay if they chose, also the laundry in the hotel including the kitchen services that run sinks continuously use excessive and exorbitant amounts of water. Within a 10 square block of commercial buildings across the street from the KITAYAMA restaurant, there are millions of gallons of water used daily. Adding to that use is, in my opinion, reckless and unnecessary to accommodate only one business for the purpose of expanding its footprint by eight times to increase their annual profit. I have absolutely nothing whatsoever against capitalism, I am a capitalist, I support capitalism, however, there are limits on the balance of fairness when sharing resources. You are asking Newport residence to take a glass of water and at the same time offering a vendor a tub full, that does not support a fair sharing of a environmental resource, in our Community.

Please do what is best for the environment and community of Newport Beach and vote NO on changing the zoning to P1, to expand to 10 times the size of the business on the property known as KITAYAMA restaurant.

4 (con't)

A handwritten signature in black ink that reads "William Blakeney". The signature is written in a cursive style with a large, stylized "W" and a long, sweeping underline.

Letter 6: William Blakeney**Comment Letter Dated August 21, 2018**

- WB-1 The comment reiterates the components of the proposed Project, and it does not raise any CEQA issues. No further response is required.
- WB-2 The comment indicates that the Project would result in impacts associated with traffic and parking due to the 24/7 nature of the proposed Project. For a detailed discussion of Project traffic and its implications, please refer to the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments).

In terms of parking, as indicated in Section 3.0, Project Description, of the Draft EIR, based on the NBMC Section 20.40.040, the proposed facility would be required to provide a total requirement of 40 parking spaces (one parking space per three beds). However, the Project proposes a total of 53 parking spaces, which is 13 spaces or approximately 33 percent more than the City requirement. With no overflow parking anticipated, it is unlikely that staff or visitors would park on surrounding neighborhood streets. It should be noted that parking on Bayview Place is prohibited on both sides of the street, and there is no direct access from the Santa Ana Heights neighborhood to the proposed development. In the absence of direct access and considering the distance, employees and visitors are not likely to park on residential streets of Santa Ana Heights neighborhood and walk to the facility. Additionally, the City would require as a condition of approval (as part of the Conditional Use Permit [CUP]) that all staff and visitors park on-site.

- WB-3 The comment asserts that the proposed facility would increase noise associated with fire trucks, ambulances, police, delivery trucks, and alarms. Section 4.9, Noise, of the Draft EIR provides a detailed analysis of the Project's potential noise impacts. Per the analysis, and as indicated in the Topical Response pertaining to Transportation/Traffic (Section 3.1.2), the Project would generate less traffic than the existing restaurant. Thus, Project-generated traffic would not substantially increase existing ambient noise levels and the impact would be less than significant. Additionally, Project-generated on-site noise levels would comply with the NBMC and would not result in excessive noise beyond the existing levels. As the proposed facility would have a subterranean parking, the noise from employees exiting and entering the facility would likely not be audible to the surrounding uses.

Furthermore, the proposed Project would generate a total of 120 resident population, which is a nominal increase to the City's population to be served by City services. The Project would create the typical range of service calls for a project of this nature and size, including structural fires, emergency medical, and police services. It should also be noted that the Project would replace an existing use with demand for such services already in place. Additionally, it should also be noted that the ITE trip generation rate (2017 *Trip Generation Manual*, 10th Edition) that was used to determine the proposed Project trips takes into account service trips associated with the facility; therefore, the Project's reduced trips, compared to the trips from the existing restaurant, is inclusive of all trips to the facility.

Similarly, in terms of noise from the delivery trucks, the existing restaurant already receives deliveries of food and other items necessary for the operation of the restaurant. Therefore, delivery trucks would not be new occurrence for the adjacent residential uses and would occur during typical daytime business hours, similar to the existing restaurant. Regarding noise from ambulances, based on correspondence from Newport Beach Fire Department (NBFD), it is the practice of the NBFD to only use their sirens in traffic, as necessary, and rarely in residential areas.

- WB-4 The comment states that the Project would result in excessive use of water. The importance of water as a finite resource is noted. However, as indicated in Section 4.12, Utilities and Service Systems, of the Draft EIR, the proposed Project would result in an estimated water demand of approximately 3,803 gal/ksf/day (gallons per thousand square feet [of building area] per day) on average. Given the existing restaurant's water use of approximately 1,232 gal/ksf/day, the projected net increase in water demand from the proposed Project would be approximately 2,571 gal/ksf/day. Based on correspondence from IRWD, as the water provider for the Project, the water demand of the proposed facility could be accommodated with the existing IRWD infrastructure, and IRWD has sufficient capacity to meet the water demand of the proposed Project. Additionally, the IRWD has issued a Conditional Water and Sewer Will Serve Letter, indicating that the IRWD would have adequate domestic water supplies to accommodate the Project.
- WB-5 The comment urges denying rezoning to PI. The comment is noted and will be forwarded to the decision makers. For a detailed discussion of rezoning and the General Plan amendment, please refer to Topical Response in Section 3.1.1 of these Responses to Comments.

-----Original Message-----

From: Lyle Brakob [<mailto:lmbrakob@cox.net>]

Sent: Monday, September 10, 2018 11:57 PM

To: Ramirez, Gregg <GRamirez@newportbeachca.gov>

Subject: Kitayama Project

Dear Mr. Ramirez

As the Senior Planner for the City I want to advise of our opposition to rezoning that property.

Moreover the Board of Directors and community of Baycrest Court are overwhelmingly against it.

As such, the community will do everything within its power to prevent this from happening—not only because of the significant adverse impacts to our community and the neighboring area but also to the City overall—rezoning would certainly open the door to dealing with situations that could be even more concerning than ours.

The DEIR report of 1,347 pages is hard to comprehend in its entirety. The summary is helpful but includes things that are questionable. Especially that there are no significant items that cannot be mitigated.

We recommend the Project be disapproved as soon as possible because of major unfavorable impacts such as: (save money too)

Vehicles, (24/7):
noise and pollution—workers, visitors, vendors, emergency etc

Aircraft:
commercial—jet engine noise/fuel residue pollution

private—engine noise—(many make their turns directly over the property), sirens—also safety, code and general plan issues.

Other important reasons are that there is no nearby shopping or parks within easy walking distance and no nearby specialized medical care

Appreciate any support you can provide in this matter

Respectfully,

Lyle and Margaret Brakob
6 Baycrest Court 92660

Sent from my iPhone

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Letter 7: Lyle & Margaret Brakob

Comment Letter Dated September 10, 2018

- L&MB-1 The comment expresses opposition to the Project and rezoning (re-designating the site) and indicates that the community will prevent the implementation of the Project and rezoning, as it would have implications to the neighborhood and the City overall. For clarification, it should be noted that rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 standards of the PC-32, which will include revisions to accommodate the proposed Residential Care Facility for the Elderly (RCFE) use only. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed discussion of rezoning (re-designation) of the property, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). It is speculative to assume that this Project or re-designation of the land use associated with this Project would set a precedent or lead into such actions within the City overall. Re-designating the site is not a prohibited action, and it could occur anywhere within the City and evaluated on its own merit regardless of whether or not the land use designation for this particular property is amended.

Regarding opposition to the Project, the comment is noted and will be forwarded to the decision makers. No additional CEQA issue is raised, and no further response is required.

- L&MB-2 The comment indicates that the 1,347-page Draft EIR is hard to comprehend in its entirety and questions the conclusion of no significant impacts. It should be noted that the number of pages stated herein includes Volume 1 (Draft EIR) and Volume 2 (Technical Appendices). Volume 1, Draft EIR, is a compilation of the required CEQA sections and includes analyses of 13 environmental topics that were deemed necessary for the analysis of the proposed Project. The impact analyses within the 13 topical sections have methodically assessed the potential environmental impacts of the Project against the existing conditions and use of the site. The analyses and conclusion are supported by substantial evidence and technical analysis. The substantiation and technical information are included in Volume 2, Technical Appendices. No conclusion of “no impacts” or “less than significant impact” has been made without substantiation as provided for under CEQA regulations. Additionally, regulatory requirements and mitigation measures are included to address the potential impacts that may occur as a result of Project implementation.

Additionally, the comment states that the Project be denied because of its major impacts. The comment is noted and will be forwarded to the decision makers; however, the environmental analysis of the project does not conclude that there are any major impacts. No additional CEQA issue is raised, and no further response is required.

- L&MB-3 The abbreviated comment points out noise and pollution associated with workers, visitors, vendors, and emergency vehicles (24/7). Regarding noise, Section 4.9, Noise,

of the Draft EIR provides a detailed analysis of the Project's potential noise impacts. Per the analysis in Section 4.9, Noise, of the Draft EIR, and as indicated in the Topical Response pertaining to Transportation/Traffic (Section 3.1.2), the Project would generate less traffic (i.e., 312 trips) than the existing restaurant (i.e., 738 trips), resulting in a reduction of 426 trips. These trips are based on generation rates for these types of uses, as identified in the ITE's 2017 *Trip Generation Manual*, 10th Edition. Thus, Project-generated traffic would not substantially increase existing ambient noise levels and the impact would be less than significant. Additionally, Project-generated on-site noise levels would comply with the NBMC and would not result in excessive noise beyond the existing levels. It should also be noted that, memory care residents would not drive, and it is likely that up to five percent of the assisted living residents may drive. As the proposed facility would have a subterranean parking, the noise from employees exiting and entering the facility would not be audible to the surrounding uses.

Furthermore, the proposed Project would generate a total of 120 resident population, which is a nominal increase to the City's population to be served by City services. The Project would create the typical range of service calls for a project of this nature and size, including structural fires, emergency medical, and police services. It should also be noted that the Project would replace an existing use with demand for such services already in place. Additionally, the ITE trip generation rate (2017 *Trip Generation Manual*, 10th Edition) that was used to determine the proposed Project trips takes into account service trips associated with the facility; therefore, the Project's reduced trips, compared to the trips from the existing restaurant, is inclusive of all trips to the facility.

More specifically, regarding noise from ambulances, based on correspondence from NBFD, it is the practice of the NBFD to only use their sirens in traffic, as necessary, and rarely in residential areas.

In terms of pollution, Section 4.2, Air Quality, of the Draft EIR indicates that operational emissions are comprised of area, energy, and mobile source emissions. Mobile source emissions are based on CalEEMod default trip generation rates. Emissions were calculated with the CalEEMod model. Estimated peak daily operational emissions are shown in Table 4.2-8 of Section 4.2, which also includes the existing emissions data to produce a net change in long-term emissions associated with the proposed Project. As shown in Table 4.2-8, the operational emissions for the proposed Project would be less than the SCAQMD CEQA significance thresholds for all criteria pollutants, and less than existing emissions for NO_x and PM₁₀. Therefore, the operational impact of the proposed Project was considered to be less than significant.

- L&MB-4 The comment points out the potential impacts associated with commercial (jet engine noise/fuel residue pollution) and private aircrafts (engine noise) in addition to sirens, safety, code and general plan issues. As described in Section 4.9, Noise, of the Draft EIR, the Project site is located approximately 0.7 mile south of John Wayne Airport and within the area covered by the *Orange County ALUC Airport Environs Land Use Plan (AELUP) for John Wayne Airport*. Aircraft noise is heard regularly at the Project site. Based on the detailed analysis, it is concluded that while the Project site may be

in the 60 dBA CNEL contour currently and in future years, the threshold for noise impacts to sensitive uses (65 dBA CNEL contour) would not be exceeded. Therefore, the Project would not expose people residing or working in the Project area to excessive noise levels. A mitigation measure (MM NOI-4) is proposed that requires the Project Applicant to demonstrate that interior noise levels would not exceed 45 dBA CNEL based on future traffic noise levels of 70 dBA CNEL or greater. Additionally, in light of the Project site's proximity to John Wayne Airport, as with all previous and future developments in the area, the proposed facility would require approval by the Airport Land Use Commission. The Commission's approval of the proposed facility would be contingent upon compliance with all their standards, as indicated in the updated MM NOI-4, below. MM NOI-4 on page 4.9-18, Section 4.9, Noise as well as on page 1-16, Section 1.0, Executive Summary, is hereby revised to read as follows (*red italics* shows the additional text):

MM NOI-4 Prior to the issue of the building permit for the proposed Project, the Applicant shall submit an acoustical analysis acceptable to the City of Newport Beach Community Development Director or Building Official, that demonstrates that the proposed architectural design would provide an interior noise level of 45 dBA CNEL or less (based on buildout traffic noise conditions *and in compliance with the AELUP for JWA*) in all habitable rooms of the proposed building facing Bristol Street or Bayview Place. The Applicant shall also submit plans and specifications showing that:

- All residential units facing Bristol Street and Bayview Place shall be provided with a means of mechanical ventilation, as required by the California Building Code for occupancy with windows closed.

Regarding sirens, safety, code and general plan issues, no specific detail and explanations have been provided, which makes it difficult to address the comment. As described above in Response L&MB-3, memory care residents would not drive, and it is likely that up to five percent of the assisted living residents may drive. Additionally, as the proposed facility would have subterranean parking, the noise from employees exiting and entering the facility would not be audible to the surrounding uses. Furthermore, based on correspondence from NBFd, it is the practice of the NBFd to only use their sirens in traffic, as necessary and rarely in residential areas. In terms of safety, it should be recognized that memory care residents would be in a secured and monitored section of the facility, separated from the assisted living residents, and their recreational amenities would be completely enclosed. The facility would have extensive security systems for the memory care portion of the building. The staff would be trained thoroughly to frequently monitor and care for memory impaired residents on a 24/7 basis. A confidential key pad code would be used to enter the memory care area. The fire access doors would be locked and if accidentally opened, an alarm would sound to allow staff to intervene immediately, as necessary. Additionally, all exterior windows would have window stops installed. As a result, unintentional exits by unaccompanied residents would be rare. In reference to the zoning code and general plan, it is assumed that the comment

pertains to rezoning the site. For a detailed discussion, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).

- L&MB-5 The comment indicates that there are no nearby shopping or parks within easy walking distance and no nearby specialized medical care. It should be noted that shuttles would be available to residents for doctor's appointments, pharmacy visits, or an occasional trip to the regional shopping facilities.

Regarding lack of parks in the vicinity, as described in the Draft EIR, the proposed use includes indoor and outdoor recreational amenities within the facility. Outdoor spaces include ground floor interior courtyards serving both memory care and assisted living residents, a library patio area serving assisted living residents, and a third floor roof garden overlooking the ground floor interior courtyards. all outdoor spaces include seating, water features, fire places, and/or landscaping.

From: John Talbot <landdoctor@yahoo.com>
Sent: Friday, September 28, 2018 8:15 AM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Lowrey, Lee; Zdeba, Benjamin; Ramirez, Gregg
Cc: Kirk Snyder
Subject: COMPLAINT: Baycrest/Senior Facility SCH2016071062 Harbor Pointe Senior Living Project

My name is John Talbot and I am environmental consultant who owns 35 Baycrest Court. Once of the owners that will lose if this development proceeds any further. These are my issues in reviewing of the EIR report:

- Improper Notice: No notice was given when the plans were first submitted to the City of Newport Beach. The 500' radius mailing was not performed and it is only now that we are seeing the EIR and proposed project. This is the first time in 2 years since the project was contemplated that the "stakeholders", residents that have lived here for more than 30 years were improper noticed on the development and thereby cheated on our right to comment.

- The density of 120 beds over 8800 SF development not to mention common areas leaves only 50 SF per person, this is more like a filing cabinet rather than a development. This is much to high a density to allow. The truck traffic noise, beeping backup for delivering the supplies for the kitchens and services will be nonstop and a nuisance. Additionally, the odor from the kitchens will also cause a great problem. Where in fact I identified that no SCAQMD permits or health board were issued for this kitchen, thereby an illegal kitchen in operation. Furthermore the drop off location at the corner of a major freeway exit ramp and Baycrest is not an ideal location for drop off an pickup for such a high density. This will invariably cause severe accidents and cause more detriment to our neighborhood.

- Privacy with the roof garden will be taken away from our neighborhood. We will see patients walking around incessantly looking down at our homes.

- 10,200 CY of soil are to be exported from the site. In adequate evaluation of seismic impacts to the neighborhood will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation perform was specific the structure only. This is malpractice.

- 39'6" exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties.

- Has any asbestos and lead based paint testing been performed, NO therefore you will expose our residents to toxic air contaminants.

- In adequate stormwater retention and pollution control is provided. The EIR only address construction stormwater management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Stormwater Regulations. With the operating kitchen this will cause increase damage to the back bay by pathogens and other regulated compounds. The facility does not have a Stormwater Quality Impact Management Plan (SQIMP).

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- As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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- The traffic study did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a commercial development.

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THIS DEVELOPMENT IS NOT COMPATIBLE WITH THE RESIDENTIAL NEIGHBORHOOD, A NO PROJECT ALTERNATIVE IS THE ONLY SOLUTION FOR THIS PROJECT.

The high density of patients proposed will cause irreparable damage to the neighborhood both in safety, value, access, quality of light and reduction to the quality of our environment. Furthermore the lack of professional engineering performed in the analysis of the project not to mention the secret violation of our notification rights under CEQA to be notified in a timely manner is basis enough for this project to be denied. Then add on lack of compliance with standardized environmental compliance requirements and permits, traffic concerns, light pollution, noise pollution, air pollution, kitchen waste and stormwater pollution just add to our damages.

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Furthermore review of the mitigation methods proposed by the City of Newport Beach are not a benefit to the impacted residents but rather "orphan" projects that the City wants to attached to this project in providing improvements outside of the project area. This is a conflict with CEQA in that mitigation must impact the site not an offsite location. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety", therefore we will be living next to a baseball stadium staying up to midnight due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as these major issues have neither been mitigated and/or are to be considered anything less than significant. This project is not in compliance with CEQA.

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If you do not deny this permit you are in violation of CEQA.

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Respectfully,

John R. Talbot, CISEC, QSP, QISP
Principal



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Long Beach, CA 90802

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Letter 8: John R. Talbot

Comment Letter Dated September 28, 2018

- JRT-1 The commenter states that he will “lose” if the proposed development proceeds any further. The comment is noted but does not raise any issues pertaining to CEQA, no further response is required.
- JRT-2 The comment asserts that homeowners were not given notice when the plans were first submitted to the City, and that the 500-foot radius mailing was not conducted. All noticing for the proposed Harbor Pointe Project EIR complied with the applicable requirements. However, it should be noted that the City is not required to provide notice to the surrounding property owners every time plans for a new project are submitted to the City.

The EIR preparation process has followed all noticing requirements in accordance with the NBMC, Chapter 20.62. The community was provided notice very early on in the process for the EIR scoping meeting, which was held on August 15, 2016, to facilitate public review and comment on the Project. Notices were sent to the surrounding property owners within 300 feet of the Project limits, in accordance with Section 20.62.020 (B)(2)(c) of Chapter 20.62 of NBMC and a notice was also published in the Daily Pilot regarding the meeting.

Further, similar noticing procedures were followed for the release of the Draft EIR for public review. While noticing requirements call for notifying the property owners within 300 feet of the Project boundary by mail at least ten days before the final public hearing (Government Code Section 65353 and Section 20.62.020 (B)(2)(c) of Chapter 20.62 of NBMC), the City mailed out notices on August 10, 2018, at the beginning of the public review period for the EIR. Additionally, a notice was published in the Daily Pilot on August 10, 2018. By providing the notice as soon as the EIR was available, rather than the required 10 days before the hearing, the City met the requirements to encourage public participation.

A study session with the Planning Commission was also held on September 13, 2018 as another opportunity for the public to provide input. At the study session, it was announced that the intention was to return to the Planning Commission on December 6, 2018.

Based on the information above, the City met the noticing requirements for the outreach to the community and proper noticing was conducted for the proposed Project.

- JRT-3 The comment states that the density of 120 beds over 8,800-square-foot development result in only 50 square feet per person. The basis for this comment is unclear. The Project proposes an 84,517 square foot facility. This equates to a gross square footage of slightly more than 704 square feet per person. Exhibits 3-2a through 3-2d in Section 3.0, Project Description, of the Draft EIR provides the floor plans for the facility. As can be seen on these plans, the rooms range in size from 400 to 870 square feet. This is in

addition to the common dining rooms, the theater, living rooms, and library, all of which make up the living area for the residents.

The comment further indicates that noise from the delivery trucks would be impactful to the adjacent uses. It should be noted that the existing restaurant already receives deliveries of food and other items necessary for the operation of the restaurant. Therefore, delivery trucks would not be new occurrence for the adjacent residential uses and would occur during typical daytime business hours, similar to the existing restaurant.

- JRT-4 The commenter states that the odor from the kitchen of the proposed facility would be a problem. In the absence of a permit, the comment adds, the kitchen would be illegal. It should be noted, that at this point in the process no approvals have been given; therefore, issuance of any permits would be premature. If the City of Newport Beach approves the Project, then associated permits and design control measures would be obtained before use and occupancy would be allowed.

The proposed Project would include a commercial grade kitchen equipped with the technology that would eliminate potential issues associated with odors. The grill/stove in the kitchen would have a high velocity filter cartridge to clean the exhaust from the grease that has been produced while preparing food and trapped through a grease drip pan. The filter cartridge and the grease drip pan would be serviced and maintained on a regular basis to ensure proper function. The outlet of the exhaust fan will be approximately 36 feet above the first floor of the facility at an elevation of approximately 20 feet above and a distance of approximately 140 feet from the closest residence (habitable structure). Therefore, with the system in place, odors would not be substantial such that they would significantly impact the future residents of the facility and the adjacent community. Additionally, odors associated with food waste would not result in any impacts, as food waste would be deposited in trash receptacles secured with lids that would prevent odors from escaping. The receptacles would be stored in an appropriate place for pick up.

Additionally, as indicated in Section 2.0, Introduction, Project History, and Setting, of the Draft EIR, according to the South Coast Air Quality Management District's (SCAQMD's) CEQA Air Quality Handbook (SCAQMD 1993), land uses associated with odor complaints typically include agricultural uses, wastewater treatment plants, food processing plants, chemical plants, composting, refineries, landfills, dairies, and fiberglass molding. Thus, none of the components of the proposed Project would be associated with the said objectionable odors.

- JRT-5 The comment states that the drop off location "at the corner of a major freeway exit ramp and Baycrest is not an ideal location" and will result in accidents. It should be noted that the entry to the facility would be at the same location as the existing restaurant, with direct access from Bayview Place and not at the intersection of "major freeway exit ramp and Baycrest."

The entry to the facility would be marked by a roundabout, and beyond the roundabout would be the passenger drop-off and waiting area. The passenger drop-off area is

within the perimeter of the Project site and well insulated from the Bayview Place by the roundabout. Therefore, no conflict with traffic would be anticipated.

JRT-6 The comment states that the proposed facility's roof garden would impact the privacy of the adjacent residential units. As depicted on Exhibit 3-2c, Floor Plans—Third Floor in Section 3.0, Project Description, of the Draft EIR the proposed roof garden is comprised of a large outdoor space that would be located on the interior of the building at the third floor overlooking the inner courtyards. Thus, this area would not have any views towards the exterior and the surrounding residential communities. The roof garden would be well insulated by the corridor and the units across the corridor, as such, the future residents would not have access to views of the adjacent residential units and would not intrude on the privacy of the adjacent residents.

JRT-7 The comment correctly states that the EIR identifies that 10,200 CY (cubic yards) of soil would be exported from the site. The same comment also indicates that the EIR provides an inadequate evaluation of seismic impacts to the neighborhood. The comment is unclear on how seismic activity (associated with earthquakes) and the export of soil are related.

As noted in Section 4.4, Geology and Soils, of the Draft EIR, all construction would comply with the California Building Code. Chapter 18 of the California Building Code, Soils, and Foundations specifies the level of soil investigation required by law in California. Requirements in Chapter 18 apply to building and foundations systems and consider reduction of potential seismic hazards (Section 4.4, page 4.4-1).

Further, Chapter 15.10, Excavation and Grading, of the NBMC also provides the design standards that need to be met to ensure impacts are reduced to less than significant. This section includes regulations for grading, drainage, and hillside construction. Per Chapter 15.10 of Title 15, grading permits are required for all project sites requiring excavation, fills, and paving. This regulation provides for the approval of grading and building plans and inspection of grading and construction, and drainage control for projects in compliance with the current Municipal Separate Storm Sewer System (MS4) Permit issued by the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana RWQCB), under the National Pollutant Discharge Elimination System (NPDES) permitting process. Based on the conceptual design and the evaluation by licensed geotechnical engineers, these standards can be achieved.

Regarding seismicity, Section 4.4, Geology and Soils, of the Draft EIR, under Threshold 4.4-1, provides detailed analysis of seismicity as a natural phenomenon. As indicated, the Project site and the City of Newport Beach, similar to the rest of California, is in a seismically active area that could experience ground shaking during the life of any project. The Geotechnical Evaluation conducted for the Project demonstrates that seismic hazards at the Project site can be attributed to ground shaking resulting from seismic events on active faults. The Project area has experienced earthquake-induced ground shaking in the past and is expected to continue to experience ground shaking from future earthquakes in the region. Therefore, seismic activities would occur regardless of what type of project is developed on the site. Additionally, the proposed Project or any project to be developed on the site would not be causing or be responsible for potential impacts associated with cracking and damage

to the roads, walls, and roofs of adjacent development that may occur as a result of any seismic activity in the area/region.

- JRT-8 The comment states that the height of the structure exceeds zoning requirement and will need a variance. As described in detail in Section 3.0, Project Description, of the Draft EIR, the proposed building is uniformly three stories, or 33 feet, at the top of the roof, and 39 feet, 6 inches at the highest point, which includes mechanical equipment screening. This is within the height limits of PC-32, which is the applicable zoning for the site. The Project site is within Area 5 of PC-32, and as stated on page 21 of the said plan,

“Buildings shall not exceed 35 feet. This height shall be measured from first floor elevation (excluding subterranean levels) to ceiling elevation of uppermost floor. An additional ten (10') feet height extension is permitted only to accommodate and screen mechanical equipment.”

Therefore, as stated in the Draft EIR and verified by the City, and in light of the above excerpt from PC-32, the proposed structure's overall height of 39 feet and 6 inches would not exceed the allowable maximum height limit of 45 feet (35 feet + 10 feet = 45 feet), and a variance to the maximum height limits would not be required, as the proposed height is within the height limits in Area 5 of PC-32.

- JRT-9 The comment inaccurately states that the EIR does not address asbestos and lead-based paint. Section 4.6, Hazards and Hazardous Materials, of the Draft EIR includes a discussion of asbestos and lead-based paint under regulatory requirements. Additionally, the analysis includes two regulatory requirements under Thresholds 4.6-1 and 4.6-2, specifically addressing asbestos and lead-based paint:

RR HAZ-1 Demolition shall be conducted in accordance with the remediation and mitigation procedures established by all federal, State, and local standards, including those of the federal and State Occupational Safety and Health Administrations (OSHA and CalOSHA) and South Coast Air Quality Management District (SCAQMD) regulations for the excavation, removal, and proper disposal of asbestos-containing materials (SCAQMD Regulation X – National Emission Standards For Hazardous Air Pollutants, Subpart M – National Emission Standards For Asbestos). The materials shall be disposed of at a certified asbestos landfill. The Asbestos-Abatement Contractor shall comply with notification and asbestos-removal procedures outlined in SCAQMD Rule 1403 to reduce asbestos-related health risks. SCAQMD Rule 1403 applies to any demolition or renovation activity and the associated disturbance of asbestos-containing materials. These requirements shall be included on the contractor specifications and verified by the City of Newport Beach's Community Development Department in conjunction with the issuance of a Demolition Permit.

RR HAZ-2 Contractors shall comply with the requirements of Title 8 of the *California Code of Regulations* (Section 1532.1), which sets

exposure limits, exposure monitoring, respiratory protection, and good working practices by workers exposed to lead. Lead-contaminated debris and other wastes shall be managed and disposed of in accordance with the applicable provisions of the *California Health and Safety Code*.

The issue of asbestos-containing materials and lead-based paint were also evaluated under Threshold 4.13-6, which pertained to compliance with federal, state, and local statutes and regulations related to solid waste. With compliance of the above regulatory requirements, the analysis concludes that the impacts pertaining to asbestos and lead-based paint would be less than significant.

- JRT-10 The comment states the stormwater retention and pollution control discussion is inadequate and alleges that the Draft EIR only focuses on construction storm water management and does not discuss post construction operations. The comment adds that it is a violation of Clean Water Act and California Stormwater regulations, and the operating kitchen would result in damage to the Back Bay by pathogens and other compounds. The comment further adds that the proposed facility does not have a storm water Quality Impact Management Plan (SQIMP). It should be noted that, Section 4.7, Hydrology and Water Quality, of the Draft EIR (under Thresholds 4.7-1 and 4.7-6, Long Term Water Quality Impacts), provides a detailed discussion of impacts on hydrology and water quality post construction. The discussion includes the potential pollutants that would be generated by the proposed Project; the water quality impairment of downstream water bodies; the proposed on-site drainage system; and a summary of the *Preliminary Water Quality Management Plan* (PWQMP) for the Project. As indicated on page 4.7-13, potential pollutants of concern include suspended solids/sediments, nutrients, heavy metals, bacteria and viruses, pesticides, oil and grease, toxic organic compounds, and trash and debris. The proposed Project includes the provision of bio-filtration planters; an underground detention basin; storm drain lines; and lift station pump. The bio-filtration planters would remove pollutants from the runoff, and various other non-structural source control best management practices (BMPs) (page 4.7-15) would reduce stormwater pollutants from the Project. These BMPs would be implemented in compliance with the Clean Water Act's National Pollutant Discharge Elimination System (NPDES) requirements; Orange County Municipal Separate Storm Sewer System (MS4) Permit and Drainage Area Management Plan; and the City's water quality regulations.

Wastewater from the proposed on-site kitchen would be directed into the sewer system and would not be discharged into the storm drainage system; therefore, would not affect surface water quality in the Upper Newport Bay (Back Bay) and Lower Newport Bay. Additional details on measures that would reduce stormwater pollutants from the Project is provided in the PWQMP, which is included in Appendix E to the Draft EIR.

- JRT-11 The comment asserts that it is not ethical for the proposed mitigation measures to focus on "more money to the City from the developer" and references mitigation measure (MM) FIRE-1. It should be noted that the mitigation measure is proposed under cumulative impacts discussion of Section 4.10, Public Services, of the Draft EIR. The analysis states that even though the Project specific demand for fire protection services would not result in the need for construction of new or expansion of existing facilities,

the proposed Project contributes to the cumulative demand and thus the potential impacts. MM FIRE-1 is proposed to address the Project's contribution to potential cumulative impacts. The cumulative impact is not a direct demand of a particular project, but rather it is a combined potential impact from a number of proposed projects in the area. As such, the Project is not required to provide for the whole cost of a new rescue ambulance, but it is required to pay for the fair share of the cost. As the proposed Project, similar to other projects in the area, contributes to a portion of the cumulative impact, it would also be responsible for a portion of the cost that would mitigate that impact. This is an acceptable standard mitigation practiced by many jurisdictions to ensure that potential impacts caused by multiple development projects within a given area are addressed.

Please note the revision to the timing of MM FIRE-1. MM FIRE-1 on page 4.10-7, Section 4.10, Public Services, is hereby revised to read as follows (*red italics* shows the additional text and ~~red strikethrough~~ show the deletions):

MM FIRE-1 *Within 60 calendar days of the City's issuance of the first building permit for the Project, ~~Prior to the issuance of a building permit,~~* the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

JRT-12 The comment states that the traffic study did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. It should be noted that the Project trip generation analysis was conducted by a qualified traffic engineering firm, Urban Crossroads, under contract to the City that is very familiar with the City of Newport Beach and has in-depth knowledge of the City's Traffic Phasing Ordinance (TPO). Though the Project involves an increase in AM peak hour trip generation of 17 vehicles per hour (approximately one every three minutes), trip generation for PM peak hour and daily traffic conditions decrease with the proposed Project. The Project would not involve moving the intersection, and intersection spacing is not affected by the Project.

JRT-13 The comment speculates that the Project would affect safety, values, access, quality of life and environment. The comment additionally expresses concern over lack of proper notification, lack of environmental compliance, traffic, noise, air quality, kitchen waste, and stormwater pollution. The issues of property values and quality of life are noted and will be forwarded to the decision makers. These issues are not required topics under CEQA, no further response is required. Additional issues raised in this comment are addressed in responses to this comment letter.

JRT-14 The commenter indicates that the mitigations proposed do not benefit the impacted residents, but rather provide improvements outside the Project area. It should be noted that mitigation measures are proposed to avoid or reduce the significant impacts of a project, identified through the analysis, to less than significant levels. As such, the Draft EIR only identifies mitigation measures that would meet that objective and address and offset the potentially significant impacts of the Project. These impacts may occur onsite

or offsite; therefore, regardless of the type of impact and where it occurs, the Project is required to propose mitigation measures. The purpose of a mitigation measure, in accordance with CEQA Guidelines Section 15126.4, is to avoid or substantially reduce the significant impacts of a Project, and a mitigation measure is not required for impacts found to be less than significant. Thus, a mitigation measure is to mitigate rather than provide a “benefit” to the impacted entities, as the comment suggests. While mitigation measures may have secondary beneficial effects, they do not and are not required to provide such effects above and beyond mitigating the significant adverse impacts of a project. However, while a Development Agreement is not required for this Project based on NBMC Section 15.45.020 (Development Agreement Required), the Applicant is proposing a Development Agreement with the City. This agreement would provide public benefits. If the Development Agreement, beyond the monetary benefits, includes physical improvements, a separate CEQA document would be required to address the potential significant impacts emanating from those improvements.

JRT-15 This comment compares the lighting from the proposed facility to a “baseball stadium” due to light pollution and states that the conclusion is not less than significant and therefore, the Project is not in compliance with CEQA. The discussion of lighting under Threshold 4.1-4 in Section 4.1, Aesthetics, of the Draft EIR acknowledges that the proposed facility would increase lighting levels at the Project site. The analysis also provides substantiation as to why the impacts would be less than significant. The intent of the proposed lighting for the facility is to minimize light spillover while providing lighting for safety and visibility in compliance with the ambient and nighttime lighting in the area. Lighting is already present from the existing use on site and the surrounding commercial and office buildings and existing development. Thus, lighting from the proposed facility would not be unique to the area. Additionally, due to the nature of the development and lack of surface parking, substantial lighting during the nighttime is not anticipated. For these reasons, no mitigation measure is proposed, and lighting would be designed in a way that would not result in spillover onto the surrounding uses in accordance with all requirements of the NBMC. Furthermore, the existing wall at the perimeter of the site in addition to the enhanced landscaping would shield lighting from the proposed facility. Therefore, the conclusion of less than significant impact in the Draft EIR is justified and supported by substantial evidence.

JRT-16 The comment states that not denying the Project would be in violation of CEQA. The Draft EIR for the Harbor Pointe Senior Living Project has been prepared in accordance with CEQA (PRC Section 21000 et seq.) and the State CEQA Guidelines (Title 14, *California Code of Regulations* [CCR] Section 15000 et seq.). Section 15151 of the State CEQA Guidelines defines the standards of adequacy for an EIR as follows:

An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the 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 effort at full disclosure.

Additionally, EIRs are intended to provide an objective, factually supported, full disclosure analysis of the environmental consequences associated with a proposed project that has the potential to result in significant, adverse environmental impacts.

An EIR is also one of the various decision-making tools used by a Lead Agency to consider the merits and disadvantages of a project that is subject to its discretionary authority. Prior to approving a proposed project, the Lead Agency must consider the information contained in the EIR; determine whether the EIR was properly prepared in accordance with CEQA and the State CEQA Guidelines; determine that the EIR reflects the independent judgment of the Lead Agency; adopt findings concerning the project's significant environmental impacts and alternatives; and adopt a Statement of Overriding Considerations if the project would result in significant impacts that cannot be avoided.

City staff has reviewed all submitted drafts, technical studies, and consistency with City regulations and policies and has commissioned the preparation of the EIR to reflect its own independent judgment, including reliance on applicable City technical personnel and review of all technical subconsultant reports. The Draft EIR prepared for the Project has adequately and sufficiently analyzed the potential impacts of the Project supported by substantial evidence. As such, the Draft EIR is in compliance with CEQA and CEQA Guidelines.

From: Chris Larkins <christina_larkins@hotmail.com>
Sent: Friday, September 28, 2018 2:18 PM
To: Zdeba, Benjamin
Subject: Harbor Pointe

Dear Ben,

As a resident of Bayview Heights near the proposed harbor Pointe senior care facility, I am “strongly” and unwaveringly opposed to rezoning this site from its current CO-G (commercial office) purpose to use of a PI (private institution)

Our quiet and safe neighborhood was never intended to include Private Institutions and I call on you to protect our property values and safety by denying this rezoning. It has never been part of the Master Community Plan for Bayview and therefore this type of rezoning would set a precedent that is neither safe or appropriate for our beautiful and serene neighborhoods or for that matter, any other similar neighborhoods in the City of Newport Beach.

I am greatly concerned and troubled by the validity of the claims from the builder and the Environmental Impact Report that traffic will not increase as a result of a 24/7 business that includes employee shift changes, emergency vehicles and increased holiday traffic.

A zoning change of this precedent setting magnitude in the city of Newport Beach (a direct zone change from CO-G to PI) paves the way for a variety of businesses to take over the site in the future that would tank property values and our neighborhood safety should the proposed senior facility not be built, sold or goes out of business.

Protect our property values and our neighborhoods by turning this request down. I am not against redevelopment of the site for use it was intended, I am abasing this precedent setting rezoning to a Private institution.

WATER is the one resource we have that is finite and limited in its availability. WATER is the only natural resource we have that the state and city governments have put a monetary fine and a limit on in its use and consumption. All residents of Newport Beach have been told to reduce WATER consumption by 20%, when Governor Jerry Brown proclaimed a fine for excessive use in 2017. Many environmentally conscientious Newport residence have gone through the expense of removing their lawns and replacing them with stones and some sort of succulent plant, in some cases they have removed all greenery including any plants. The majority of citizens have followed the rules watering only twice or once a week and sacrificing there beautiful lawns by replacing them with gravel and cement.

Newport beach has more than its fair share of high-rise hotels and commercial buildings that, in themselves, use excessive amounts of water, most of which is not governed by the state or city. For example, two blocks from the KITA YAMA restaurant are large office buildings and at least one high-rise hotel. The hotel alone in my estimation, uses more water in one week than the entire Santa Ana Heights residential neighborhood in one month. Unlike any city resident, (the residents get a report card in every monthly bill , that shows are water usage and how much we have been over charged if any), any hotel guests can run tap-water and shower water without restraints continuously for their stay if they chose, also the laundry in the hotel including the kitchen services that run sinks continuously use excessive and exorbitant amounts of water. Within a 10 square block of commercial buildings across the street from the KITA YAMA restaurant, there are millions of gallons of water used daily.

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Adding to that use is, in my opinion, reckless and unnecessary to accommodate only one business for the purpose of expanding its footprint by eight times to increase their annual profit. You are asking Newport residence to take a glass of water and at the same time offering a vendor a tub full, that does not support a fair sharing of a environmental resource, in our Community.

Please do what is best for the environment and community of Newport Beach and vote NO on changing the zoning to P1, to expand to 10 times the size of the business on the property known as KITAYAMA restaurant. We look forward to sharing our comments in person at the meeting on September **13th**.

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Sincerely

Christina Larkins

Letter 9: Christina Larkins**Comment Letter Dated September 28, 2018**

- CL -1 The comment expresses opposition to “rezoning the Project site from the current CO-G to PI” and asserts that the new zoning will establish a precedent that would not be safe and appropriate for the area. For clarification, it should be noted that rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed description of general plan amendment and rezoning, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Additionally, the discussion on page 4.8-18 of Section 4.8, Land Use and Planning, of the Draft EIR indicates that:

The proposed Project is within Zoning District PC-32, which is the Bayview Planned Community Development Plan (PC-32), that provides for residential, recreational, commercial, professional, institutional, hotel, and office uses. The Project site is located in Area 5 of the Bayview Planned Community, which is intended for commercial uses, specifically facilities for shopping goods, convenience goods and services, food services, and recreation for the community. Permitted uses include restaurants, bars, theaters, and nightclubs. Permitted uses subject to a Conditional Use Permit include automobile washing; health clubs; helistops; mini-storage facilities; public utility exchanges and substations; retail businesses; service businesses; animal clinics and hospitals; administrative and professional offices; automobile parking lots and structures; commercial recreation; nurseries and garden supply stores; day nurseries; financial institutions; public/private utility buildings and structures; self-service laundry and dry cleaning facilities; accessory structures and uses necessary and customarily incidental to the above uses; and any other uses that, in the opinion of the City of Newport Beach Planning Commission, are of a similar nature.

Therefore, upon closure of the existing restaurant and in the absence of a zone change, any of the above uses, including bars, theaters, and nightclubs could replace the restaurant. These uses would have far more impacts associated with noise, traffic, land use compatibility, and safety than the proposed Project.

Regarding rezoning (re-designation of the site) setting a precedent, it should be noted that amending the existing designation, rather than rezoning, is not a prohibited action, and it could occur anywhere within the City and evaluated on its own merit regardless of whether or not the land use designation for this particular property is amended. Nevertheless, the amendment to Area 5 of PC-32 would have provisions that would limit the number of permitted uses and prohibit uses not appropriate at this location. For instance, the revised provisions would only allow for a Residential Care Facility for the Elderly (RCFE), which includes assisted living and memory care. All other uses currently listed under Area 5 of the PC-32 plan would be eliminated. For a detailed discussion of the amendments to PC-32, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).

- CL-2 The comment questions the validity of the Draft EIR's conclusion pertaining to traffic and indicates that the Project would result in impacts associated with traffic due to the 24/7 nature of the proposed Project. Please refer to the Topical Response pertaining to Transportation/Traffic (Section 3.1.2 of these Responses to Comments) for a detailed discussion of traffic and its implications. As discussed in the Topical Response, regardless of the hours of operation, a restaurant generates more trips compared to a senior living facility. In light of the discussion and substantiation in the Topical Response, the conclusion of less than significant impact in the Section 4.11 of the Draft EIR is valid and supported by substantial evidence.
- CL-3 The comment further states that if the proposed facility is not implemented, sold, or goes out of business, other uses permitted under the new zoning of PI would be allowed on the site, jeopardizing safety and property values. However, the comment does not elaborate on what type of uses would adversely impact safety in the neighborhood. Please see Response CL-1, above, regarding rezoning. Additionally, please note that amendment to Area 5 of the PC-32 text would include provisions that would limit the uses permitted on the site and prohibit uses that are not appropriate at this location. As indicated in Response CL-1 above, the revised provisions would only allow for a RCFE, which includes assisted living and memory care. All other uses currently listed under Area 5 of the PC-32 plan would be eliminated. For a detailed discussion of the amendments to PC-32, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).
- CL-4 The comment expresses concern regarding property values and the precedent setting rezoning. The comment regarding property values will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required. Regarding precedent setting rezoning, please refer to Response CL-1, above.
- CL-5 The comment states that the Project would result in excessive use of water. The importance of water as a finite resource is noted. However, as indicated in Section 4.12, Utilities and Service Systems, of the Draft EIR, the proposed Project would result in an estimated water demand of approximately 3,803 gal/ksf/day on average. Given the existing restaurant's water use of approximately 1,232 gal/ksf/day, the projected net increase in water demand from the proposed Project would be approximately 2,571 gal/ksf/day. Based on correspondence from IRWD, as the water provider for the Project, the water demand of the proposed facility could be accommodated with the existing IRWD infrastructure, and IRWD has sufficient capacity to meet the water demand of the proposed Project. Additionally, the IRWD has issued a Conditional Water and Sewer Will Serve Letter, indicating that the IRWD would have adequate domestic water supplies to accommodate the Project.
- CL-6 The comment urges denying rezoning to PI. Comment noted and will be forwarded to the decision makers. For a detailed discussion of the general plan amendment and rezoning, please refer to Topical Response in Section 3.1.1 of these Responses to Comments.

From: Brad Larkins <brad.larkins@outlook.com>
Sent: Friday, September 28, 2018 2:25 PM
To: Zdeba, Benjamin
Subject: Bayview Heights near the proposed harbor Pointe senior care facility - Strongly Do Not Favor

Dear Ben,

As a resident of Bayview Heights near the proposed harbor Pointe senior care facility for 34 years, I am "strongly" oppose rezoning this site from its current CO-G (commercial office) purpose to use of a PI (private institution). I am very concerned to the adverse impacts on Bayview Heights nationhood.

Our quiet and safe neighborhood was never intended to include Private Institutions and I call on you to protect our property values and safety by denying this rezoning. In has never been part of the Master Community Plan for Bayview and therefore this type of rezoning would set a precedent that is neither safe or appropriate for our beautiful and serene neighborhoods or for that matter, any other similar neighborhoods in the City of Newport Beach.

I am greatly concerned and troubled by the validity of the claims from the builder and the Environmental Impact Report that traffic will not increase as a result of a 24/7 business that includes employee shift changes, emergency vehicles and increased holiday traffic.

A zoning change of this precedent setting magnitude in the city of Newport Beach (a direct zone change from CO-G to PI) paves the way for a variety of businesses to take over the site in the future that would tank property values and our neighborhood safety should the prosed senior facility not be built, sold or goes out of business.

Protect our property values and our neighborhoods by turning this request down. I am not against redevelopment of the site for use it was intended, I am abasing this precedent setting rezoning to a Private institution.

WATER is the one resource we have that is finite and limited in its availability. WATER is the only natural resource we have that the state and city governments have put a monetary fine and a limit on in its use and consumption. All residents of Newport Beach have been told to reduce WATER consumption by 20%, when Governor Jerry Brown proclaimed a fine for excessive use in 2017. Many environmentally conscientious Newport residence have gone through the expense of removing their lawns and replacing them with stones and some sort of succulent plant, in some cases they have removed all greenery including any plants. The majority of citizens have followed the rules watering only twice or once a week and sacrificing there beautiful lawns by replacing them with gravel and cement.

Newport beach has more than its fair share of high-rise hotels and commercial buildings that, in themselves, use excessive amounts of water, most of which is not governed by the state or city. For example, two blocks from the KITAYAMA restaurant are large office buildings and at least one high-rise hotel. The hotel alone in my estimation, uses more water in one week than the entire Santa Ana Heights residential neighborhood in one month. Unlike any city resident, (the residents get a report card in every monthly bill , that shows are water usage and how much we have been over charged if any), any hotel guests can run tap-water and shower water without restraints continuously for their stay if they chose, also the laundry in the hotel including the kitchen services that run sinks continuously use excessive and exorbitant amounts of water.

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Within a 10 square block of commercial buildings across the street from the KITAYAMA restaurant, there are millions of gallons of water used daily.

Adding to that use is, in my opinion, reckless and unnecessary to accommodate only one business for the purpose of expanding its footprint by eight times to increase their annual profit. You are asking Newport residence to take a glass of water and at the same time offering a vendor a tub full, that does not support a fair sharing of a environmental resource, in our Community.

Please do what is best for the environment and community of Newport Beach and vote NO on changing the zoning to P1, to expand to 10 times the size of the business on the property known as KITAYAMA restaurant. We look forward to sharing our comments in person at the meeting on September **13th**.

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(cont'd)

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Please do not hesitate to call me if you have any questions.

Sincerely,

Brad Larkins
9498878913

Letter 10: Brad Larkins**Comment Letter Dated September 28, 2018**

- BL-1 The comment expresses opposition to “rezoning the Project site from the current CO-G to PI” and asserts that the new zoning will establish a precedent that would not be safe and appropriate for the area. For clarification, it should be noted that rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed description of rezoning, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Additionally, the discussion on page 4.8-18 of Section 4.8, Land Use and Planning, of the Draft EIR indicates that:

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Therefore, upon closure of the existing restaurant and in the absence of a zone change, any of the above uses, including bars, theaters, and nightclubs could replace the restaurant. These uses would have far more impacts associated with noise, traffic, land use compatibility, and safety than the proposed Project.

Regarding rezoning setting a precedent, it should be noted that amending the existing land use designation is not a prohibited action, and it could occur anywhere within the City regardless of whether or not this particular property is rezoned. Nevertheless, the amendment to Area 5 of the PC-32 would have provisions that would limit the number of permitted uses and prohibit uses not appropriate at this location. The revised provisions in PC-32 would only allow for a Residential Care Facility for the Elderly (RCFE), which includes assisted living and memory care. All other uses currently listed under Area 5 of the PC-32 plan would be eliminated. For a detailed discussion of the amendments to PC-32, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).

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- BL-3 The comment further states that if the proposed facility is not implemented, sold, or goes out of business, other uses permitted under the new zoning of PI would be allowed on the site, jeopardizing safety and property values. However, the comment does not elaborate on what type of uses would adversely impact safety in the neighborhood. Please see Response BL-1, above, regarding rezoning. Additionally, please note that amendment to Area 5 of the PC-32 text would include provisions that would limit the uses permitted on the site and prohibit uses not appropriate at this location. As indicated in Response BL-1 above, the revised provisions would only allow for an RCFE, which includes assisted living and memory care for seniors. All other uses currently listed under Area 5 of the PC-32 plan would be eliminated. For a detailed discussion of the amendments to PC-32, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).
- BL-4 The comment expresses concern regarding property values and the precedent setting rezoning. The comment regarding property values will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required. Regarding precedent setting rezoning, please refer to Response CL-1, above.
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- BL-6 The comment urges denying rezoning to PI. Comment noted and will be forwarded to the decision makers. For a detailed discussion of rezoning, please refer to Topical Response in Section 3.1.1 of these Responses to Comments.

From: Malcolm Carter <mcarter92660@cox.net>
Sent: Friday, September 28, 2018 4:32 PM
To: pzac@newportbeachca.gov; Weigand, Erik;
bdunlap@newportbeachca.gov; Kramer, Kory; Koetting, Peter;
Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: Kitayama redevelopment

Dear Commissioners,

We are the homeowners at 59 Shearwater Place, Newport Beach, Ca Bayside Terrace community.

I am requesting the EIR for Harbor Point project be redone by a mutually agreed upon firm who is selected by tax paying/voting citizens and City developers of Newport Beach, not just the developers of this project.

} 1

There were no notices given to homeowners within 500' radius of this project, when the plans were submitted to the City of Newport Beach, so therefore hundreds of people were cheated out of a voice.

} 2

This high density building is virtually a few feet away from a residential community, separated only by a small lane. Given the surroundings will be floodlit all night, plus pollution and noise from delivery trucks, this will devastate the neighborhood tremendously.

} 3

I am extremely concerned that this huge area, so near to other developments is going to be excavated with over 10,000 CY of soil taken from the site for the building of underground parking. Did the seismic evaluation take this into consideration? This could cause major issues for the Commissioners of the City of Newport Beach (in allowing this build) should even a minor earthquake occur. Also, the EIR did not address contaminants from the existing structure and the impact on surrounding neighborhoods.

} 4

The suggested facility does not have a SQIMP to look at water issues and damage to the eco system of the Back Bay.

} 5

Prior to the issuance of a building permit, the applicant needs to provide payment to the City of Newport for their share of equipment for fire/ambulance/life saving. This facility, with so many clients in poor health will no doubt be using those services many times a week.

On the subject of the life saving services, we all know these ambulances in and out will also impact the neighborhood immensely. Check out the number of accidents on the crossroads of Bristol Street South and Jamboree, some of which have been fatal. I cannot imagine a more dangerous situation than to have dozens and dozens of ambulances racing through that intersection.

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Lastly, Bayview Way, will be filled with extra vehicles from visitors to the facility. Like most of these places, the parking is almost impossible when staff, doctors, insurance inspectors, etc and others are there. Family can never get parking at these facilities as most of you are aware of. This facility has not allowed enough parking for families and their argument is families done visit! Yet they say we need the facility so its convenient for families to visit!

Already, Bayside Way is filled to capacity with the workers from Fletcher Jones. Every day they fill most spots which are supposed to be overflow from the two residential communities on Bayside Place as well as parking for area residents to enjoy hikes and bird watching in the beautiful Back Bay.

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Another issue will be family members pushing their loved ones in wheel chairs down Bayside Place to Bayside Way and the Back Bay. Please drive by there and see how many cars speed along. Very dangerous for wheelchairs. I nearly got side-swiped this week by a worker from Fletcher Jones during an illegal U Turn right in front of me on Bayside Way in order to get a coveted open parking space.

8

Lastly, yes the developer wants to build a huge nursing home/Alzheimer care facility, a project he presents in somewhat altruistic terms. No, **this is a commercial project** in a quiet residential neighborhood, **which will make the developer rich.** Given its commercial nature, it needs to be in a more commercial setting, not a residential neighborhood. There are many blocks of apartments going up along Jamboree from MacArthur to the District - This is where a project of this magnitude needs to be - plenty of parking and spacious surroundings.

9

Please consider all the points above in asking for a new EIR to address these serious issues.

Thank you.

June and Malcolm Carter

Letter 11: June & Malcolm Carter**Comment Letter Dated September 28, 2018**

J&MC-1 The comment requesting that the Environmental Impact Report (EIR) be redone by a mutually agreed upon firm is noted. It is in compliance with CEQA and a standard practice that the lead agency, in this case, the City of Newport Beach, select the CEQA consultant through a competitive bid process and in accordance with a set of selection criteria. The CEQA consultant for the preparation of the EIR for the Harbor Pointe Project was selected by the City Council following the City procurement procedures. The firm's capabilities and experience were evaluated as part of that process. The firm and staff involved have extensive experience in preparing environmental documents. The consultant firm reports to the City staff, and all communication during the preparation of the document has been with City staff. There was no direct communication between the consultant team and the applicant. This process sets the foundation for preparation of a CEQA document that is objective and fair and does not represent the interests of any of the parties involved. The developer pays for preparation of the CEQA document through the lead agency. While the CEQA document is funded by the developer, the CEQA consultant prepares the document in coordination with and at the direction of the lead agency, and upon completion of the document, it goes through multiple rounds of review by the lead agency's various departments. Comments made by the lead agency are addressed by the CEQA consultant until all comments are addressed to the satisfaction of the lead agency before the document is released for public review.

Additionally, it should be noted that involvement of the potentially affected parties (e.g., surrounding property owners) would present a conflict of interest and would not be in compliance with the City's *Implementation Procedures for the California Environmental Quality Act* (City Council Policy K-3). In order to maintain objectivity, preparation of the CEQA document cannot and should not be influenced by the interests of any parties.

Furthermore, while the property owners may not have a direct say in selection of the CEQA consultant, the selection of the consultant gets approved as part of a City Council meeting. If there is a reason to believe a firm has a conflict or if there is an objection, comments can be made at the time of the selection at the City Council meeting. Additionally, CEQA establishes a process whereby the interested parties have the opportunity to get involved by reviewing and commenting on the CEQA document. Opportunities for public participation are presented throughout the process, initially by attending and commenting at the scoping meeting; participating at the Planning Commission Study Session; reviewing the Draft EIR during the mandated 45-day review period; and finally attending the Planning Commission and City Council public hearings during the Project's approval process.

In light of the above discussion, the CEQA consultant for the proposed Project has been selected in a fair and competitive process, and the CEQA document has been prepared objectively and without representation of any particular interest, and with input from the interested parties and the public.

J&MC-2 The commenter asserts that homeowners within the 500-foot radius of the Project site were not given notice when the plans were first submitted to the City. All noticing for the proposed Harbor Pointe Project EIR complied with the applicable requirements. However, it should be noted that the City is not required to provide notices to the surrounding property owners every time plans for a new project are submitted to the City.

The EIR preparation process has followed all noticing requirements in accordance with NBMC, Chapter 20.62. The community was provided notice very early on in the process for the EIR scoping meeting, which was held on August 15, 2016, to facilitate public review and comment on the Project. Not only were notices sent to the surrounding property owners within 300 feet of the Project limits, in accordance with Section 20.62.020 (B)(2)(c) of Chapter 20.62 of NBMC, a notice was also published in the Orange County Daily Pilot regarding the meeting.

Further, similar noticing procedures were followed for the release of the Draft EIR for public review. While noticing requirements call for notifying the property owners within 300 feet of the Project boundary by mail at least ten days before the final public hearing (Government Code Section 65353 and Section 20.62.020 (B)(2)(c) of Chapter 20.62 of NBMC), the City mailed out notices on August 10, 2018, at the beginning of the public review period for the EIR. Additionally, a notice was published in the Orange County Daily Pilot on August 10, 2018. By providing the notice as soon as the EIR was available, rather than the required 10 days before the hearing, the City exceeded the requirements to encourage public participation.

A study session with the Planning Commission was also held on September 13, 2018 as another opportunity for the public to provide input. At the study session, it was announced that the intention was to return to the Planning Commission on December 6, 2018. Based on the information above, the City clearly exceeded the noticing requirements for the outreach to the community.

J&MC-3 The comment expresses concern regarding the separation from the proposed facility, lighting during the night, and noise from the delivery trucks. It should be noted that the proposed facility would be required to comply with the minimum setback requirements included in PC-32. However, the Project would include increased setbacks along the property lines adjacent to Baycrest Court condominiums and Santa Ana Heights single-family residential development to create a buffer and enhance compatibility. The building, as situated on the Project site, exceeds the minimum required setbacks identified in the PC-32, as summarized below:

- 41-foot setback from the southwest property line near the Baycrest Court condominiums (PC-32 requires 20 feet)
- 41-foot setback from the office building and residential to the northwest (PC-32 requires 0 feet to the office and 20 feet to the residential)
- 15-foot setback from Bristol Street (PC-32 requires 10 feet)
- 11-foot setback from Bayview Place (PC-32 requires 10 feet)

In terms of nighttime lighting, the discussion in Section 4.1, Aesthetics, of the Draft EIR demonstrates that lighting is already present from the existing use on site and the surrounding development, including commercial, office, and residential uses. Thus, lighting from the proposed facility would not be unique to the area. The intent of the proposed lighting for the facility is to minimize light spillover while providing lighting for safety and visibility in compliance with the ambient and nighttime lighting in the area. The proposed lighting would include pole lighting, small light bollards, path lighting, minor accent lighting, and code-required egress lighting at exit doors. All exterior lighting would be shielded and facing down and away from adjacent properties. The enhanced landscaping and the existing perimeter block walls would provide additional screening. It should also be recognized that due to the nature of the development and lack of surface parking, substantial lighting during the nighttime is not anticipated.

Regarding noise from the proposed facility, Section 4.9, Noise, of the Draft EIR provides a detailed analysis of the Project's potential noise impacts. Per the analysis, and as indicated in the Topical Response pertaining to Transportation/Traffic (Section 3.1.2), the Project would generate less traffic than the existing restaurant. Thus, Project-generated traffic would not substantially increase existing ambient noise levels and the impact would be less than significant. Additionally, Project-generated on-site noise levels would comply with the NBMC and would not result in excessive noise beyond the existing levels. It should also be noted that, as demonstrated in similar facilities, a senior living facility is a quiet use and would not result in generating noise exceeding the existing levels, as residents of such facilities are not allowed to drive. Further, as the proposed facility would have a subterranean parking, the noise from employees exiting and entering the facility would not be audible to the surrounding uses. Moreover, based on correspondence from Nbfd, it is the practice of Nbfd to only use their sirens in traffic, as necessary, and rarely in residential areas. Therefore, in light of the above and based on the analysis in Section 4.9 of the Draft EIR, the proposed facility would not generate excessive noise.

- J&MC-4 The comment correctly states that the EIR identifies that 10,200 CY (cubic yards) of soil would be exported from the site. The same comment also indicates that the EIR provides an inadequate evaluation of seismic impacts to the neighborhood. The comment further adds that the EIR did not address the potential impacts of contaminants from the existing structure.

As noted in Section 4.4, Geology and Soils, of the Draft EIR, all construction would comply with the California Building Code. Chapter 18 of the California Building Code, Soils, and Foundations specifies the level of soil investigation required by law in California. Requirements in Chapter 18 apply to building and foundations systems and consider reduction of potential seismic hazards (Section 4.4, page 4.4-1).

Further, Chapter 15.10, Excavation and Grading, of the NBMC also provides the design standards that need to be met to ensure impacts are reduced to less than significant. This section includes regulations for grading, drainage, and hillside construction. Per Chapter 15.10 of Title 15, grading permits are required for all Project sites requiring excavation, fills, and paving. This regulation provides for the approval of grading and building plans and inspection of grading and construction, and drainage control for

projects in compliance with the current Municipal Separate Storm Sewer System (MS4) Permit issued by the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana RWQCB), under the National Pollutant Discharge Elimination System (NPDES) permitting process. Based on the conceptual design and the evaluation by licensed geotechnical engineers, these standards could be achieved.

Regarding seismicity, Section 4.4, Geology and Soils, of the Draft EIR, under Threshold 4.4-1, provides detailed analysis of seismicity as a natural phenomenon. As indicated, the Project site and the City of Newport Beach, similar to the rest of California, is in a seismically active area that could experience ground shaking during the life of any project. The Geotechnical Evaluation conducted for the Project demonstrates that seismic hazards at the Project site can be attributed to ground shaking resulting from seismic events on active faults. The Project area has experienced earthquake-induced ground shaking in the past and is expected to continue to experience ground shaking from future earthquakes in the region. Therefore, seismic activities would happen regardless of what type of project is developed on the site. Additionally, the proposed Project or any project to be developed on the site would not be causing or be responsible for potential impacts associated with cracking and damage to the roads, walls, and roofs of adjacent development that may occur as a result of any seismic activity in the area/region.

Regarding analysis of contaminants from the demolition of the existing restaurant, Section 4.6, Hazards and Hazardous Materials, of the Draft EIR includes a discussion of asbestos and lead-based paint under regulatory requirements. Additionally, the analysis includes two regulatory requirements (RRs) under Thresholds 4.6-1 and 4.6-2, specifically addressing asbestos and lead-based paint:

RR HAZ-1 Demolition shall be conducted in accordance with the remediation and mitigation procedures established by all federal, State, and local standards, including those of the federal and State Occupational Safety and Health Administrations (OSHA and CalOSHA) and South Coast Air Quality Management District (SCAQMD) regulations for the excavation, removal, and proper disposal of asbestos-containing materials (SCAQMD Regulation X – National Emission Standards For Hazardous Air Pollutants, Subpart M – National Emission Standards For Asbestos). The materials shall be disposed of at a certified asbestos landfill. The Asbestos-Abatement Contractor shall comply with notification and asbestos-removal procedures outlined in SCAQMD Rule 1403 to reduce asbestos-related health risks. SCAQMD Rule 1403 applies to any demolition or renovation activity and the associated disturbance of asbestos-containing materials. These requirements shall be included on the contractor specifications and verified by the City of Newport Beach’s Community Development Department in conjunction with the issuance of a Demolition Permit.

RR HAZ-2 Contractors shall comply with the requirements of Title 8 of the *California Code of Regulations* (Section 1532.1), which sets exposure limits, exposure monitoring, respiratory protection, and

good working practices by workers exposed to lead. Lead-contaminated debris and other wastes shall be managed and disposed of in accordance with the applicable provisions of the *California Health and Safety Code*.

The issue of asbestos-containing materials and lead-based paint were also evaluated under Threshold 4.13-6, which pertained to compliance with federal, state, and local statutes and regulations related to solid waste. With compliance of the above regulatory requirements, the analysis concludes that the impacts pertaining to asbestos and lead-based paint would be less than significant.

- J&MC-5 The comment states that the proposed facility does not have a storm water Quality Impact Management Plan (SQIMP) to analyze damage to the eco system of the Back Bay. It should be noted that, Section 4.7, Hydrology and Water Quality, of the Draft EIR provides a detailed discussion of impacts on hydrology and water quality pre- and post-construction. The discussion includes the potential pollutants that would be generated by the proposed Project; the water quality impairment of downstream water bodies; the proposed on-site drainage system; and a summary of the *Preliminary Water Quality Management Plan* (PWQMP) for the Project. As indicated in Section 4.7, potential pollutants of concern include suspended solids/sediments, nutrients, heavy metals, bacteria and viruses, pesticides, oil and grease, toxic organic compounds, and trash and debris. The proposed Project includes the provision of bio-filtration planters, an underground detention basin, storm drain lines, and lift station pump. The bio-filtration planters would remove pollutants from the runoff, and various other non-structural source control best management practices (BMPs) would reduce stormwater pollutants from the Project. These BMPs would be implemented in compliance with the Clean Water Act's National Pollutant Discharge Elimination System (NPDES) requirements, Orange County Municipal Separate Storm Sewer System (MS4) Permit and Drainage Area Management Plan, and the City's water quality regulations.

Wastewater from the proposed on-site kitchen would be directed into the sewer system and would not be discharged into the storm drainage system; therefore, would not affect surface water quality in the Upper Newport Bay (Back Bay) and Lower Newport Bay. Additional details on measures that would reduce stormwater pollutants from the Project is provided in the PWQMP, which is included in Appendix E to the Draft EIR.

- J&MC-6 The comment references the applicant's responsibility for payment of fair share of equipment. The comment is noted, and as stated in Section 4.10, Public Services, even though the Project specific demand for fire protection services would not result in the need for construction of new or expansion of existing facilities, the proposed Project contributes to the cumulative demand and thus potential impact. MM FIRE-1 is proposed to address the Project's contribution to potential cumulative impacts. The cumulative impact is not a direct demand of a particular project, but rather it is a combined potential impact from a number of proposed projects in the area. As such, the Project is not required to provide for the whole cost of a new rescue ambulance, but it is required to pay for the share of the cost. As the proposed Project, similar to other projects in the area, contributes to a portion of the cumulative impact, it would

also be responsible for a portion of the cost that would mitigate that impact. This is an acceptable standard mitigation practices by many jurisdictions to ensure that potential impacts caused by multiple development projects with a given area are addressed.

Please note the revision to the timing of MM FIRE-1. MM FIRE-1 on page 4.10-7, Section 4.10, Public Services, is hereby revised to read as follows (*red italics* shows the additional text and ~~red strikethrough~~ show the deletions):

MM FIRE-1 *Within 60 calendar days of the City's issuance of the first building permit for the Project, Prior to the issuance of a building permit,* the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

In term of emergency services, the Project would generate a total of 120 resident population, which is a nominal increase to the City's population to be served by emergency services. The Project would create the typical range of service calls for a project of this nature and size, and regardless of location, the future residents of the proposed facility would need to be served by emergency services. Additionally, the Project would replace an existing use with demand for services, including emergency medical services already in place. Examples of other similar facilities in the City have shown that medical emergencies are typically no more frequent than in surrounding communities. It should also be noted that the ITE trip generation rate (2017 *Trip Generation Manual*, 10th Edition) that was used to determine the proposed Project trips takes into account service trips associated with the facility; therefore, the Project's reduced trips, compared to the trips from the existing restaurant, is inclusive of all trips to the facility.

Additionally, based on correspondence from NBFD, it is the practice of NBFD to only use their sirens in traffic, as necessary, and rarely in residential areas. Further, as detailed in the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments), the Project would result in reduced traffic trips compared to the existing restaurant on the site; and therefore, it is speculative to assume that accidents would increase as a result of the proposed Project.

- J&MC-7 The comment states that lack of adequate and overflow parking on the streets would impact the surrounding uses. As indicated in Section 3.0, Project Description, of the Draft EIR, the proposed facility would have subterranean parking with an elevator into the building and would be accessed off the main entry. According to Chapter 20.40.040 of the NBMC, the parking requirement for convalescent facilities is one space per three beds, resulting in a total requirement of 40 parking spaces (36 standard and 4 accessible or barrier-free) for the proposed facility. However, the Project would include a total 53 spaces (49 standard and 4 accessible or barrier-free), which is 33 percent more than the required number. With the excess parking and no overflow parking anticipated, it is unlikely that future employees or visitors would park on surrounding neighborhood streets. It should also be noted that parking on

- Bayview Place is prohibited on both sides of the street, and there is no direct access from the Santa Ana Heights neighborhood to the proposed development. In the absence of direct access and distance, employees and visitors are not likely to park on residential streets of Santa Ana Heights neighborhood and walk to the facility. Additionally, the City would require as conditional of approval (as part of the Conditional Use Permit [CUP]) that all staff and visitors park on-site.
- J&MC-8 The comment expresses concern over potential accidents for the future residents of the facility on wheelchairs accompanied by their visitors going to the Back Bay. The comment is noted; however, it should be recognized that the proposed facility is designed to have a number of outdoor recreation amenities (in the interior and exterior of the facility) where future residents would visit with their family members. In light of the private amenities provided for the residents, the likelihood of accessing other outdoor amenities may be slim. However, it may be likely that the residents would desire going out of the facility for recreation purposes. In those instances, the residents, especially on wheelchair, would always be accompanied by their visitors or staff persons as a safety precaution. Additionally, it is speculative to assume that residents accessing other outdoor amenities, would get into accidents.
- J&MC-9 The comment asserts that the proposed Project is a commercial development, and as such it should be in a commercial setting. For a detailed discussion of rezoning and the proposed General Plan re-designation of the site to PI, please refer to the Topical Response in Section 3.1.1 of these Responses to Comments.

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Comments on Harbor Pointe Senior Living Project DEIR

The following comments on the **Draft Environmental Impact Report** for PA2015-210 (SCH No. **2016071062**) are submitted on September 28, 2018, by:

Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

I have an extremely limited time available to review this DEIR, and as a result have looked at very little of it.

Nonetheless, the "Executive Summary" is riddled with enough errors and inconsistencies to cast doubt, in my mind, on the credibility of remainder of the enterprise, and to make it a very frustrating read.

For example, Section 1.5.1 ("Alternative 1 – No Project Alternative") says "*The No Project Alternative would not meet four of the seven Project Objectives.*" That seems to be corroborated by the more in depth Table 5-1 ("Compatibility Comparison of Alternatives with Project Objectives" -- which I had been directed to in an earlier paragraph), and which shows Alternative 1 is consistent with three of the seven objectives. But a few pages later I am told in Section 1.5.3 ("Environmentally Superior Alternative") that "*The No Project Alternative (Alternative 1) ... would not meet any of the Project Objectives.*" I am unable to understand how Alternative 1 can "not meet any" and at the same time be consistent with three.

Similarly, Section 1.5.2 ("Alternative 2 – Office Development Alternative") tells me "The Office Development Alternative would not meet four of the seven Project Objectives and would only partially meet one objective." But Table 5-1 shows Alternative 2 does not meet three and partially meets two of the objectives. I am baffled by these discrepancies.

Reading a bit before Table 5-1, specifically, on page 5-4, under the significant "Land Use and Planning" impacts, I was surprised to read this gibberish: "*The site is subject to aircraft noise and is located in the typical 85 departure Single Event Noise Equivalent Level for several types of aircraft that operate at John Wayne Airport (JWA).*" Does anyone, including the DEIR authors, know what "the typical 85 departure" (a phrase used on other pages) is, and how you can be "in" it? My guess is "departure" is a typo for "dBA" (A-weighted decibels) and the author was trying to say something like: "*The site is at a location where several types of aircraft that operate at John Wayne Airport (JWA) exceed Single Event Noise Equivalent Levels of 85 dBA.*"

The rejection of alternative sites in Section 5.2.4 ("Alternative Site") seems inadequate to me.

Section 5.2.4 seems to reach its conclusion based primarily on the idea that because this is the property the applicant owns, alternatives aren't feasible. Yet, it's noted the property isn't designated PI in the City General Plan.

It seems obvious to me that if the applicants own a property designated CO-G, but want to build a structure needing a PI designation, they could consider finding the owner of a PI property that wants to build a CO-G project. The two could then simply swap properties, and each build what they want, consistent with the General Plan.

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Alternatively, the present owners could consider selling their CO-G property and using the proceeds to buy a property whose conversion to PI might be better received. For example, in the 2013 process leading up to 2014's Measure Y, the City was approached with a proposal (see Land Use Element Amendment Advisory Committee [agenda packet for September 17, 2013](#)) to switch the commercial property at the corner of Campus and Jamboree to PI so a congregate care facility could be built there. The present applicant might well find that location an easier sell. And if there is, indeed, a need to change General Plan land use designations to accommodate the demand for PI uses, the vacated shopping center where Newport Crossings is proposed has also been suggested as a better place to make that conversion.

Skipping to Section 4.8, the conclusion that building things different from what the General Plan allows furthers the General Plan's objectives and does not obstruct their attainment (per the standards stated on page 4.8-9) seems rather amazing, to me, and quite non-intuitive.

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(con't'd)

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Letter 12: Jim Mosher**Comment Letter Dated September 28, 2018**

- JM-1 The comment expresses that due to limited time, he has had “very limited” time to review the Draft EIR. The Draft EIR was circulated for a 50-day public review and comment period beginning August 10, 2018 and ending September 28, 2018, which is longer than the required 45-day public review period for Draft EIRs under CEQA and the State CEQA Guidelines.

The comment regarding inconsistencies between Section 1.0, Executive Summary, and Section 5.0, Alternatives, is noted. Revisions are made in the following responses.

- JM-2 The comment regarding the error in Section 1.5.1 is noted. The last sentence of the first paragraph under Section 1.5.3 on page 1.4 of Section 1.0, Executive Summary, is hereby revised to read as follows (*red italics* shows the additional text and ~~red-strikethrough~~ show the deletions):

In addition, this alternative would not meet *four* ~~any~~ of the Project Objectives.

- JM-3 The comment regarding the error in Section 1.5.2 is noted. The last sentence of the second paragraph under Section 1.5.2 on page 1.4 of Section 1.0, Executive Summary, is hereby revised to read as follows (*red italics* shows the additional text and ~~red-strikethrough~~ show the deletions):

The Office Development Alternative would not meet *three* ~~four~~ of the seven Project Objectives and would only partially meet *two other* ~~one~~ objectives.

- JM-4 The comment regarding the error is noted. The first sentence under Land Use and Planning on page 5-5 of Section 5.0, Alternatives, is hereby revised to read as follows:

The site is subject to aircraft noise and is located in the typical 85-*dba departure noise contour for the* ~~dba departure~~ Single Event Noise Equivalent Level for several types of aircraft that operate at John Wayne Airport (JWA).

Additionally, the same revision is made to the fifth sentence of the third paragraph on page 4.8-20 in Section 4.8, Land Use and Planning to read as follows (*red italics* shows the additional text and ~~red-strikethrough~~ show the deletions):

Though not currently or projected to be in the 60-dB CNEL contour, the site is subject to aircraft noise and is located in the typical 85-*dba departure noise contour for the* ~~dba departure~~ Single Event Noise Equivalent Level for several types of aircraft that operate at JWA (A300-600 and the 737-700).

- JM-5 The comment questions the rejection of alternative sites as inadequate and proposes options, including land swap with another land owner or setting the current property and purchasing land in a more suitable area. The comment is noted, and it should be noted that Section 5.2.4, Alternative Site, of the Draft EIR, did discuss the alternatives criteria and the CEQA Guidelines and requirements that need to be considered in decision for an

alternative site or location. Per the rationale identified in that section, it was concluded that, since the Project Applicant cannot be required to reasonably acquire, control, or have access to another site that could accommodate the proposed Project, an alternative site within the jurisdiction of the City of Newport Beach has been eliminated from further consideration.

Additionally, it should be noted that Key question, per Section 15126.6(f)(2) of the State CEQA Guidelines (14 CCR), “is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.” As disclosed in the analyses throughout the Draft EIR, none of the potential impacts of the proposed Project would result in significant and unavoidable impacts. As such, and in light of the rationales discussed in Section 5.2.4, the consideration of an alternative site was therefore rejected.

- JM-6 The comment objects to the statement in Section 4.8, Land Use and Planning, of the Draft EIR stating that, “an action, program, or project is consistent with the General Plan if, considering all its aspects, it will further the objectives and policies of the General Plan and not obstruct their attainment.” It is acknowledged throughout Draft EIR that the Project requires a General Plan Amendment to implement the proposed senior living project. The analysis on pages 4.8-9 through 4.8-17 in Section 4.8 shows that the change in the land use designation alone would not create conflicts or inconsistencies with the goals and policies of the Newport Beach General Plan such that the attainment of those goals/objectives/policies would be obstructed. This is not unique to the proposed Project. The determination of consistency is a required and standard discussion in any EIR.

From: Rodger & Julie Lowery <lowerynewport@sbcglobal.net>
Sent: Saturday, September 29, 2018 8:19 AM
To: Zdeba, Benjamin
Subject: Fw: Harbor Point Assisted Living project.
Attachments: HarborPointe_Parking.jpg

Dear Sir,
Yesterday I sent this email to all the members of the planning commission, I received a notice of "failure to deliver" regarding Mr. Bill Dunlap.
Please forward this email to him.
Thank you, Rodger Lowery

On Friday, September 28, 2018 5:05 PM, Rodger & Julie Lowery <lowerynewport@sbcglobal.net> wrote:

Dear Gentlemen and Ladies of the Newport Beach Planning Commission,
Please see attached .jpg file and read my below statement concerning the Harbor-Pointe zoning request.

I attended the September 13th meeting for a zoning change to accommodate the Harbor Pointe assisted living home.
I've lived in neighboring Bay-view Heights since the 1980's and I am 100% opposed to any zoning change.

This project development will have a great negative impact upon my neighborhood.
This already reduced project, as proposed the other evening, is *still too large for the plot of land they want to use*.

The biggest issues are *increase traffic* through the neighborhood, and **PARKING**.

The woman speaking for the development company said that there was a surplus of parking above the required one parking spot for every three beds. The minimum with the proposed 120 beds is 40 spots, they said they have 55, 15 more than the minimum required.

One of the planning commission members even questioned city staff where that number of 1 to 3 was arrived?

No one knew, only that it was the current code for this type of zoning or development.

This is not enough parking and will overflow into the Bayview and adjoining neighborhoods.

There are a couple of other issues that need to be added to discussion.

We were told there would be only two shifts, how can they work with just two shifts? That's 8 hours plus 4 hours overtime per employee. The person giving the presentation for the development company, also said there will be an overlap between shifts to allow for continuity between staff and the patients. That means for an hour during each shift change whether it is two or three shifts, there will be double the employees present at that time. Where is the parking for this?

The estimate of 20 to 25 employees per shift is unrealistically low. The staff, which I understand, will be taking care of up to 120 residents, staff will probably be closer to 30 or more. This besides the staff nurses, it would include:

Administration personnel, cooks, waiters & bus persons in the restaurant, security, in house nurses, house cleaning people etc.

That already is more than the 55 parking spots they provide.

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I ask the commission to fully explore the realities of how many employees will be needed when operating at full capacity.

With similar experiences with an elderly relative, *many residents in facilities like this own and drive their own cars.*

They propose a full exercise room on a lower floor. If the residents are fit and healthy enough to work out, you know, many will be healthy and mentally fit to operate and own a car. Is that type of parking accounted for?

Many of the people that live in assisted living facilities, are not disabled, they just want a place that's cleaned and taken care of for them, and know they can get three meals a day if they want. It just makes life a little easier.

Some residents I've seen will drive and even have part time jobs.
So, how many parking places are allowed for resident parking?

There will be birthday parties. Holiday celebration parties for the residents and their families.
So where do all the relatives and guests park?
Where will all this over flow parking go? To the adjacent streets of Bayview Heights and elsewhere.

No one has mentioned service vendors and their vehicles with their daily visits. Food and restaurant vendors,
Waste-Management, will be making numerous visits per week. Doctors, therapists, salon / personal care people will visit and need parking. Maintenance, electrical, plumbing, HVAC and appliance repair companies will be there on a regular basis once the newness of equipment has worn off.

Whether or not this project gets built, and I assume it will, since the developer already owns the land, It is too large for the plot of land they have and will have a negative impact on the adjoining neighborhood.

Their proposed parking is very unrealistically for the building size, amount of residents, staff, etc.
This project must still be reduced in size and scope, so they *do* have realistic and adequate parking on site,
OR the zoning request should be denied.

Thank you for your time to reading this.

Best regards,
Rodger Lowery
20222 Spruce Ave. NB CA

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(cont'd)

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Red indicates how pedestrians can walk from Bayview streets to proposed facility

OPEN PARKING BOTH SIDES

No Parking both sides

Parking structure \$15 / day here

SOME PARKING ON WEEKENDS

OPEN PARKING
BOTH SIDES

No Parking both sides

Parking structure
\$15 / day
here

SOME PARKING
ON WEEKENDS

Red indicates how pedestrians can walk from Bayview streets to proposed facility

OPEN PARKING BOTH SIDES

No Parking both sides

Parking structure \$15 / day here

SOME PARKING ON WEEKENDS

Red indicates how pedestrians can walk from Bayview streets to proposed facility

OPEN PARKING
BOTH SIDES

No Parking both sides

Parking structure
\$15 / day
here

SOME PARKING
ON WEEKENDS

Letter 13: Roger & Julie Lowery**Comment Letter Dated September 28, 2018**

- R&JL-1 The comment expresses opposition to rezoning and states that it would have negative impacts on the neighborhood. As no clarification is provided on the Project's specific impacts, no response can be provided. Regarding rezoning, for clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed description of general plan amendment and rezoning, please refer to the Topical Response in Section 3.1.1, General Plan Amendment/Zone Change, of these Responses to Comments.
- R&JL-2 The comment questions adequacy of parking for the proposed facility. As discussed in Section 3.0, Project Description, of the Draft EIR, the proposed facility would have subterranean parking with an elevator into the building and would be accessed off the main entry. According to Chapter 20.40.040 of the NBMC, the parking requirement for convalescent facilities is one space per three beds, resulting in a total of 40 parking spaces (36 standard and 4 accessible or barrier-free) would be required for the proposed facility. However, the Project proposes a total 53 spaces (49 standard and 4 accessible or barrier-free), which is 33 percent more than the required number. With the excess parking, it is unlikely that future employees or visitors would park on the surrounding residential streets. It should also be noted that parking on Bayview Place is prohibited on both sides of the street, and there is no direct access from the Santa Ana Heights neighborhood to the proposed development. In the absence of direct access and distance, employees and visitors are not likely to park on residential streets of Santa Ana Heights neighborhood and walk to the facility. Additionally, the City would require as a condition of approval (as part of the Conditional Use Permit [CUP]) that all staff and visitors park on-site.
- R&JL-3 The comment questions adequacy of parking in light of number of employees and personnel. The commenters states that the number of employees per shift is unrealistically low. The comment provides further detail on various trips to the facility from vendors, doctors, maintenance crew, visitors, and other related entities that would require parking. Please refer to Response R&JL-2, above, regarding the parking requirement. The comment further states that the future residents of the facility would drive, and therefore need parking. Please note, memory care residents would not drive, and it is likely that only up to five percent of the assisted living residents may drive.

Regarding lack of adequate number of employees per shift, the State of California does not have a specific requirement for staffing assisted living and memory care facilities due to a large varieties and types for such facilities. Therefore, typical standards utilized by similar facilities have been used for determining the number of employees. For assisted living the typical ratio is 1 employee per 12 to 18 (1:12 – 18) residents during daytime hours and 1 employee per 18 to 25 (1:18 – 25) residents during the nighttime hours. For the memory care the typical ratio is 1 employee per 6 to 8 (1:6 – 8) residents

during the daytime hours and 1 employee to 10 to 16 (1:10 – 16) residents during the nighttime hours.

With the mix of unit types as discussed in the Draft EIR, there will be up to 93 assisted living and 27 memory care residents. Using the lower end of the above staffing ranges would result in a total of 22 and 13 employees during the daytime and nighttime, respectively. This would account for the overlap in staggered shifts to ensure adequate staffing. The analysis associated with the 22 daytime and 13 nighttime employees has been covered in the Draft EIR.

It should be noted that the State Department of Health Services (DHS) will review the Project and the staffing plan prior to approval and issuance of a Residential Care Facility for the Elderly (RCFE) license. The DHS is also responsible for monitoring the licensee and the adequacy of staffing for every assisted living and memory care facility in the State.

R&JL-4 The comment states that since the developer already owns the land and, the facility would be built. The comment further adds that due to the size of the structure, negative impact on the adjacent neighborhood would result. Please note, the developer does not currently own the land. Regardless of ownership, the proposed land use would need to receive discretionary approval by the City of Newport Beach. Additionally, the proposed facility is designed in consideration of the surrounding land uses and compliance with the development requirement of Area 5 of the PC-32 in terms of height and setbacks from the surrounding uses. The proposed building is uniformly three stories, or 33 feet, at the top of the roof, and 39 feet, 6 inches at the highest point, which includes mechanical equipment screening. This is within the height limits allowed currently in the PC-32 text. Increased setbacks and ample landscaping are incorporated near the southwest property line, adjacent to Baycrest condominiums, to create a buffer and enhance compatibility. Additionally, varied textures and colors, recesses, articulation, and design accents on the elevations would be integrated in order to enhance the building's architectural style.

The building facade is designed to be compatible with the surrounding developments in the area. The building materials include stone veneer and stucco at the exterior of the building, stainless steel metal panels at accent areas, glass windows, and concrete or composition shingle roofing. In addition, as depicted in the updated renderings, included in Section 4.0, Clarifications and Revisions as Part of the Final EIR, the proposed facility would include stacked stone pillars at the building entrance and similar columns on the block walls along Bristol and Bayview. These elements are consistent with the design guidelines of the Santa Ana Heights Specific Plan.

The building as located on the Project site exceeds the minimum required setbacks currently identified in PC text, as summarized below:

- 41-foot setback from the southwest property line, near the Baycrest condominiums (the PC requires 20 feet between commercial and residential uses)

- 41-foot setback from the office building and residential uses to the northwest (the PC requires 0 feet to the office and 20 feet to the residential uses)
- 15-foot setback from Bristol Street (the PC requires 10 feet)
- 11-foot setback from Bayview Place (the PC requires 10 feet)

The comment asserts that the size of the facility should be further reduced, so parking can accommodate the development or rezoning be denied. Comment regarding size of the facility is noted and will be forwarded to the decision makers. Regarding rezoning, as indicated in Response R&JL-1, above, please refer to the Topical Response in Section 3.1.1, General Plan Amendment/Zone Change, of these Responses to Comments.

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Form Letter 1 (FL1)

As indicated above, the following is a “form letter” submitted by a number of commenters, as listed in Section 3.5. The responses to the “form letter” follow the letter and are referenced in the subsequent responses to the same letter.

As a homeowner at 20 Baycrest Court, Newport Beach, CA, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

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- **Improper Notice to Homeowners:** Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

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- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

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- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

4

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

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- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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- The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants. } 7
- The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR. } 8
- As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7. } 9
- The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA. } 10
} 11
- Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR. } 12

Responses to Form Letter 1 (FL1)

FL1-1 The comment requesting that the Environmental Impact Report (EIR) be redone and that the homeowners have a role in selecting the consultant is noted. It should be noted that the very essence of what is demanded in this comment is against the CEQA process and selection of an environmental consultant. It is a standard practice that the lead agency, in this case the City of Newport Beach, select the CEQA consultant through a competitive bid process and in accordance with a set of selection criteria. The CEQA consultant for the preparation of the EIR for the Harbor Pointe Project was selected following the City procurement procedures. The firm's capabilities and experience were evaluated as part of that process. The firm and staff involved have extensive experience in preparing environmental documents. The consultant firm reports to the City staff, and all communication during the preparation of the document has been with City staff. There was no direct communication between the consultant team and the applicant. This process sets the foundation for preparation of a CEQA document that is objective and fair and does not represent the interests of any of the parties involved. The developer pays for preparation of the CEQA document through the lead agency. While the CEQA document is funded by the developer, the CEQA consultant prepares the document in coordination with and at the direction of the lead agency, and upon completion of the document, it goes through multiple rounds of review by the lead agency's various departments. Comments made by the lead agency are addressed by the CEQA consultant until all comments are addressed to the satisfaction of the lead agency before the document is released for public review.

Additionally, it should be noted that involvement of the potentially affected parties (e.g., surrounding property owners) would present a conflict of interest and would not be in compliance with the City's *Implementation Procedures for the California Environmental Quality Act* (City Council Policy K-3). In order to maintain objectivity, preparation of the CEQA document cannot and should not be influenced by the interests of any parties.

Furthermore, while the property owners may not have a direct say in selection of the CEQA consultant, the selection of the consultant gets approved as part of a City Council meeting. If there is a reason to believe a firm has a conflict or if there is an objection, comments can be made at the time of the selection at the City Council meeting. Additionally, CEQA establishes a process whereby the interested parties have the opportunity to get involved by reviewing and commenting on the CEQA document. Opportunities for public participation are presented throughout the process, initially by attending and commenting at the scoping meeting; participating at the Planning Commission Study Session; reviewing the Draft EIR during the mandated 45-day review period; and finally attending the Planning Commission and City Council public hearings during the Project's approval process.

In light of the above discussion, the CEQA consultant for the proposed Project has been selected in a fair and competitive process, and the CEQA document has been prepared objectively and without representation of any particular interest, and with input from the interested parties and the public.

FL1-2 The commenter asserts that homeowners were not given notice when the plans were first submitted to the City, and that the 500-foot radius mailing was not conducted. All

noticing for the proposed Harbor Pointe Project EIR complied with the applicable requirements. The City is not required to provide notice to the surrounding property owners each time plans for a new project are submitted to the City. However, to help keep interested parties informed, the City of Newport Beach website includes an on-going list of projects submitted for discretionary approval, which is updated routinely. The list is available to any member of the public and includes a status of a project's submittal.

The EIR preparation process has followed all noticing requirements in accordance with NBMC, Chapter 20.62. The community was provided notice early on in the process for the EIR scoping meeting, which was held on August 15, 2016, to facilitate public review and comment on the Project. In addition to notices sent to the surrounding property owners within 300 feet of the Project limits, in accordance with Section 20.62.020 (B)(2)(c) of Chapter 20.62 of NBMC, a notice was also published in the Orange County Daily Pilot regarding the meeting.

Further, similar noticing procedures were followed for the release of the Draft EIR for public review. While noticing requirements call for notifying the property owners within 300 feet of the Project boundary by mail at least ten days before the final public hearing (Government Code Section 65353 and Section 20.62.020 (B)(2)(c) of Chapter 20.62 of NBMC), the City mailed out notices on August 10, 2018, at the beginning of the public review period for the EIR. Additionally, a notice was published in the Orange County Daily Pilot on August 10, 2018. By providing the notice as soon as the EIR was available, rather than the required 10 days before the hearing, the City exceeded the requirements to encourage public participation.

A study session with the Planning Commission was also held on September 13, 2018 as another opportunity for the public to provide input. At the study session, it was announced that the intention was to return to the Planning Commission on December 6, 2018.

Based on the information above, the City exceeded the noticing requirements for the outreach to the community.

- FL1-3 The comment states "The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF [square feet] per person in this proposed facility." The basis for this comment is unclear. The Project proposes an 84,517 square foot facility. This equates to a gross square footage of slightly more than 704 square feet per person. Exhibits 3-2a through 3-2d provide the floor plans for the facility. As can be seen on these plans, the rooms range in size 400 to 870 square feet. This is in addition to the common dining rooms, the theater, living rooms, and library, all of which make up the living area for the residents.

The comment further indicates that noise from the delivery trucks would be impactful to the adjacent uses. It should be noted that the existing restaurant already receives deliveries of food and other items necessary for the operation of the restaurant. Therefore, delivery trucks would not be new occurrence for the adjacent residential uses and would occur during typical daytime business hours, similar to the existing restaurant.

- FL1-4 The commenter states that the EIR does not address the odor from the kitchen of the proposed facility. In the absence of a permit, the comment adds, the kitchen would be illegal. It should be noted, that at this point in the process no approvals have been given; therefore, issuance of any permits would be premature. If the City of Newport Beach approves the Project, then associated permits and design control measures would be obtained before use and occupancy would be allowed.

The proposed Project would include a commercial grade kitchen equipped with the technology that would eliminate potential issues associated with odors. The grill/stove in the kitchen would have a high velocity filter cartridge to clean the exhaust from the grease that has been produced while preparing food and trapped through a grease drip pan. The filter cartridge and the grease drip pan would be serviced and maintained on a regulator basis to ensure proper function. The outlet of the exhaust fan will be approximately 36 feet above the first floor of the facility at an elevation of approximately 20 feet above and a distance of approximately 140 feet from the closest residence (habitable structure). Therefore, with the system in place, odors would not be substantial such that they would significantly impact the future residents of the facility and the adjacent community. Additionally, odors associated with food waste would not result in any impacts, as food waste would be deposited in trash receptacles secured with lids that would prevent odors from escaping. The receptacles would be stored in an appropriate place for pick up.

Additionally, as indicated in Section 2.0, Introduction, Project History, and Setting, of the Draft EIR, according to the South Coast Air Quality Management District's (SCAQMD's) CEQA Air Quality Handbook (SCAQMD 1993), land uses associated with odor complaints typically include agricultural uses, wastewater treatment plants, food processing plants, chemical plants, composting, refineries, landfills, dairies, and fiberglass molding. Thus, none of the components of the proposed Project would be associated with objectionable odors.

- FL1-5 The comment correctly states that the EIR identifies that 10,200 CY (cubic yards) of soil would be exported from the site. The same comment also indicates that the EIR provides an inadequate evaluation of seismic impacts to the neighborhood. The comment is unclear on how seismic activity (associated with earthquakes) and the export of soil are related.

As noted in Section 4.4, Geology and Soils, of the Draft EIR, all construction would comply with the California Building Code. Chapter 18 of the California Building Code, Soils, and Foundations specifies the level of soil investigation required by law in California. Requirements in Chapter 18 apply to building and foundations systems and consider reduction of potential seismic hazards (Section 4.4, page 4.4-1).

Further, Chapter 15.10, Excavation and Grading, of the NBMC also provides the design standards that need to be met to ensure impacts are reduced to less than significant. This section includes regulations for grading, drainage, and hillside construction. Per Chapter 15.10 of Title 15, grading permits are required for all Project sites requiring excavation, fills, and paving. This regulation provides for the approval of grading and building plans and inspection of grading and construction, and drainage control for projects in compliance with the current Municipal Separate Storm Sewer System (MS4)

Permit issued by the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana RWQCB), under the National Pollutant Discharge Elimination System (NPDES) permitting process. Based on the conceptual design and the evaluation by licensed geotechnical engineers, these standards could be achieved.

Regarding seismicity, Section 4.4, Geology and Soils, of the Draft EIR, under Threshold 4.4-1, provides detailed analysis of seismicity as a natural phenomenon. As indicated, the Project site and the City of Newport Beach, similar to the rest of California, is in a seismically active area that could experience ground shaking during the life of any project. The Geotechnical Evaluation conducted for the Project demonstrates that seismic hazards at the Project site can be attributed to ground shaking resulting from seismic events on active faults. The Project area has experienced earthquake-induced ground shaking in the past and is expected to continue to experience ground shaking from future earthquakes in the region. Therefore, seismic activities would happen regardless of what type of project is developed on the site. Additionally, the proposed Project or any project to be developed on the site would not be causing or be responsible for potential impacts associated with cracking and damage to the roads, walls, and roofs of adjacent development that may occur as a result of any seismic activity in the area/region.

- FL1-6 The comment states that the height of the structure exceeds zoning requirement and will need a variance. As described in detail in Section 3.0, Project Description, of the Draft EIR, the proposed building is uniformly three stories. As proposed, it will be 33 feet to the top of the roof, and 39 feet, 6 inches to the highest point, which includes mechanical equipment screening. This is within the height limits of PC-32, which is the applicable zoning for the site. The Project site is within Area 5 of the Planned Community Development Plan (PC-32), and as stated on page 21 of the said plan,

“Buildings shall not exceed 35 feet. This height shall be measured from first floor elevation (excluding subterranean levels) to ceiling elevation of uppermost floor. An additional ten (10') feet height extension is permitted only to accommodate and screen mechanical equipment.”

Therefore, as stated in the Draft EIR and verified by the City, and in light of the above excerpt from PC-32, the proposed structure height of 39 feet and 6 inches would not exceed the maximum height limit of 45 feet (35 feet + 10 feet = 45 feet), and an amendment to the maximum height limits would not be required, as the proposed height is within the height limits in PC-32 text.

- FL1-7 The comment inaccurately states that the EIR does not address asbestos and lead-based paint in the existing structure that would be demolished. Section 4.6, Hazards and Hazardous Materials, of the Draft EIR includes a discussion of asbestos and lead-based paint under regulatory requirements. Additionally, the analysis includes two regulatory requirements (RRs) under Thresholds 4.6-1 and 4.6-2, specifically addressing asbestos and lead-based paint:

RR HAZ-1 Demolition shall be conducted in accordance with the remediation and mitigation procedures established by all federal, State, and local standards, including those of the federal and State

Occupational Safety and Health Administrations (OSHA and CalOSHA) and South Coast Air Quality Management District (SCAQMD) regulations for the excavation, removal, and proper disposal of asbestos-containing materials (SCAQMD Regulation X – National Emission Standards For Hazardous Air Pollutants, Subpart M – National Emission Standards For Asbestos). The materials shall be disposed of at a certified asbestos landfill. The Asbestos-Abatement Contractor shall comply with notification and asbestos-removal procedures outlined in SCAQMD Rule 1403 to reduce asbestos-related health risks. SCAQMD Rule 1403 applies to any demolition or renovation activity and the associated disturbance of asbestos-containing materials. These requirements shall be included on the contractor specifications and verified by the City of Newport Beach’s Community Development Department in conjunction with the issuance of a Demolition Permit.

RR HAZ-2 Contractors shall comply with the requirements of Title 8 of the *California Code of Regulations* (Section 1532.1), which sets exposure limits, exposure monitoring, respiratory protection, and good working practices by workers exposed to lead. Lead-contaminated debris and other wastes shall be managed and disposed of in accordance with the applicable provisions of the *California Health and Safety Code*.

The issue of asbestos-containing materials and lead-based paint were also evaluated under Threshold 4.13-6, which pertained to compliance with federal, state, and local statutes and regulations related to solid waste. With compliance of the above regulatory requirements, the analysis concludes that the impacts pertaining to asbestos and lead-based paint would be less than significant.

FL1-8 The comment alleges that the Draft EIR only focuses on construction storm water management and does not discuss post construction operations. The comment adds that it is a violation of Clean Water Act and California Stormwater regulations, and the operating kitchen would result in damage to the Back Bay by pathogens and other compounds. The comment further adds that the proposed facility does not have a storm water Quality Impact Management Plan (SQIMP), which needs to be addressed. It should be noted that, Section 4.7, Hydrology and Water Quality, of the Draft EIR (under Thresholds 4.7-1 and 4.7-6, Long Term Water Quality Impacts), provides a detailed discussion of impacts on hydrology and water quality post construction. The discussion includes the potential pollutants that would be generated by the proposed Project; the water quality impairment of downstream water bodies; the proposed on-site drainage system; and a summary of the *Preliminary Water Quality Management Plan* (PWQMP) for the Project. As indicated in Section 4.7, potential pollutants of concern include suspended solids/sediments, nutrients, heavy metals, bacteria and viruses, pesticides, oil and grease, toxic organic compounds, and trash and debris. The proposed Project includes the provision of bio-filtration planters, an underground detention basin, storm drain lines, and lift station pump. The bio-filtration planters would remove pollutants from the runoff, and various other non-structural source control best management practices (BMPs) would reduce stormwater pollutants from the Project. These BMPs

would be implemented in compliance with the Clean Water Act's National Pollutant Discharge Elimination System (NPDES) requirements, Orange County Municipal Separate Storm Sewer System (MS4) Permit and Drainage Area Management Plan, and the City's water quality regulations.

Wastewater from the proposed on-site kitchen would be directed into the sewer system and would not be discharged into the storm drainage system; therefore, would not affect surface water quality in the Upper Newport Bay (Back Bay) and Lower Newport Bay. Additional details on measures that would reduce stormwater pollutants from the Project is provided in the PWQMP, which is included in Appendix E to the Draft EIR.

- FL1-9 The comment asserts that it is not ethical for the proposed mitigation measures to focus on "more money to the City from the developer" and references mitigation measure (MM) FIRE-1. It should be noted that the mitigation measure is proposed under cumulative impacts discussion of Section 4.10, Public Services, of the Draft EIR. The analysis states that even though the Project specific demand for fire protection services would not result in the need for construction of new or expansion of existing facilities, the proposed Project contributes to the cumulative demand and thus the potential impacts. MM FIRE-1 is proposed to address the Project's contribution to potential cumulative impacts. The cumulative impact is not a direct demand of a particular project, but rather it is a combined potential impact from a number of proposed projects in the area. As such, the Project is not required to provide for the whole cost of a new rescue ambulance, but it is required to pay for the share of the cost. As the proposed Project, similar to other projects in the area, contributes to a portion of the cumulative impact, it would also be responsible for a portion of the cost that would mitigate that impact. This is an acceptable standard mitigation practice by many jurisdictions to ensure that potential impacts caused by multiple development projects within a given area are addressed.

Please note the revision to the timing of MM FIRE-1. MM FIRE-1 on page 4.10-7, Section 4.10, Public Services, is hereby revised to read as follows (*red italics* shows the additional text and ~~red strikethrough~~ show the deletions):

MM FIRE-1 *Within 60 calendar days of the City's issuance of the first building permit for the Project, Prior to the issuance of a building permit,* the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

- FL1-10 The comment states that the traffic study did not address the accurate flow mix from the State Route 73 offramp and distance to the Baycrest intersection. It should be noted that the Project trip generation analysis was conducted by a qualified traffic engineering firm, Urban Crossroads, under contract to the City, that is very familiar with the City of Newport Beach and has in-depth knowledge of the City's Traffic Phasing Ordinance (TPO). Though the Project involves an increase in AM peak hour trip generation of 17 vehicles per hour (approximately one every three minutes), trip generation for PM peak hour and daily traffic conditions decrease with the proposed

Project. The Project would not involve moving the intersection, and intersection spacing is not affected by the Project.

- FL1-11 This comment compares the lighting from the proposed facility to a “baseball stadium” due to light pollution and states that the conclusion is not less than significant and therefore, the Project is not in compliance with CEQA. The discussion of lighting under Threshold 4.1-4 in Section 4.1, Aesthetics, of the Draft EIR acknowledges that the proposed facility would increase lighting levels at the Project site. The analysis also provides substantiation as to why the impacts would be less than significant. Lighting is already present from the existing use on site and the surrounding development, including commercial, office, and residential uses. Thus, lighting from the proposed facility would not be unique to the area. The intent of the proposed lighting for the facility is to minimize light spillover while providing lighting for safety and visibility in compliance with the ambient and nighttime lighting in the area. These would include pole lighting, small light bollards, path lighting, minor accent lighting, and code-required egress lighting at exit doors. Consistent with NBMC Section 20.30.070 (Outdoor Lighting), all exterior lighting would be shielded and facing down and away from adjacent properties. The Community Development Director can also order dimming of lights when illumination creates an unacceptable negative impact on surrounding land uses.

Additionally, due to the nature of the development and lack of surface parking, substantial lighting during the nighttime is not anticipated. For these reasons, no mitigation measure is proposed, and lighting would be designed in a way that would not result in spillover onto the surrounding uses. Furthermore, the existing wall at the perimeter of the site in addition to the enhanced landscaping would shield lighting from the proposed facility. Therefore, the conclusion of less than significant impact in the EIR is justified and supported by substantial evidence.

- FL1-12 The commenter states that he or she should be informed regarding the new firm to complete a new EIR. Per the discussion in Response FL1-1, above, selection of a new firm in consultation with the homeowners is not in accordance with the City of Newport Beach procurement procedures for selection of an environmental consultant (City Council Policy K-3). Selection of the environmental consultant for preparation of the EIR for the proposed Project has been in compliance with CEQA requirements, the City procedures, and standard practice in the industry.

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From: Christine Keegan <cs4design@cox.net>
Sent: Thursday, September 27, 2018 3:35 PM
To: Zdeba, Benjamin
Subject: Bayview EIR

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at 20 Baycrest Court, Newport Beach, CA, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- **Improper Notice to Homeowners:** Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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- The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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- The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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- As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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- The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Best Regards,
Christine Keegan

Letter 14: Christine Keegan

Comment Letter Dated September 27, 2018

- CK-1 Please refer to Response LF1-1 of the “form letter”, above.
- CK-2 Please refer to Response LF1-2 of the “form letter”, above.
- CK-3 Please refer to Response LF1-3 of the “form letter”, above.
- CK-4 Please refer to Response LF1-4 of the “form letter”, above.
- CK-5 Please refer to Response LF1-5 of the “form letter”, above.
- CK-6 Please refer to Response LF1-6 of the “form letter”, above.
- CK-7 Please refer to Response LF1-7 of the “form letter”, above.
- CK-8 Please refer to Response LF1-8 of the “form letter”, above.
- CK-9 Please refer to Response LF1-9 of the “form letter”, above.
- CK-10 Please refer to Response LF1-10 of the “form letter”, above.
- CK-11 Please refer to Response LF1-11 of the “form letter”, above.
- CK-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Teresa Watanabe <teresa.watanabe@broadcom.com>
Sent: Thursday, September 27, 2018 3:36 PM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: Kitayama redevelopment concerns

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at 30 Baycrest Court, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

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• The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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• The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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• The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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• As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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• The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Best Regards,

Ross and Teresa @ 30 Baycrest

Letter 15: Ross & Teresa Watanabe

Comment Letter Dated September 27, 2018

- R&TW -1 Please refer to Response LF1-1 of the “form letter”, above.
- R&TW -2 Please refer to Response LF1-2 of the “form letter”, above.
- R&TW -3 Please refer to Response LF1-3 of the “form letter”, above.
- R&TW -4 Please refer to Response LF1-4 of the “form letter”, above.
- R&TW -5 Please refer to Response LF1-5 of the “form letter”, above.
- R&TW -6 Please refer to Response LF1-6 of the “form letter”, above.
- R&TW -7 Please refer to Response LF1-7 of the “form letter”, above.
- R&TW -8 Please refer to Response LF1-8 of the “form letter”, above.
- R&TW -9 Please refer to Response LF1-9 of the “form letter”, above.
- R&TW -10 Please refer to Response LF1-10 of the “form letter”, above.
- R&TW -11 Please refer to Response LF1-11 of the “form letter”, above.
- R&TW -12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Patti Lampman <plampman1@icloud.com>
Sent: Thursday, September 27, 2018 3:38 PM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: Inadequate EIR for Harbor Point Project and Need for New EIR to Address Inadequacies

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

I am a home owner at 140 Baycrest Ct and request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- **Improper Notice to Homeowners:** Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand that this removal of soil and excavation for underground parking so close to our homes be investigated much further.

- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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- The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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- The EIR only addresses construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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- As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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- The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

} 12

Best Regards,

Patti Lampman
140 Baycrest Ct.
Newport Beach, CA 92660

Letter 16: Patti Lampman

Comment Letter Dated September 27, 2018

- PL-1 Please refer to Response LF1-1 of the “form letter”, above.
- PL-2 Please refer to Response LF1-2 of the “form letter”, above.
- PL-3 Please refer to Response LF1-3 of the “form letter”, above.
- PL-4 Please refer to Response LF1-4 of the “form letter”, above.
- PL-5 Please refer to Response LF1-5 of the “form letter”, above.
- PL-6 Please refer to Response LF1-6 of the “form letter”, above.
- PL-7 Please refer to Response LF1-7 of the “form letter”, above.
- PL-8 Please refer to Response LF1-8 of the “form letter”, above.
- PL-9 Please refer to Response LF1-9 of the “form letter”, above.
- PL-10 Please refer to Response LF1-10 of the “form letter”, above.
- PL-11 Please refer to Response LF1-11 of the “form letter”, above.
- PL-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Rhonda Watkins <rhondaw949@gmail.com>
Sent: Thursday, September 27, 2018 3:51 PM
To: Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg; Zak, Peter
Subject: Harbor Pointe EIR Issues

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at 58 Bayview Court, Newport Beach, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we request to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this

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removal of soil and excavation for underground parking so close to our homes be investigated much further.

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- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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- The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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- The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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- As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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- The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR. Thank you for your time and attention to this matter in advance.

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Best Regards,

Rhonda Watkins
6408 W. Ocean Front

Newport Beach, CA 92663
(949) 231-9816
rhondaw949@gmail.com

Letter 17: Rhonda Watkins

Comment Letter Dated September 27, 2018

- RW-1 Please refer to Response LF1-1 of the “form letter”, above.
- RW-2 Please refer to Response LF1-2 of the “form letter”, above.
- RW-3 Please refer to Response LF1-3 of the “form letter”, above.
- RW-4 Please refer to Response LF1-4 of the “form letter”, above.
- RW-5 Please refer to Response LF1-5 of the “form letter”, above.
- RW-6 Please refer to Response LF1-6 of the “form letter”, above.
- RW-7 Please refer to Response LF1-7 of the “form letter”, above.
- RW-8 Please refer to Response LF1-8 of the “form letter”, above.
- RW-9 Please refer to Response LF1-9 of the “form letter”, above.
- RW-10 Please refer to Response LF1-10 of the “form letter”, above.
- RW-11 Please refer to Response LF1-11 of the “form letter”, above.
- RW-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Carol McLean <carol.mclean92660@gmail.com>
Sent: Thursday, September 27, 2018 4:07 PM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: Kitayama Redevelopment

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at **55 Baycrest Ct.** I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- **Improper Notice to Homeowners:** Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

- The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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• The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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• As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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• The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Best Regards,

Carol A. Mclean
55 Baycrest Ct.
Newport Beach, CA 92660
949.725.1095 (home phone)

Carol McLean
949.387.3101 W
949.677.1057 C
949.725.1035 F
Carol.mclean92660@gmail.com

Letter 18: Carol A. McLean

Comment Letter Dated September 27, 2018

- CAM-1 Please refer to Response LF1-1 of the “form letter”, above.
- CAM-2 Please refer to Response LF1-2 of the “form letter”, above.
- CAM-3 Please refer to Response LF1-3 of the “form letter”, above.
- CAM-4 Please refer to Response LF1-4 of the “form letter”, above.
- CAM-5 Please refer to Response LF1-5 of the “form letter”, above.
- CAM-6 Please refer to Response LF1-6 of the “form letter”, above.
- CAM-7 Please refer to Response LF1-7 of the “form letter”, above.
- CAM-8 Please refer to Response LF1-8 of the “form letter”, above.
- CAM-9 Please refer to Response LF1-9 of the “form letter”, above.
- CAM-10 Please refer to Response LF1-10 of the “form letter”, above.
- CAM-11 Please refer to Response LF1-11 of the “form letter”, above.
- CAM-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Parris, Taria M <taria.parris@abbvie.com>
Sent: Thursday, September 27, 2018 4:25 PM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Cc: tariaparris30@hotmail.com
Subject: Kitayama Redevelopment

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at 88 Baycrest Court Newport Beach, CA 92660, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and

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damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

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- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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- The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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- The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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- As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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- The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Best Regards,

Taria Parris
88 Baycrest Court
Newport Beach, CA 92660

Letter 19: Taria Parris

Comment Letter Dated September 27, 2018

- TP-1 Please refer to Response LF1-1 of the “form letter”, above.
- TP-2 Please refer to Response LF1-2 of the “form letter”, above.
- TP -3 Please refer to Response LF1-3 of the “form letter”, above.
- TP-4 Please refer to Response LF1-4 of the “form letter”, above.
- TP-5 Please refer to Response LF1-5 of the “form letter”, above.
- TP-6 Please refer to Response LF1-6 of the “form letter”, above.
- TP-7 Please refer to Response LF1-7 of the “form letter”, above.
- TP-8 Please refer to Response LF1-8 of the “form letter”, above.
- TP-9 Please refer to Response LF1-9 of the “form letter”, above.
- TP-10 Please refer to Response LF1-10 of the “form letter”, above.
- TP-11 Please refer to Response LF1-11 of the “form letter”, above.
- TP-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Mark Eubanks <calmark2006@outlook.com>
Sent: Thursday, September 27, 2018 5:21 PM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: Re: Kitiyama EIR Deficiencies

Newport Beach Planning Commissioners & City Officials,

As a homeowner at 46 Baycrest Court, Newport beach, CA 92660, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

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- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation. 6
- The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants. 7
- The EIR only addresses construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR. 8
- As you can see, some mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7. 9
- The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA. 10
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- Please contact me as soon as possible with regards to when a new EIR that addresses these very serious and important issues to the fullest extent will be available and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR. 12

Regards,

Karen Larsen

46 Baycrest Court
Newport Beach, CA 92660
(949) 300-3030 (M)
kalsign@cox.net

Letter 20: Karen Larson

Comment Letter Dated September 27, 2018

- KL-1 Please refer to Response LF1-1 of the “form letter”, above.
- KL-2 Please refer to Response LF1-2 of the “form letter”, above.
- KL-3 Please refer to Response LF1-3 of the “form letter”, above.
- KL-4 Please refer to Response LF1-4 of the “form letter”, above.
- KL-5 Please refer to Response LF1-5 of the “form letter”, above.
- KL-6 Please refer to Response LF1-6 of the “form letter”, above.
- KL-7 Please refer to Response LF1-7 of the “form letter”, above.
- KL-8 Please refer to Response LF1-8 of the “form letter”, above.
- KL-9 Please refer to Response LF1-9 of the “form letter”, above.
- KL-10 Please refer to Response LF1-10 of the “form letter”, above.
- KL-11 Please refer to Response LF1-11 of the “form letter”, above.
- KL-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: S Land <SteveLBayviewHOA@outlook.com>
Sent: Thursday, September 27, 2018 5:31 PM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Lowrey, Lee
Cc: Zdeba, Benjamin; Ramirez, Gregg
Subject: Request that the EIR for the Harbor Pointe project immediately be re-done

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As homeowners at 24 Baycrest Court, Newport Beach, CA 92660, we request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, we request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally.

Because the EIR was funded by the developers, it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health

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department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

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- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

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- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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- The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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- The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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- As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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- The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as

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this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

} 11 cont.

Please be in touch with us as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Respectfully,
Steven & Shauna Land

Letter 21: Steven & Shauna Land

Comment Letter Dated September 27, 2018

- S&SL-1 Please refer to Response LF1-1 of the “form letter”, above.
- S&SL-2 Please refer to Response LF1-2 of the “form letter”, above.
- S&SL-3 Please refer to Response LF1-3 of the “form letter”, above.
- S&SL-4 Please refer to Response LF1-4 of the “form letter”, above.
- S&SL-5 Please refer to Response LF1-5 of the “form letter”, above.
- S&SL-6 Please refer to Response LF1-6 of the “form letter”, above.
- S&SL-7 Please refer to Response LF1-7 of the “form letter”, above.
- S&SL-8 Please refer to Response LF1-8 of the “form letter”, above.
- S&SL-9 Please refer to Response LF1-9 of the “form letter”, above.
- S&SL-10 Please refer to Response LF1-10 of the “form letter”, above.
- S&SL-11 Please refer to Response LF1-11 of the “form letter”, above.
- S&SL-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Lyle Brakob <lbrakob@cox.net>
Sent: Thursday, September 27, 2018 11:32 PM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; pkoetting@newportbeachca.gov; Kleiman, Lauren; Lowrey, Lee
Cc: Ramirez, Gregg; Zdeba, Benjamin; Kirk Snyder; Jeannie Burzan; patti@plampman.com; petemarcek@hotmail.com
Subject: Kitayama Property-Input to DEIR Report

TO: Planning Commissioners (City of Newport Beach)

- >
- > My wife Margaret and I live at 6 Baycrest Court.
- >
- > We are opposed to placing an Assisted Living Facility at that location.
- >
- > Besides our final recommendations at the end of this email we take exception to several items contained in the DEIR and will address two that we consider significant.
- >
- > This evening we emailed each of you separately requesting a new EIR. Moreover, we have previously mailed you separate letters as well as emails to each of you documenting some of the many reasons for our opposition.
- >
- > We also attended the Study Session on Sep 11 and addressed one single aspect—the adverse noise/pollution from commercial and private planes from John Wayne Airport and the effects on senior residents that need to be addressed.
- > The DEIR does not address JW specifically much less how the NOISE and POLLUTION issues would be mitigated to an acceptable level. Further study, to include medical input, on the effects to seniors who would live there and how that would be mitigated to an acceptable level is needed—we question if that is even possible!
- >
- > One more significant negative is...
- >
- > TRAFFIC and SAFETY. The DIER is woefully lacking in addressing these two related adverse impacts to ALL stakeholders in the surrounding area. We seriously question the validity of the study and again it states that there are no significant problems!
- >
- > The DEIR is not thorough, the project is not good for us, our community, the surrounding neighborhoods and it would certainly not be for seniors during their golden years—just not a good fit.
- >
- > We respectfully recommend that the Commission advise City officials to immediately stop any further action on the project including a new EIR or a Public Hearing.

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Lyle and Margaret Brakob
 6 Baycrest Court
 949 856 4445

Letter 22: Margaret & Lyle Brakob (cover letter)**Comment Letter Dated September 27, 2018**

This comment letter includes a cover letter in addition to seven copies of the Form Letter 1, each addressed to a member of the Planning Commission. The responses to the cover letter are provided below, and the responses to form letters on the subsequent pages reference the responses to the Form Letter 1, above.

- M&LB -1 The comment expresses opposition to the project and requests a new EIR. It adds that they have submitted comment letters with the reasons for their opposition. The comment is noted and will be forwarded to the decision makers. As the comment does not raise any CEQA related issues, no response is required.
- M&LB-2 The comment states that they attended the Planning Commission Study Session and commented on adverse noise/pollution from commercial and private planes from John Wayne Airport and the impacts on the future senior residents. The comment adds that the issue has not been addressed in the Draft EIR. Further study with medical input would be necessary, the comment concludes.

In terms of land use and noise compatibility (placing a sensitive use in proximity to an airport), Section 4.9, Noise, of the Draft EIR acknowledges the presence of the airport within 0.70 mile of the Project site and states that in addition to traffic noise, departures from John Wayne Airport contribute to noise. The Project site is within the area covered by the *Orange County ALUC Airport Environs Land Use Plan (AELUP) for John Wayne Airport*. As described in Section 4.9, the 60 dBA CNEL noise contour is at the western portion of the Project site. Although the Project site is partially at the 2016 60 dBA CNEL noise contour, it is noted that MM NOI-4 requires the Project Applicant to demonstrate that interior noise levels would not exceed 45 dBA CNEL based on future traffic noise levels of 70 dBA CNEL or greater. Because the JWA aircraft noise of approximately 60 dBA CNEL is 10 dBA less than the traffic noise, the sum of the aircraft and traffic noise would be negligibly greater than the traffic noise alone. Therefore, MM NOI-4 would ensure adequate noise attenuation from aircraft noise as well as traffic noise. Per the mitigation measure, the Applicant would submit an acoustical analysis acceptable to the City demonstrating that the proposed architectural design would provide an interior noise level of 45 dBA CNEL or less. The plans and specifications would also show that the units facing Bristol Street and Bayview Place would be provided with a means of mechanical ventilation, as required by the California Building Code for occupancy with windows closed.

Regarding aircraft pollution, it should be noted that CEQA does not require analysis of the potential impacts of the existing environmental conditions, in this case aircraft pollution from John Wayne Airport, on a project's future users, but rather the potential adverse impacts of a project on the environment, unless the project exacerbates the existing environmental hazards such that will adversely affect the future users (*California Building Industry Association v. Bay Area Air Quality Management District, December 17, 2015*). Therefore, this issue was not required to

be included in the Draft EIR. No further study with medical input, as suggested by the comment, and no further response are required.

- M&LB-3 The comment states that the Draft EIR does not address traffic and safety impacts in the surrounding area. For a detailed discussion of traffic from the proposed Project, please refer to the Topical Response in Section 3.1.2 of these Responses to Comments. As indicated in the Topical Response and throughout this document, using the Institute of Transportation Engineers' (ITE's) 2017 *Trip Generation Manual*, 10th Edition rates for the existing and proposed uses on the site, the proposed Project would result in 426 fewer trips than the existing use. While comments question the validity of the reduced trips in light of the 24/7 nature of the proposed facility, regardless of the hours of operation, a restaurant generates more trips compared to a senior living facility. The analysis, reviewed and accepted by the City Traffic Engineer, used the ITE's 2017 *Trip Generation Manual*, 10th Edition rates for the existing (restaurant) and proposed (assisted living) uses, as described under methodology in Section 4.11, Transportation/Traffic, of the Draft EIR. The trips associated with the existing restaurant are not actual trip counts and are based on trip rates for this type of use.

The comment is not clear and does not elaborate on the issue of safety, no further response is required.

- M&LB-4 The comment states that the Draft EIR is not thorough and the Project would not be good for the community or the future senior residents and urges the Planning Commission to stop the Project. Comment is noted and will be forwarded to the decision makers. No further response is required.

From: Lyle Brakob <lbrakob@cox.net>
Sent: Thursday, September 27, 2018 9:02 PM
To: Zak, Peter
Cc: Ramirez, Gregg; Zdeba, Benjamin
Subject: Kitayama Project-Input on DEIR

Dear Commissioner Zak,

We are homeowners at 6 Baycrest Court.
 We request that that the EIR for the Harbor Pointe project immediately be re-done based on the points outlined below.

We also request a new firm be selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

1. Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

2. The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

3. The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As homeowners, we demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

4. The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the

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structure only. This is malpractice and we demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

5 cont.

5. The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

6

6. The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

7

7 The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and we request this be addressed in a new EIR.

8

8 Most mitigation measures focus on more money to the City from the developer. This is not ethical. Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

9

9 The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose.

10

10 The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore we will be living next to a facility more like a baseball stadium due to the light pollution.

The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, we do not believe this project is in compliance with CEQA.

11

Please be in touch with us as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Respectfully,

Margaret and Lyle Brakob
6 Baycrest Court
949 856 4456

Letter 23: Margaret & Lyle Brakob (Form Letter 1—1 of 7)

Comment Letter Dated September 27, 2018

- M&LB-1 Please refer to Response LF1-1 of the “form letter”, above.
- M&LB-2 Please refer to Response LF1-2 of the “form letter”, above.
- M&LB-3 Please refer to Response LF1-3 of the “form letter”, above.
- M&LB-4 Please refer to Response LF1-4 of the “form letter”, above.
- M&LB-5 Please refer to Response LF1-5 of the “form letter”, above.
- M&LB-6 Please refer to Response LF1-6 of the “form letter”, above.
- M&LB-7 Please refer to Response LF1-7 of the “form letter”, above.
- M&LB-8 Please refer to Response LF1-8 of the “form letter”, above.
- M&LB-9 Please refer to Response LF1-9 of the “form letter”, above.
- M&LB-10 Please refer to Response LF1-10 of the “form letter”, above.
- M&LB-11 Please refer to Response LF1-11 of the “form letter”, above.
- M&LB-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Lyle Brakob <lbrakob@cox.net>
Sent: Thursday, September 27, 2018 9:08 PM
To: Weigand, Erik
Cc: Ramirez, Gregg; Zdeba, Benjamin
Subject: Kitayama Project-Input on DEIR

Dear Commissioner Weigand,

We are homeowners at 6 Baycrest Court.

We request that that the EIR for the Harbor Pointe project immediately be re-done based on the points outlined below.

We also request a new firm be selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

1 Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

2 The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

3 The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As homeowners, we demand that the health department become involved immediately and these requirements be provided to the entire

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community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

4 cont.

4 The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and we demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

5

5 The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

6

6 The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

7

7 The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and we request this be addressed in a new EIR.

8

8 Most mitigation measures focus on more money to the City from the developer. This is not ethical. Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

9

9 The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose.

10

10 The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore we will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, we do not believe this project is in compliance with CEQA.

11

Please be in touch with us as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

Respectfully,

Margaret and Lyle Brakob
6 Baycrest Court
949 856 4456

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Letter 24: Margaret & Lyle Brakob (Form Letter 1—2 of 7)

Comment Letter Dated September 27, 2018

- M&LB-1 Please refer to Response LF1-1 of the “form letter”, above.
- M&LB-2 Please refer to Response LF1-2 of the “form letter”, above.
- M&LB-3 Please refer to Response LF1-3 of the “form letter”, above.
- M&LB-4 Please refer to Response LF1-4 of the “form letter”, above.
- M&LB-5 Please refer to Response LF1-5 of the “form letter”, above.
- M&LB-6 Please refer to Response LF1-6 of the “form letter”, above.
- M&LB-7 Please refer to Response LF1-7 of the “form letter”, above.
- M&LB-8 Please refer to Response LF1-8 of the “form letter”, above.
- M&LB-9 Please refer to Response LF1-9 of the “form letter”, above.
- M&LB-10 Please refer to Response LF1-10 of the “form letter”, above.
- M&LB-11 Please refer to Response LF1-11 of the “form letter”, above.
- M&LB-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Lyle Brakob <lbrakob@cox.net>
Sent: Thursday, September 27, 2018 9:16 PM
To: Dunlap, Bill
Cc: Ramirez, Gregg; Zdeba, Benjamin
Subject: Kitayama Project-Input on DEIR

Dear Commissioner Dunlap,

We are homeowners at 6 Baycrest Court.
 We request that that the EIR for the Harbor Pointe project
 immediately be re-done based on the points addressed below.

We also request a new firm be selected to conduct the new EIR
 that is mutually agreed upon by homeowners as well as the
 developers and the city. As tax paying and voting citizens of
 Newport Beach, we demand to have a seat at the table relative to
 selecting a firm that is mutually agreed upon as working for all
 constituencies equally. Because the EIR is funded by the
 developers it is even more critical that the very people impacted by
 its conclusions have a say in who is assembling and completing the
 report.

1 Improper Notice to Homeowners: Homeowners were not
 given notice when the plans were first submitted to the City of
 Newport Beach. Moreover, the 500' radius mailing was not
 performed and many homeowners and business owners in the
 neighborhood have not been made aware of the proposed project or
 the EIR. Therefore, potentially hundreds of homeowners and
 business owners were cheated out of their right to have a voice and
 comment on the EIR.

2 The EIR does not fully address the density of 120 beds over the
 current usage of the project that creates only 50 SF per person in
 this proposed facility. This density per person is inhumane and a
 blight on the neighborhood. This development is virtually wall to
 wall with only a small vehicle lane immediately adjacent to the
 Baycrest condominiums (Bayview Court) community. Imagine the
 nonstop nuisance and pollution that the truck traffic noise in this
 small lane within mere feet of homeowners will cause including
 beeping backup noises associated with trucks delivering supplies
 for the kitchens and other services required for this immense
 facility. The EIR does not fully address this potentially
 devastating impact to the neighborhood.

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3 The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As homeowners, we demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

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4 The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and we demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

5

5 The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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7 The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and we request this be addressed in a new EIR.

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9

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intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose.

} 10 cont.

10 The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore we will be living next to a facility more like a baseball stadium due to the light pollution.

The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, we do not believe this project is in compliance with CEQA.

} 11

Please be in touch with us as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Respectfully,

Margaret and Lyle Brakob
6 Baycrest Court
949 856 4456

Letter 25: Margaret & Lyle Brakob (Form Letter 1—3 of 7)

Comment Letter Dated September 27, 2018

- M&LB-1 Please refer to Response LF1-1 of the “form letter”, above.
- M&LB-2 Please refer to Response LF1-2 of the “form letter”, above.
- M&LB-3 Please refer to Response LF1-3 of the “form letter”, above.
- M&LB-4 Please refer to Response LF1-4 of the “form letter”, above.
- M&LB-5 Please refer to Response LF1-5 of the “form letter”, above.
- M&LB-6 Please refer to Response LF1-6 of the “form letter”, above.
- M&LB-7 Please refer to Response LF1-7 of the “form letter”, above.
- M&LB-8 Please refer to Response LF1-8 of the “form letter”, above.
- M&LB-9 Please refer to Response LF1-9 of the “form letter”, above.
- M&LB-10 Please refer to Response LF1-10 of the “form letter”, above.
- M&LB-11 Please refer to Response LF1-11 of the “form letter”, above.
- M&LB-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Lyle Brakob <lbrakob@cox.net>
Sent: Thursday, September 27, 2018 9:38 PM
To: Kramer, Kory
Cc: Ramirez, Gregg; Zdeba, Benjamin
Subject: Kitayama Project-Input on DEIR

Dear Commissioner Kramer,

We are homeowners at 6 Baycrest Court.
 We request that that the EIR for the Harbor Pointe project
 immediately be re-done based on the points addressed below.

We also request a new firm be selected to conduct the new EIR
 that is mutually agreed upon by homeowners as well as the
 developers and the city. As tax paying and voting citizens of
 Newport Beach, we demand to have a seat at the table relative to
 selecting a firm that is mutually agreed upon as working for all
 constituencies equally. Because the EIR is funded by the
 developers it is even more critical that the very people impacted by
 its conclusions have a say in who is assembling and completing the
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1 Improper Notice to Homeowners: Homeowners were not
 given notice when the plans were first submitted to the City of
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 business owners were cheated out of their right to have a voice and
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2 The EIR does not fully address the density of 120 beds over the
 current usage of the project that creates only 50 SF per person in
 this proposed facility. This density per person is inhumane and a
 blight on the neighborhood. This development is virtually wall to
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 for the kitchens and other services required for this immense
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 devastating impact to the neighborhood.

3 The EIR does not fully address the odor from the kitchen of this
 giant facility. It does not appear that SCAQMD permits or the

health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As homeowners, we demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

4 cont.

4 The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and we demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

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5 The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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6 The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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7 The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and we request this be addressed in a new EIR.

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will be living next to a facility more like a baseball stadium due to the light pollution.

The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, we do not believe this project is in compliance with CEQA.

} 11 cont.

Please be in touch with us as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

} 12

Respectfully,

Margaret and Lyle Brakob
6 Baycrest Court
949 856 4456

Letter 26: Margaret & Lyle Brakob (Form Letter 1—4 of 7)

Comment Letter Dated September 27, 2018

- M&LB-1 Please refer to Response LF1-1 of the “form letter”, above.
- M&LB-2 Please refer to Response LF1-2 of the “form letter”, above.
- M&LB-3 Please refer to Response LF1-3 of the “form letter”, above.
- M&LB-4 Please refer to Response LF1-4 of the “form letter”, above.
- M&LB-5 Please refer to Response LF1-5 of the “form letter”, above.
- M&LB-6 Please refer to Response LF1-6 of the “form letter”, above.
- M&LB-7 Please refer to Response LF1-7 of the “form letter”, above.
- M&LB-8 Please refer to Response LF1-8 of the “form letter”, above.
- M&LB-9 Please refer to Response LF1-9 of the “form letter”, above.
- M&LB-10 Please refer to Response LF1-10 of the “form letter”, above.
- M&LB-11 Please refer to Response LF1-11 of the “form letter”, above.
- M&LB-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Lyle Brakob <lbrakob@cox.net>
Sent: Thursday, September 27, 2018 9:46 PM
To: pkoetting@newportbeachca.gov
Cc: Ramirez, Gregg; Zdeba, Benjamin
Subject: Kitayama Project-Input on DEIR

Dear Commissioner Koetting,

We are homeowners at 6 Baycrest Court and we request that that the EIR for the Harbor Pointe project immediately be re-done based on the points addressed below.

We also request a new firm be selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

1 Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

2 The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

3 The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As homeowners, we demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

4

4 The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and we demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

5

5 The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

6

6 The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

7

7 The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and we request this be addressed in a new EIR.

8

8 Most mitigation measures focus on more money to the City from the developer. This is not ethical. Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of

9

the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

9 cont.

9 The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose.

10

10 The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore we will be living next to a facility more like a baseball stadium due to the light pollution.

The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, we do not believe this project is in compliance with CEQA.

11

Please be in touch with us as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

12

Respectfully,

Margaret and Lyle Brakob

6 Baycrest Court
949 856 4456

Letter 27: Margaret & Lyle Brakob (Form Letter 1—5 of 7)

Comment Letter Dated September 27, 2018

- M&LB-1 Please refer to Response LF1-1 of the “form letter”, above.
- M&LB-2 Please refer to Response LF1-2 of the “form letter”, above.
- M&LB-3 Please refer to Response LF1-3 of the “form letter”, above.
- M&LB-4 Please refer to Response LF1-4 of the “form letter”, above.
- M&LB-5 Please refer to Response LF1-5 of the “form letter”, above.
- M&LB-6 Please refer to Response LF1-6 of the “form letter”, above.
- M&LB-7 Please refer to Response LF1-7 of the “form letter”, above.
- M&LB-8 Please refer to Response LF1-8 of the “form letter”, above.
- M&LB-9 Please refer to Response LF1-9 of the “form letter”, above.
- M&LB-10 Please refer to Response LF1-10 of the “form letter”, above.
- M&LB-11 Please refer to Response LF1-11 of the “form letter”, above.
- M&LB-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Lyle Brakob <lbrakob@cox.net>
Sent: Thursday, September 27, 2018 10:00 PM
To: Lowrey, Lee
Cc: Ramirez, Gregg; Zdeba, Benjamin
Subject: Kitayama Project-Input on DEIR

Dear Commissioner Lowery,

We are homeowners at 6 Baycrest Court and we request that that the EIR for the Harbor Pointe project immediately be re-done based on the points addressed below.

We also request a new firm be selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

1 Improper Notice
to
Homeowners: Home
owners were not
given notice when the
plans were first
submitted to the City
of Newport
Beach. Moreover, the
500' radius mailing
was not performed
and many
homeowners and
business owners in
the neighborhood
have not been made
aware of the proposed
project or the
EIR. Therefore,
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of homeowners and
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cheated out of their
right to have a voice
and comment on the
EIR.

2 The EIR does not
fully address the

density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

3 The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in

3 cont.

4

operation. As homeowners, we demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

4 cont.

4 The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and we demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

5

5 The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring

6

homes. The small traffic lane in the proposed plan is not enough of a separation.

6 cont.

6 The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

7

7 The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and we request this be addressed in a new EIR.

8

8 Most mitigation measures focus on more money to the City from the developer. This is not ethical. Prior to the issuance of a building permit, the Applicant shall provide payment

9

to the City of
Newport Beach for
the Project's pro-rata
share of the cost for
purchasing and
equipping a new
rescue ambulance
with patient transport
and advanced life
support (ALS)
capabilities to be
located at Santa Ana
Heights Fire Station
No. 7.

9 cont.

9 The traffic study in
the EIR did not
address the accurate
flow mix from the 73
offramp and distance
to the Baycrest
intersection. This
intersection is already
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standardized limits
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waiver when the 73
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10

10 The lighting issue
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The CEQA planner
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as this major issue has
neither been mitigated

11

and/or are to be considered as anything less than significant. Therefore, we do not believe this project is in compliance with CEQA.

11 cont.

Please be in touch with us as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

12

Respectfully,

Margaret and Lyle
Brakob

6 Baycrest Court
949 856 4456

Letter 28: Margaret & Lyle Brakob (Form Letter 1—6 of 7)

Comment Letter Dated September 27, 2018

- M&LB-1 Please refer to Response LF1-1 of the “form letter”, above.
- M&LB-2 Please refer to Response LF1-2 of the “form letter”, above.
- M&LB-3 Please refer to Response LF1-3 of the “form letter”, above.
- M&LB-4 Please refer to Response LF1-4 of the “form letter”, above.
- M&LB-5 Please refer to Response LF1-5 of the “form letter”, above.
- M&LB-6 Please refer to Response LF1-6 of the “form letter”, above.
- M&LB-7 Please refer to Response LF1-7 of the “form letter”, above.
- M&LB-8 Please refer to Response LF1-8 of the “form letter”, above.
- M&LB-9 Please refer to Response LF1-9 of the “form letter”, above.
- M&LB-10 Please refer to Response LF1-10 of the “form letter”, above.
- M&LB-11 Please refer to Response LF1-11 of the “form letter”, above.
- M&LB-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Lyle Brakob <lbrakob@cox.net>
Sent: Thursday, September 27, 2018 9:52 PM
To: Kleiman, Lauren
Cc: Ramirez, Gregg; Zdeba, Benjamin
Subject: Kitayama Project-Input on DEIR

Dear Commissioner Koetting,

We are homeowners at 6 Baycrest Court and we request that that the EIR for the Harbor Pointe project immediately be re-done based on the points addressed below.

We also request a new firm be selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

1 Improper Notice
to
Homeowners: Home
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aware of the proposed
project or the
EIR. Therefore,
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of homeowners and
business owners were
cheated out of their
right to have a voice
and comment on the
EIR.

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2 The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

3 The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear

3

4

that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As homeowners, we demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

4 cont.

4 The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and we demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

5

5 The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

6

6 The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

7

7 The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The

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facility does not have a storm water Quality Impact Management Plan (SQIMP) and we request this be addressed in a new EIR.

8 cont.

8 Most mitigation measures focus on more money to the City from the developer. This is not ethical. Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

9

9 The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to

10

benefit a development of this magnitude or purpose.

10 cont.

10 The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore we will be living next to a facility more like a baseball stadium due to the light pollution.

The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, we do not believe this project is in compliance with CEQA.

11

Please be in touch with us as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a

12

new firm to complete
a new EIR.

} 12 cont.

Respectfully,

Margaret and Lyle
Brakob
6 Baycrest Court
949 856 4456

Letter 29: Margaret & Lyle Brakob (Form Letter 1—7 of 7)

Comment Letter Dated September 27, 2018

- M&LB-1 Please refer to Response LF1-1 of the “form letter”, above.
- M&LB-2 Please refer to Response LF1-2 of the “form letter”, above.
- M&LB-3 Please refer to Response LF1-3 of the “form letter”, above.
- M&LB-4 Please refer to Response LF1-4 of the “form letter”, above.
- M&LB-5 Please refer to Response LF1-5 of the “form letter”, above.
- M&LB-6 Please refer to Response LF1-6 of the “form letter”, above.
- M&LB-7 Please refer to Response LF1-7 of the “form letter”, above.
- M&LB-8 Please refer to Response LF1-8 of the “form letter”, above.
- M&LB-9 Please refer to Response LF1-9 of the “form letter”, above.
- M&LB-10 Please refer to Response LF1-10 of the “form letter”, above.
- M&LB-11 Please refer to Response LF1-11 of the “form letter”, above.
- M&LB-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Richard Sidkoff <rsidkoff@gmail.com>
Sent: Friday, September 28, 2018 12:48 AM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Cc: Richard Sidkoff
Subject: URGENT: Kitayama Redevelopment EIR errors and insufficiencies

pzak@newportbeachca.gov, eweigand@newportbeachca.gov, bdunlap@newportbeachca.gov, kkramer@newportbeachca.gov, pketting@newportbeachca.gov, kleiman@newportbeachca.gov, bzdeba@newportbeachca.gov, gramirez@newportbeachca.gov

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at **37 Baycrest , Newport Beach**, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

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• The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

4

• The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

5

• The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

6

• The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

7

• The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

8

• As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

9

• The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

10

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

} 12

Sincerely

Richard Sidkoff
37 Baycrest Court
Newport Beach

Letter 30: Richard Sidkoff

Comment Letter Dated September 28, 2018

- RS-1 Please refer to Response LF1-1 of the “form letter”, above.
- RS-2 Please refer to Response LF1-2 of the “form letter”, above.
- RS-3 Please refer to Response LF1-3 of the “form letter”, above.
- RS-4 Please refer to Response LF1-4 of the “form letter”, above.
- RS-5 Please refer to Response LF1-5 of the “form letter”, above.
- RS-6 Please refer to Response LF1-6 of the “form letter”, above.
- RS-7 Please refer to Response LF1-7 of the “form letter”, above.
- RS-8 Please refer to Response LF1-8 of the “form letter”, above.
- RS-9 Please refer to Response LF1-9 of the “form letter”, above.
- RS-10 Please refer to Response LF1-10 of the “form letter”, above.
- RS-11 Please refer to Response LF1-11 of the “form letter”, above.
- RS-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Baycrest HOA <baycresthomeowners@gmail.com>
Subject: URGENT: Kitayama Redevelopment Information
Date: September 27, 2018 at 3:19:21 PM PDT

Dear Neighbors,

The deadline to submit letters to specifically address holes or omissions in the Environmental Impact Report (EIR) that the developers filed for the proposed Harbor Pointe facility is tomorrow night, 9/28, at midnight. An environmental engineer has examined the EIR closely and provided us with some key problems that we want to address with the city **before the deadline expires tomorrow night**. It is clear that a new EIR must be commissioned because issues that are particularly concerning to us have not been fully addressed if at all. Therefore it is imperative that we demand a new EIR that includes answers to our concerns and that homeowners have a say in selecting the firm that is conducting a new report. As the major constituency that is impacted by this proposed developer, it is a necessity that we are involved in selecting the firm that puts the report together.

1

Below is a suggested letter to email as soon as possible to the Planning Commissioners and the City. Please fill your name and address in the letter where bold type appears and of course, make any additions or deletions as you deem necessary. But remember that this is only about problems with the EIR. Please send this email to:

pzak@newportbeachca.gov, eweigand@newportbeachca.gov,
bdunlap@newportbeachca.gov, kkramer@newportbeachca.gov,
pkoetting@newportbeachca.gov, lkleiman@newportbeachca.gov,
bzdeba@newportbeachca.gov, gramirez@newportbeachca.gov

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at **97 Pelican Court**, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

1 cont.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

2

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

3

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire

4

community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

4 cont.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

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- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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- The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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- As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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- The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

Best Regards,

Laura Minarsch
97 Pelican Court
Newport Beach, CA

Letter 31: Laura Minarsch

Comment Letter Dated September 28, 2018

- LM-1 Please refer to Response LF1-1 of the “form letter”, above. Although an additional paragraph has been included regarding deadline for the submitting comments on the Draft EIR and selecting a new firm to prepare a new EIR, Response LF1-1 addresses the concern.
- LM-2 Please refer to Response LF1-2 of the “form letter”, above.
- LM-3 Please refer to Response LF1-3 of the “form letter”, above.
- LM-4 Please refer to Response LF1-4 of the “form letter”, above.
- LM-5 Please refer to Response LF1-5 of the “form letter”, above.
- LM-6 Please refer to Response LF1-6 of the “form letter”, above.
- LM-7 Please refer to Response LF1-7 of the “form letter”, above.
- LM-8 Please refer to Response LF1-8 of the “form letter”, above.
- LM-9 Please refer to Response LF1-9 of the “form letter”, above.
- LM-10 Please refer to Response LF1-10 of the “form letter”, above.
- LM-11 Please refer to Response LF1-11 of the “form letter”, above.
- LM-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: CHRISTINE OSAKI <cosaki@cox.net>
Sent: Friday, September 28, 2018 8:39 AM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: EIR - HARBOR POINTE SENIOR LIVING PROJECT PA2015-210

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at 100 Baycrest Court, Newport Beach, CA, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

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• The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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• The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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• The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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• As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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• The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Best Regards,

Christine Osaki

100 Baycrest Court , Newport Beach, CA 92660

Letter 32: Christine Osaki

Comment Letter Dated September 28, 2018

- CO-1 Please refer to Response LF1-1 of the “form letter”, above.
- CO-2 Please refer to Response LF1-2 of the “form letter”, above.
- CO-3 Please refer to Response LF1-3 of the “form letter”, above.
- CO-4 Please refer to Response LF1-4 of the “form letter”, above.
- CO-5 Please refer to Response LF1-5 of the “form letter”, above.
- CO-6 Please refer to Response LF1-6 of the “form letter”, above.
- CO-7 Please refer to Response LF1-7 of the “form letter”, above.
- CO-8 Please refer to Response LF1-8 of the “form letter”, above.
- CO-9 Please refer to Response LF1-9 of the “form letter”, above.
- CO-10 Please refer to Response LF1-10 of the “form letter”, above.
- CO-11 Please refer to Response LF1-11 of the “form letter”, above.
- CO-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Randy McKellar <r.mckellar6108@gmail.com>
Sent: Friday, September 28, 2018 9:54 AM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: EIR for Harbor Pointe project

Below is a suggested letter to email as soon as possible to the Planning Commissioners and the City. Please fill your name and address in the letter where bold type appears and of course, make any additions or deletions as you deem necessary. But remember that this is only about problems with the EIR. Please send this email to: pzak@newportbeachca.gov, eweigand@newportbeachca.gov, bdunlap@newportbeachca.gov, kkramer@newportbeachca.gov, pkoetting@newportbeachca.gov, lkleiman@newportbeachca.gov, bzdeba@newportbeachca.gov, gramirez@newportbeachca.gov

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at 98 Baycrest Court, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- **Improper Notice to Homeowners:** Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby

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making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

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(cont'd)

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

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- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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- The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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- The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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- As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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- The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Thank you for your time,

Randal McKellar
Homeowner
98 Baycrest Court, Newport Beach

Letter 33: Randal McKeller

Comment Letter Dated September 28, 2018

- RMK-1 Please refer to Response LF1-1 of the “form letter”, above.
- RMK-2 Please refer to Response LF1-2 of the “form letter”, above.
- RMK-3 Please refer to Response LF1-3 of the “form letter”, above.
- RMK-4 Please refer to Response LF1-4 of the “form letter”, above.
- RMK-5 Please refer to Response LF1-5 of the “form letter”, above.
- RMK-6 Please refer to Response LF1-6 of the “form letter”, above.
- RMK-7 Please refer to Response LF1-7 of the “form letter”, above.
- RMK-8 Please refer to Response LF1-8 of the “form letter”, above.
- RMK-9 Please refer to Response LF1-9 of the “form letter”, above.
- RMK-10 Please refer to Response LF1-10 of the “form letter”, above.
- RMK-11 Please refer to Response LF1-11 of the “form letter”, above.
- RMK-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Whitney Barbarics <whitneybarbarics@gmail.com>
Sent: Friday, September 28, 2018 10:20 AM
To: Zdeba, Benjamin
Subject: Fwd: Kitayama Redevelopment (EIR)

As a homeowner at 83 Pelican Court NB , I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this

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removal of soil and excavation for underground parking so close to our homes be investigated much further.

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- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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- The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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- The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

} 8

- As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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- The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Best Regards,

Whitney Barbarics
83 Pelican Court, NB

Letter 34: Whitney Barbarics

Comment Letter Dated September 28, 2018

- WB-1 Please refer to Response LF1-1 of the “form letter”, above.
- WB-2 Please refer to Response LF1-2 of the “form letter”, above.
- WB-3 Please refer to Response LF1-3 of the “form letter”, above.
- WB-4 Please refer to Response LF1-4 of the “form letter”, above.
- WB-5 Please refer to Response LF1-5 of the “form letter”, above.
- WB-6 Please refer to Response LF1-6 of the “form letter”, above.
- WB-7 Please refer to Response LF1-7 of the “form letter”, above.
- WB-8 Please refer to Response LF1-8 of the “form letter”, above.
- WB-9 Please refer to Response LF1-9 of the “form letter”, above.
- WB-10 Please refer to Response LF1-10 of the “form letter”, above.
- WB-11 Please refer to Response LF1-11 of the “form letter”, above.
- WB-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: KATRINA HEADLE <kheadle@cox.net>
Sent: Friday, September 28, 2018 10:33 AM
To: Zdeba, Benjamin
Subject: Harbor Pointe Project

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at **49 Cormorant Circle, Newport Beach, CA 92660**, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

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- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

2

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

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- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

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- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

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- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough

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of a separation.

•The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

•The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

•As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

•The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

Best Regards,

Christopher and Katrina Headle
49 Cormorant Circle
Newport Beach, CA 92660

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(cont'd)

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Letter 35: Christopher & Katrina Headle

Comment Letter Dated September 28, 2018

- C&KH-1 Please refer to Response LF1-1 of the “form letter”, above.
- C&KH-2 Please refer to Response LF1-2 of the “form letter”, above.
- C&KH-3 Please refer to Response LF1-3 of the “form letter”, above.
- C&KH-4 Please refer to Response LF1-4 of the “form letter”, above.
- C&KH-5 Please refer to Response LF1-5 of the “form letter”, above.
- C&KH-6 Please refer to Response LF1-6 of the “form letter”, above.
- C&KH-7 Please refer to Response LF1-7 of the “form letter”, above.
- C&KH-8 Please refer to Response LF1-8 of the “form letter”, above.
- C&KH-9 Please refer to Response LF1-9 of the “form letter”, above.
- C&KH-10 Please refer to Response LF1-10 of the “form letter”, above.
- C&KH-11 Please refer to Response LF1-11 of the “form letter”, above.
- C&KH-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Rob Martin <rbmv@mac.com>
Sent: Friday, September 28, 2018 10:56 AM
To: Zak, Peter; Weigand, Erik; bdunlap@newportbeachca.gov; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: Kitayama Redevelopment

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at 11 Cormorant Circle, Newport Beach, CA 92660 (Bayview Terrace), I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

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• The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

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• The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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• The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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• The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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• As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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• The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through

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our HOA's, to select a new firm to complete a new EIR.

} 12 cont.

Best Regards,

Robert Martin
11 Cormorant Circle
Newport Beach, CA 92660

Letter 36: Robert Martin

Comment Letter Dated September 28, 2018

- RM-1 Please refer to Response LF1-1 of the “form letter”, above.
- RM-2 Please refer to Response LF1-2 of the “form letter”, above.
- RM-3 Please refer to Response LF1-3 of the “form letter”, above.
- RM-4 Please refer to Response LF1-4 of the “form letter”, above.
- RM-5 Please refer to Response LF1-5 of the “form letter”, above.
- RM-6 Please refer to Response LF1-6 of the “form letter”, above.
- RM-7 Please refer to Response LF1-7 of the “form letter”, above.
- RM-8 Please refer to Response LF1-8 of the “form letter”, above.
- RM-9 Please refer to Response LF1-9 of the “form letter”, above.
- RM-10 Please refer to Response LF1-10 of the “form letter”, above.
- RM-11 Please refer to Response LF1-11 of the “form letter”, above.
- RM-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Alana Shapiro <alana_shapiro@yahoo.com>
Sent: Friday, September 28, 2018 11:34 AM
To: Zak, Peter; Weigand, Erik; bdunlap@newportbeachca.gov; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: NO RE-ZONING (Kitayama property)

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey & Ramirez,

As a homeowner at 10 Baycrest Court, Newport Beach I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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• The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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• The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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• As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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• The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Best Regards,

Alana Shapiro
10 Baycrest Court, Newport Beach, CA 92660

Letter 37: Alana Shapiro

Comment Letter Dated September 28, 2018

- AS-1 Please refer to Response LF1-1 of the “form letter”, above.
- AS-2 Please refer to Response LF1-2 of the “form letter”, above.
- AS-3 Please refer to Response LF1-3 of the “form letter”, above.
- AS-4 Please refer to Response LF1-4 of the “form letter”, above.
- AS-5 Please refer to Response LF1-5 of the “form letter”, above.
- AS-6 Please refer to Response LF1-6 of the “form letter”, above.
- AS-7 Please refer to Response LF1-7 of the “form letter”, above.
- AS-8 Please refer to Response LF1-8 of the “form letter”, above.
- AS-9 Please refer to Response LF1-9 of the “form letter”, above.
- AS-10 Please refer to Response LF1-10 of the “form letter”, above.
- AS-11 Please refer to Response LF1-11 of the “form letter”, above.
- AS-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: kdsnyder@cox.net
Sent: Friday, September 28, 2018 1:34 PM
To: Zak, Peter; Weigand, Erik; bdunlap@newportbeachca.gov; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Lowrey, Lee; Zdeba, Benjamin; Ramirez, Gregg
Subject: Harbor Pointe EIR

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at 41 Baycrest Court, Newport Beach, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- **Improper Notice to Homeowners:** Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the

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property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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- The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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- The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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- As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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- The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose.

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The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Best Regards,

Kirk Snyder

Letter 38: Kirk Snyder

Comment Letter Dated September 28, 2018

- KS-1 Please refer to Response LF1-1 of the “form letter”, above.
- KS-2 Please refer to Response LF1-2 of the “form letter”, above.
- KS-3 Please refer to Response LF1-3 of the “form letter”, above.
- KS-4 Please refer to Response LF1-4 of the “form letter”, above.
- KS-5 Please refer to Response LF1-5 of the “form letter”, above.
- KS-6 Please refer to Response LF1-6 of the “form letter”, above.
- KS-7 Please refer to Response LF1-7 of the “form letter”, above.
- KS-8 Please refer to Response LF1-8 of the “form letter”, above.
- KS-9 Please refer to Response LF1-9 of the “form letter”, above.
- KS-10 Please refer to Response LF1-10 of the “form letter”, above.
- KS-11 Please refer to Response LF1-11 of the “form letter”, above.
- KS-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: jcaswell1@cox.net
Sent: Friday, September 28, 2018 2:56 PM
To: Zdeba, Benjamin
Subject: RE:

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at 43 Gannet Ln Newport Beach CA 92660, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

- The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

- The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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• The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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• The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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• As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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• The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Best Regards,

James A Caswell

---- "Zdeba wrote:

> Good afternoon,

>

> Thanks for taking the time to write. Unfortunately, we are unable to open your attachment as sent since the City's network runs Microsoft Office. Would you be able to convert it to a PDF document instead and resend? Alternatively, you may copy and paste your text into an email.

>

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> Best,

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> Ben Z.

>

> BENJAMIN M. ZDEBA, AICP

> Community Development Department

> Associate Planner

> bzdeba@newportbeachca.gov

> 949-644-3253

>

>

> -----Original Message-----

> From: jcaswell1@cox.net <jcaswell1@cox.net>

> Sent: Friday, September 28, 2018 1:23 PM

> To: Zak, Peter <pzak@newportbeachca.gov>; Weigand, Erik <eweigand@newportbeachca.gov>;
<bdunlap@newportbeachca.gov>; Kramer, Kory <kkramer@newportbeachca.gov>; Koetting, Peter
<pkoetting@newportbeachca.gov>; Kleiman, Lauren <lkleiman@newportbeachca.gov>; Zdeba,
Benjamin <bzdeba@newportbeachca.gov>; Ramirez, Gregg <GRamirez@newportbeachca.gov>

> Subject:

>

> Please open attached letter.

Letter 39: James A. Caswell

Comment Letter Dated September 28, 2018

- JAC-1 Please refer to Response LF1-1 of the “form letter”, above.
- JAC-2 Please refer to Response LF1-2 of the “form letter”, above.
- JAC-3 Please refer to Response LF1-3 of the “form letter”, above.
- JAC-4 Please refer to Response LF1-4 of the “form letter”, above.
- JAC-5 Please refer to Response LF1-5 of the “form letter”, above.
- JAC-6 Please refer to Response LF1-6 of the “form letter”, above.
- JAC-7 Please refer to Response LF1-7 of the “form letter”, above.
- JAC-8 Please refer to Response LF1-8 of the “form letter”, above.
- JAC-9 Please refer to Response LF1-9 of the “form letter”, above.
- JAC-10 Please refer to Response LF1-10 of the “form letter”, above.
- JAC-11 Please refer to Response LF1-11 of the “form letter”, above.
- JAC-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: suzgee23@yahoo.com
Sent: Friday, September 28, 2018 6:47 PM
To: Zak, Peter; Weigand, Erik; bdunlap@newportbeachca.gov; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: EIR for Harbor Pointe Project

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at 34 Baycrest Ct., I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- **Improper Notice to Homeowners:** Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.

- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Baycrest including Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.

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• The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.

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• The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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• The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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• The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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• As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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• The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Best Regards,

Suzanne Gee
34 Baycrest Ct
Newport Beach, CA 92660

Letter 40: Suzanne Gee

Comment Letter Dated September 28, 2018

- SG-1 Please refer to Response LF1-1 of the “form letter”, above.
- SG-2 Please refer to Response LF1-2 of the “form letter”, above.
- SG-3 Please refer to Response LF1-3 of the “form letter”, above.
- SG-4 Please refer to Response LF1-4 of the “form letter”, above.
- SG-5 Please refer to Response LF1-5 of the “form letter”, above.
- SG-6 Please refer to Response LF1-6 of the “form letter”, above.
- SG-7 Please refer to Response LF1-7 of the “form letter”, above.
- SG-8 Please refer to Response LF1-8 of the “form letter”, above.
- SG-9 Please refer to Response LF1-9 of the “form letter”, above.
- SG-10 Please refer to Response LF1-10 of the “form letter”, above.
- SG-11 Please refer to Response LF1-11 of the “form letter”, above.
- SG-12 Please refer to Response LF1-12 of the “form letter”, above.

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From: Ahlert, Julie <Julie.Ahlert@AviationCapital.com>
Sent: Friday, September 28, 2018 8:29 PM
To: Zak, Peter; Weigand, Erik; bdunlap@newportbeachca.gov; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: URGENT: Kitayama Redevelopment Information

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at 470 Vista Trucha, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

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- **The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance.** A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.

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• The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.

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• The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the back bay by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.

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• As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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• The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please be in touch with me as soon as possible with regards to a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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Best Regards,

Julie Ahlert
470 Vista Trucha
Newport Beach, CA 92660

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The information in this e-mail and any attachments are for the sole use of the intended recipient and may contain privileged or confidential information. Delivery to other than the intended recipient shall not be deemed to waive any privilege. Any unauthorized use, disclosure, copying or distribution of this message or attachment is strictly prohibited. If you believe that you have received this e-mail in error, please contact the sender immediately and delete the e-mail and all of its attachments.
=====

Letter 41: Julie Ahlert

Comment Letter Dated September 28, 2018

- JA-1 Please refer to Response LF1-1 of the “form letter”, above.
- JA-2 Please refer to Response LF1-2 of the “form letter”, above.
- JA-3 Please refer to Response LF1-3 of the “form letter”, above.
- JA-4 Please refer to Response LF1-4 of the “form letter”, above.
- JA-5 Please refer to Response LF1-5 of the “form letter”, above.
- JA-6 Please refer to Response LF1-6 of the “form letter”, above.
- JA-7 Please refer to Response LF1-7 of the “form letter”, above.
- JA-8 Please refer to Response LF1-8 of the “form letter”, above.
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- JA-10 Please refer to Response LF1-10 of the “form letter”, above.
- JA-11 Please refer to Response LF1-11 of the “form letter”, above.
- JA-12 Please refer to Response LF1-12 of the “form letter”, above.

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Kitayama Redevelopment
Zone Change to Institutional Use in a very Inappropriate Area
Adjacent to long established Residential Communities

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a 14 year homeowner at 62 Cormorant Circle and even more years as a Newport Beach resident, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

- Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project ...or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.
- The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.

- *The EIR does not fully address the odor from the kitchen of this giant facility.* It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Bayview Terrace, Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses. 4
- *The EIR reports that 10,200 CY of soil are to be exported from the site.* The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further. 5
- *The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance.* A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation. 6
- *The EIR does not address any asbestos and lead based paint* testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants. 7
- *The EIR only address construction storm water management without any regard to post construction operations.* This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the sensitive Back Bay ecology by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR. 8
- *As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical.* MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for 9

the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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(cont'd)

- The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please contact me soon as possible regarding a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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I hope you will consider the families who have invested here to live and raise their families ... and trusted the City of Newport Beach to place their rights and well being above those of developers seeking higher profits under the pretense of helping our community ...THEY ARE NOT!

13

Please reject the proposed current EIR as well as the Zone Change ... and gain the respect of the citizens of Newport Beach.

I look forward to hearing from you in a timely manner.

Thank you for your consideration.

Dale Ransom
62 Cormorant Circle
Newport Beach, CA 92660

Letter 42: Dale Ransom

Comment Letter Dated September 28, 2018

- DR-1 Please refer to Response LF1-1 of the “form letter”, above.
- DR-2 Please refer to Response LF1-2 of the “form letter”, above.
- DR-3 Please refer to Response LF1-3 of the “form letter”, above.
- DR-4 Please refer to Response LF1-4 of the “form letter”, above.
- DR-5 Please refer to Response LF1-5 of the “form letter”, above.
- DR-6 Please refer to Response LF1-6 of the “form letter”, above.
- DR-7 Please refer to Response LF1-7 of the “form letter”, above.
- DR-8 Please refer to Response LF1-8 of the “form letter”, above.
- DR-9 Please refer to Response LF1-9 of the “form letter”, above.
- DR-10 Please refer to Response LF1-10 of the “form letter”, above.
- DR-11 Please refer to Response LF1-11 of the “form letter”, above.
- DR-12 Please refer to Response LF1-12 of the “form letter”, above.
- DR-13 The comment urges denial of the Project EIR and rezoning. The comment is noted and will be forwarded to the decision makers. No further response is required.

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Kitayama Improper Zoning Modification and EIR Study

Dear Commissioners Zak, Weigand, Dunlap, Kramer, Koetting, Kleiman and Lowrey,

As a homeowner at 62 Cormorant Circle since 2004 and even more years as a Newport Beach resident, I request that the EIR for the Harbor Pointe project immediately be re-done based on the following points outlined below. In addition, I request that a new firm is selected to conduct the new EIR that is mutually agreed upon by homeowners as well as the developers and the city. As tax paying and voting citizens of Newport Beach, we demand to have a seat at the table relative to selecting a firm that is mutually agreed upon as working for all constituencies equally. Because the EIR is funded by the developers it is even more critical that the very people impacted by its conclusions have a say in who is assembling and completing the report.

✓ *Improper Notice to Homeowners: Homeowners were not given notice when the plans were first submitted to the City of Newport Beach. Moreover, the 500' radius mailing was not performed and many homeowners and business owners in the neighborhood have not been made aware of the proposed project ...or the EIR. Therefore, potentially hundreds of homeowners and business owners were cheated out of their right to have a voice and comment on the EIR.*

✓ *The EIR does not fully address the density of 120 beds over the current usage of the project that creates only 50 SF per person in this proposed facility. This density per person is inhumane and a blight on the neighborhood. This development is virtually wall to wall with only a small vehicle lane immediately adjacent to the Baycrest condominiums (Bayview Court) community. Imagine the nonstop nuisance and pollution that the truck traffic noise in this small lane within mere feet of homeowners will cause including beeping backup noises associated with trucks delivering supplies for the kitchens and other services required for this immense facility. The EIR does not fully address this potentially devastating impact to the neighborhood.*

- ✓ *The EIR does not fully address the odor from the kitchen of this giant facility. It does not appear that SCAQMD permits or the health board have issued permits for this kitchen, thereby making it an illegal kitchen in operation. As a homeowner, I demand that the health department become involved immediately and these requirements be provided to the entire community of Bayview Terrace, Bayview Court, the Terraces, Santa Ana Heights and the surrounding offices and businesses.* 4
- ✓ *The EIR reports that 10,200 CY of soil are to be exported from the site. The EIR provides an inadequate evaluation of seismic impacts to the neighborhood that will lead to cracking and damage to our roads, walls and roofs. The seismic evaluation performed was specific to the structure only. This is malpractice and I demand this removal of soil and excavation for underground parking so close to our homes be investigated much further.* 5
- ✓ *The 39'6" height of the proposed facility exceeds zoning height approval and will require a variance. A 40 foot building is not designed to exist adjacent to residential properties so close to the property line of neighboring homes. The small traffic lane in the proposed plan is not enough of a separation.* 6
- ✓ *The EIR does not address any asbestos and lead based paint testing in the existing structure that will be demolished that can expose our residents to toxic air contaminants.* 7
- ✓ *The EIR only address construction storm water management without any regard to post construction operations. This is clearly a violation of the Clean Water Act and California Storm water Regulations. With the operating kitchen this will cause increased damage to the sensitive Back Bay ecology by pathogens and other regulated compounds. The facility does not have a storm water Quality Impact Management Plan (SQIMP) and I request this be addressed in a new EIR.* 8
- ✓ *As you can see most mitigation measures focus on more money to the City from the developer. This is not ethical. MM FIRE-1 Prior to the issuance of a building permit, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue* 9

ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

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(cont'd)

- ✓ The traffic study in the EIR did not address the accurate flow mix from the 73 offramp and distance to the Baycrest intersection. This intersection is already outside of standardized limits and was provided a waiver when the 73 was constructed. This waiver was not to benefit a development of this magnitude or purpose. The lighting issue is the most egregious of the mitigation provided in that lighting will provide "safety" and therefore I will be living next to a facility more like a baseball stadium due to the light pollution. The CEQA planner reviewing these items and suggesting they are "less than significant" is in error as this major issue has neither been mitigated and/or are to be considered as anything less than significant. Therefore, I do not believe this project is in compliance with CEQA.

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Please contact me soon as possible regarding a new EIR that addresses these very serious and important issues to the fullest extent and the process you would like to follow to allow homeowners to participate, through a vote or through our HOA's, to select a new firm to complete a new EIR.

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I hope you will consider the lives and families who have invested here to live and raise their families ... and trusted the City of Newport Beach to place their rights and well being above those of developers seeking higher profits under the pretense of helping our community ...THEY ARE NOT YOUR CLIENTS ... WE, YOUR NEIGHBORS AND RESIDENTS ARE.

} 13

Please reject the proposed current EIR as well as the Zone Change ... and gain the respect and gratitude of the citizens of Newport Beach.

I look forward to hearing from you in a timely manner.
Thank you for your consideration.

Mima Ransom
62 Cormorant Circle
Newport Beach, CA 92660

Letter 43: Mima Ransom

Comment Letter Dated September 28, 2018

- MR-1 Please refer to Response LF1-1 of the “form letter”, above.
- MR-2 Please refer to Response LF1-2 of the “form letter”, above.
- MR-3 Please refer to Response LF1-3 of the “form letter”, above.
- MR-4 Please refer to Response LF1-4 of the “form letter”, above.
- MR-5 Please refer to Response LF1-5 of the “form letter”, above.
- MR-6 Please refer to Response LF1-6 of the “form letter”, above.
- MR-7 Please refer to Response LF1-7 of the “form letter”, above.
- MR-8 Please refer to Response LF1-8 of the “form letter”, above.
- MR-9 Please refer to Response LF1-9 of the “form letter”, above.
- MR-10 Please refer to Response LF1-10 of the “form letter”, above.
- MR-11 Please refer to Response LF1-11 of the “form letter”, above.
- MR-12 Please refer to Response LF1-12 of the “form letter”, above.
- MR-13 The comment urges denial of the Project EIR and rezoning. The comment is noted and will be forwarded to the decision makers. No further response is required.

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3.6 INDIVIDUALS (PLANNING COMMISSION STUDY SESSION)

A total of 23 comments on the Draft EIR were received from individuals, addressed to the Planning Commission, prior to the Planning Commission Study Session. Of the 23 comment letters, 15 letters are independently prepared, and the remaining 8 letters are “form letters” (Form Letter 2) that are identical and present the same comments/issues. To avoid repetition, a detailed response to Form Letter 2 is provided up front and then referenced in the responses to the subsequent Form Letter 2 comments:

- Richard Sidkoff (RS)—August 26, 2018
- Taria Parris (TP)—August 27, 2018
- Donna & Bruce McMeikan (D&BM)—August 28, 2018
- Wende Lichon (WL)—August 29, 2018
- Nicole Brunelle (NB)—August 30, 2018
- Andrea Kane (AK)—August 31, 2018
- Wendy Haigh (WH)—September 4, 2018
- Arlene Cartozian (AC)—September 5, 2018
- The Wakelings (TW)—September 6, 2018
- Carol McDermott (CMD)—September 7, 2018
- Michael & Kristina Kiper (M&KK)—September 9, 2018
- Paula K. Hurwitz (PKH)—September 10, 2018
- Christine Borak (CB)—September 12, 2018
- Suzanne Gee (SG)—September 12, 2018
- Kirk Snyder (KS)—September 12, 2018

The following is a list of commenters that have submitted the “form letter” (Form Letter 2):

- The Brakobs (TB)—August 20, 2018
- Elizabeth Pearson (EP)—August 24, 2018
- Charlotte & Ryan Miller (C&RM)—August 27, 2018
- Christine Osaki (CO)—August 27, 2018
- Tim Skeber (TS)—August 28, 2018
- Barry & Sharina Ross (B&SR)—September 4, 2018
- Teresa & Ross Watanabe (T&RW)—September 10, 2018
- Jeanette Bianchini (JB), signed by David Rivadeneyra—September 10, 2018

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From: Richard Sidkoff <rsidkoff@gmail.com>
Sent: Sunday, August 26, 2018 11:45 PM
To: Zdeba, Benjamin; eweigland@newportbeachca.gov; Koetting, Peter; lowrey@newportbeachca.gov
Cc: Zak, Peter; Dunlap, Bill; Kramer, Kory; Kleiman, Lauren; kdsnyder@cox.net; Imbrakob@outlook.com; Margaret and Lyle Brakob; Patti Lampman
Subject: Proposed Harbor Pointe facility/Kitayama

Vote NO.

Would you vote yes if this facility was to be built next to your house?

Everyone in Baycrest/Bayview Court has the same answer:NO

We all pick a place to live and then decide to buy it based on the home/condo structure But Also the existing surrounding area.

It is expected never to change.

Kitayama should be able to sell their property but for the same use ONLY.

I can't sell my condo to a gasoline station.

Neither should they be able to sell to an industrial user.

If facts and truth still are important:

Do not let this be the first zoning change to industrial from the original zoning/ master plan that has never occurred before.

We elect you and expect you to exercise your fiduciary duty to protect our property value and our neighborhood.

Remember if you think we don't like it just place yourself in our shoes if this was to be built next door to your house.

Vote NO.

Thank you

Richard Sidkoff
37 Baycrest Court
Newport Beach

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Letter 44: Richard Sidkoff

Comment Letter Dated August 26, 2018

- RS-1 The comment expresses opposition to the proposed Project and zone change asserting that they bought their property with the anticipation that the surrounding uses would never change, and that the existing restaurant would sell their property for the same use only and not to an industrial user.

Please refer to the Topical Response for a detailed discussion pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). For clarification, it should be noted that rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI.

The amendment to the existing Area 5 of the PC-32 would only allow for a Residential Care Facility for the Elderly (RCFE), as defined by the State of California, which includes assisted living and memory care. All other uses currently listed under Area 5 of the PC-32 plan would be eliminated. It should be recognized that the Project does not propose to change the existing designation to industrial. Additionally, amending the existing land use designation is not a prohibited action, and it could occur anywhere within the City regardless of whether or not this particular property is rezoned.

- RS-2 The comment regarding protection of the property values and the neighborhood is noted and will be forwarded to the decision makers. The comment does not raise any issues pertaining to CEQA, no further response is required.

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From: Taria Parris <tariaparris30@hotmail.com>
Sent: Monday, August 27, 2018 8:40 PM
To: Zdeba, Benjamin
Subject: Against Harbor Pointe Senior Living Project

Dear Ben Zdeba,

I am writing this letter in extreme opposition to the proposed Harbor Pointe Senior Living Project (101 Bayview Place) and am even more strongly opposed to rezoning this site from its current CO-G purpose of use to a private institution for all of the reasons listed below.

Safety of all area Residents

- Bristol and Jamboree is one of the most dangerous intersections in the city and county. Memory care patients who are (per the EIR) to be housed on the lower level of the facility can potentially wander. How will you handle the tragedy of these patients wandering out onto Bristol and potentially being killed? How will you handle these same patients potentially wandering into Baycrest and the Terraces, into these busy surrounding streets, yards, decks and pool areas-all potentially leading to unnecessary tragedies? This is an absolute WRONG site for such a senior care facility. 1
- This building would bring in 100's of people to this site including residents, their visitors, employees, emergency response, vendors, etc. coming and going at all times of the day & night. What will happen in the event of an emergency such as an earthquake, fire, major car accidents, etc? What is the plan? When the fire near Fletcher Jones occurred and all of the streets were blocked off, it was an absolute nightmare. How will the required evacuation of this institutions residents with memory care patients, the very ill and elderly impact the safety and lives of existing residents and occupants of the office buildings in the event of natural disaster? 2
- Just this year there was a small aircraft that crashed into the homes of people that lived in the terraces. Due to John Wayne Airport flight patterns, what additional risk are you putting these memory care patients into? 3
- The street boundary to the East (Bristol) of this location is a major one way street that already has major traffic delays/back-ups at many times throughout the day. The building of this type of facility at this intersection further places all residents at a higher risk for accidents. Our community can not handle this increase in traffic flow. 4
- The increase in traffic to this area also places residents at a higher risk for vandalism, theft, etc. 5

- The site will have controlled substances in medication rooms which will surely put them at risk for theft and all residents at higher risk.

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Noise Concern

- Restaurants and offices are not open all night. An institution like this is open ALL NIGHT with employee shift changes, ambulances, coroners, mortuary vehicles, police activity, etc. disrupting our neighborhoods and our lives. Baycrest and the Terraces will be particularly hard hit being adjacent to this site and people turning around in our entry circles at all hours of the night.
- The residents that would be housed here are all high risk and mostly elderly which will most definitely ensure emergency vehicles being called at all times of the day and night for assistance. This is not acceptable to people who have lived here for years in a quiet community free of noise.
- If there is a noise abatement law mandated by John Wayne Airport after 11pm to minimize noise in this area, how can a Senior Living Facility be built directly behind the same communities that will require non-stop traffic in and out and emergency vehicles?
- A 24/7 facility includes shift changes, sirens, people from out of the area being dropped off, etc. which can dramatically increase traffic and the tranquility of our neighborhoods at night.
- How will distress noises from patients living there effect surrounding communities? How will outside garden, grill and lounge areas impact noise levels next to surrounding communities?

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Environmental Impact to the Back Bay Ecological Reserve and our surrounding Communities

- The massive Increase in utilization of water that will be required makes no sense when we have been under a drought for years here. How will this impact the Bay?
- Increase in litter, trash to area.
- How will medical waste be handled?
- Level of CO2 emissions caused by building as well as increased traffic flow. How does all of this impact the air we are breathing and each and every day?
- How does another building this size effect the protected species in the Back Bay?
- How many parking spaces will be provided for residents, employees, medical practitioners, visitors, etc? Will they now park up and down Bayview place which in turn adds to more accident risk?

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Rezoning

- Rezoning to a private institutional design violates the general and master plan.
- The rezoning from Commercial office to PI will pave the way for any type of institution including mental institutions, drug-rehab centers, etc to do business at this site.

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Financial

- A building of this size, bringing in increased traffic flow, noise, pollution, etc. will surely have a negative impact on the property value of all homes & condos in the area.
- You must consider the 100s to 1000s of hard-working residents that have put their dollars into improving their communities for years and years that will suffer a great financial loss and quality of life if such a building is approved.

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Everyone in this community purchased our homes knowing the Kitayama site is designated as a commercial office designation, not a private institution. We have the right to expect that the city will protect our physical safety and property values. I would not have purchased this property if it was next to a private institution for all of the above reasons.

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Please consider all of these reasons as to why the city should NOT approve this building at this site. I welcome new neighbors that fit within the existing Commercial Office designation for this site. This is NOT the right site for a Senior Living Project!!

Can you please email me back confirming receipt of this email?

Thank You,
 Taria Parris
 Resident- 88 Baycrest Court, Newport Beach

Letter 45: Taria Parris

Comment Letter Dated August 27, 2018

Safety of All Area Residents

- TP-1 The comment asserts that the proposed use is not appropriate for the area and that in light of heavy traffic, the future residents could potentially get into accidents or wander off to adjacent residential developments.

It should be recognized that memory care residents would be in a secured and monitored section of the facility, separated from the assisted living residents, and their recreational amenities would be completely enclosed. The facility would have extensive security systems for the memory care portion of the building. The staff would be trained thoroughly to frequently monitor and care for memory impaired residents on a 24/7 basis. A confidential key pad code would be used to enter the memory care area. The fire access doors would be locked and if accidentally opened, an alarm would sound to allow staff to intervene immediately, as necessary. Additionally, all exterior windows would have window stops installed. As a result, unintentional exits by unaccompanied residents would be rare.

- TP-2 The comment questions what will happen in the event of an emergency or a natural disaster with future residents, their visitors, employees, and how will they be evacuated. In terms of emergencies pertaining to future residents of the facility, the Project would generate a total resident population of 120, which is a nominal increase to the City's overall population. Regardless of location, the future residents of the proposed facility would be served by emergency services.

Evacuation plans are required by the City's fire codes and State Department of Health Care Services permits in case of an emergency or natural disaster. Since there will be safety plans and precautions in place, the proposed facility would present no known danger to surrounding residents or employees. As part of final design and licensing process, and prior to issuance of license to operate, the specifics of the evacuation plan (e.g., emergency personnel contact information, responsible parties for evacuation, first aid, transportation, dissemination of information to agencies and families, transportation, and establishing emergency temporary relocation site) would need to be determined.

- TP-3 The comment expresses concern over a future risk associated with John Wayne Airport that could affect the residents of the proposed facility. As with all previous (including Baycrest) and proposed developments in the area near the airport, this community would require approval by the Airport Land Use Commission (ALUC) and compliance with all their standards. The area is fully built-out, and there are a number of residential and non-residential uses in the vicinity. While the possibility of an aircraft accident may exist anywhere in the area, it is too speculative to discuss such an accident, its severity, and impact at this time.

- TP-4 The comment states that in light of the heavy traffic on Bristol Street, the area cannot handle further increase in traffic. Section 4.11, Transportation/Traffic, of the Draft EIR backed by technical support, has determined that the trips associated with the proposed use would be reduced by 426 trips compared to the existing restaurant (having little or no peak hour effects on either Bristol or Bayview Place). For a detailed discussion, please refer to the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments).
- TP-5 The comment states that the increased traffic would result to higher risk for vandalism, theft, etc. Please see above Response TP-4, which indicates that the Project would not result in increased traffic trips compared to the existing restaurant. The comment is not clear as to how the traffic in the area would result in vandalism or theft. The trips associated with the proposed use would be primarily related to employees of the facility, vendors, and occasional visitors. It is speculative to assume that these users of the proposed facility would inflict a higher risk of vandalism or theft on the residents of the area.
- TP-6 The commenter fears that the controlled substances would result in theft and a higher risk to residents. It should be noted that the medication rooms would not be openly accessible to residents or employees of the facility and would be strictly controlled. The State provides strict regulations for the handling, use, security, and storage of controlled substances eliminating risk of theft and unauthorized use.

Noise Concerns

- TP-7 The comment expresses concern over the 24/7 nature of the proposed use and its implications disrupting the neighborhood. The noise analysis in Section 4.9 of the Draft EIR demonstrates that employees exiting and entering the underground parking structure will generate little noise to the surrounding community because their cars will be underground when they arrive or leave the facility. Additionally, work shifts are staggered such that there would be a total of 10 to 20 employees at any given time, and only during change of day and night shifts a total of 30 employees would be present at the facility. Furthermore, memory care residents would not drive, and it is likely that up to five percent of the assisted living residents may drive. Other drivers to the facility would include visitors, vendors, and other deliveries; however, their visits would not occur on a daily basis.

The Project would create the typical range of service calls for a project of this nature and size, including emergency medical and police services. The Project would replace an existing use with demand for such services already in place, even though it is anticipated that there would be more emergency medical responses to a senior living facility than a restaurant. Additionally, it should also be noted that the ITE trip generation rate (2017 *Trip Generation Manual*, 10th Edition) that was used to determine the proposed Project trips takes into account service trips associated with the facility; therefore, the Project's reduced trips, compared to the trips from the existing restaurant, is inclusive of all trips to the facility.

Regarding people turning around in the entry circles of the Baycrest and Terraces, signage will be required for the site to help protect the surrounding community from

Project visitors and staff or the emergency service vehicles using neighboring entry circles. Most of the drivers accessing the assisted living community will be either employees familiar with the recommended traffic pattern or public safety personnel familiar with the street patterns.

- TP-8 The comment expresses concern over the noise from emergency vehicles called at all times of the day and night. Examples of other similar facilities in the City have shown that medical emergencies are typically no more frequent than in surrounding communities. Further, based on correspondence from NBFD, it is the practice of the NBFD to only use their sirens in traffic, as necessary, and rarely in residential areas. There is also an emergency exit out onto Bristol for emergency personnel to utilize.
- TP-9 The comment reiterates increased traffic and emergency vehicles as a result of the proposed Project. Please refer to Responses TP-2 and TP-8, above.
- TP-10 The comment reiterates shift changes and sirens, and people dropped off. Please refer to Responses TP-7 and TP-8, above. Regarding drop-off, they typically occur during normal working hours, and a shuttle is available to residents minimizing any additional trips to doctor appointments or pharmacy visits, which are all done during the day.
- TP-11 The commenter expresses concern over “distress noises” from patients and activities in the “outside” garden. Please note, majority of the outdoor spaces (e.g., the internal courtyards and the roof garden) are internal to the facility, except for a new outdoor amenity/patio (in response to comments regarding inadequate outdoor space) that has been proposed at the northeast of the building’s main entrance/waiting area. This additional outdoor patio is not interfacing the adjacent residential uses to the southwest and northwest of the site and is insulated by the entry and the roundabout. Additionally, there is a block wall along the southwest and northwest boundaries of the site separating the facility from the adjacent homes, providing additional barrier. Additionally, it is speculative to assume that the “distress noises” would result from the proposed facility.

Environmental Impact to the Back Bay Ecological Reserve and Our Surrounding Communities

- TP-12 The comment expressed concern regarding utilizations of water and impact to the Bay. However, as indicated in Section 4.12, Utilities and Service Systems, of the Draft EIR, the proposed Project would result in an estimated water demand of approximately 3,803 gal/ksf/day (gallons per thousand square feet per day) on average. Given the existing restaurant’s water use of approximately 1,232 gal/ksf/day, the projected net increase in water demand from the proposed Project would be approximately 2,571 gal/ksf/day. Based on correspondence from IRWD, as the water provider for the Project, the water demand of the proposed facility could be accommodated with the existing IRWD infrastructure, and IRWD has sufficient capacity to meet the water demand of the proposed Project. Additionally, the IRWD has issued a Conditional Water and Sewer Will Serve Letter, indicating that the IRWD would have adequate domestic water supplies to accommodate the Project.

Additionally, a Water Quality Control Plan (WQMP) and a detailed analysis of water quality were prepared included in Section 4.7, Hydrology and Water Quality, of the Draft

EIR. The analysis concluded that with the implementation of the proposed structural and non-structural Best Management Practices (BMPs) in the Project's WQMP and the construction BMPs in the Storm Water Pollution Prevention Plan (SWPPP), the Project would not violate any water quality standards and waste discharge requirements, nor would it substantially degrade water quality. Stringent water quality control and run-off management plans would avoid water quality impact to the Bay.

- TP-13 The comment points out increase in litter and trash to the area and asks how medical waste would be handled. The future residents of the proposed facility would be closely managed and monitored by the staff, and as such potential for litter would be minimal.

Regarding medical waste, the State's Medical Waste Management Program (MWMP) regulates handling, storage, and disposal of medical waste under the Medical Waste Management Act (MWMA), Section 117705 of the California Health and Safety Code. MWMA considers any entity producing medical waste to be a "medical waste generator" in the State, regardless of the size. The *Medical Waste Management Act, January 2017* includes the requirements for the large and small medical waste generators. In the absence of a local enforcement agency at the county level, the State can act as the local enforcement agency. County of Orange, Department of Environmental Health, is the local enforcement agencies for cities within the jurisdiction of the County (California Department of Public Health 2018).

- TP-14 The comment question how the increase in carbon dioxide (CO₂) emission would impact air quality in the area. Please note, CO₂ and increase in CO₂ emissions is of concern with respect to Greenhouse Gas Emissions (GHG) and climate change, and CO₂ is not a criterion or toxic pollutant to be considered for local (or regional) air quality impact. Additionally, per the analysis in Section 4.5, Greenhouse Gas Emissions, of the Draft EIR, there is no increase in CO₂ emissions, and in fact Table 4.5-4 shows a net decrease in CO₂.

Local impact from traffic-related CO (not CO₂) are sometimes discussed, but any local impacts would only occur with increased traffic at LOS E or F high-volume intersections, and since there is no increase in traffic and no LOS E or F high-volume intersections in the area, no impact would occur.

- TP-15 The comment questions how another building of this size in the area would affect the protected species in the Back Bay. The comment does not expand on the effects it is referring to. It should be noted that the proposed Project site is located approximately one-third of a mile from the Back Bay. The area between the site and the Back Bay is fully developed, and there are a number of intervening structures in between. These existing buildings/development in addition to landscaping and trees, create a substantial buffer that would avoid any potential impact to the Back Bay from the proposed Project.

- TP-16 The comment questions parking for the proposed facility and if the future users of the facility would park on the street. Please note, as discussed in Section 3.0, Project Description, of the Draft EIR, the proposed facility would have subterranean parking with an elevator into the building and would be accessed off the main entry. According to Chapter 20.40.040 (Off-Street Parking Requirements) of the NBMC, the parking requirement for convalescent facilities is one space per three beds, resulting in a total requirement of 40 parking spaces for the proposed facility. However, the Project would

include a total 53 spaces, which is 33 percent more than the required number. With the excess parking, it is unlikely that future employees or visitors would park on surrounding neighborhood streets. It should be noted that parking on Bayview Place is prohibited on both sides of the street, and there is no direct access from the Santa Ana Heights neighborhood to the proposed development. In the absence of direct access and distance, employees and visitors are not likely to park on residential streets of Santa Ana Heights neighborhood and walk to the facility. Additionally, the City would require as a condition of approval (as part of the Conditional Use Permit [CUP]) that all staff and visitors park on-site.

Rezoning

TP-17 The comment asserts that rezoning of the site would violate the General Plan and the Master Plan (PC-32) and that re-designating the site from CO-G to PI could result in undesirable uses on the site. Please note, the amendment to Area 5 of the PC-32 would only allow for a Residential Care Facility for the Elderly (RCFE), which includes assisted living and memory care. All other uses currently listed under Area 5 of the PC-32 plan would be eliminated. For a detailed discussion of the amendments to PC-32, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Additionally, it should be noted that amending the existing designation is not a prohibited action nor a violation of the General Plan or a Master Plan (PC-32 in this case), and it could occur anywhere within the City regardless of whether or not this particular property is re-designated, or the PC-32 document amended.

Financial

TP-18 The comment states that the impacts of the proposed Project such as increased traffic, noise, and pollution would impact property values in the area. The Draft EIR has evaluated all potential impacts of the Project, including traffic, noise, and air quality and determined, with substantial evidence, that the impacts are either less than significant or less than significant with mitigation. The comment on how the potential impacts would affect property values will be forwarded to the decision makers, as this issue is outside the scope of CEQA, and as such, no further response is required.

TP-19 The comment reiterates the implications of rezoning pertaining to physical safety and property values and states that the City should not approve the proposed Project, as this is not the right site for the proposed use. For a detail discussion of rezoning, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). The comment does not elaborate on the issue of physical safety, so a response cannot be provided. Regarding property values, the comment will be forwarded to the decision makers. Property values is outside the scope of CEQA, no further response is required.

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From: Donna McMeikan <donna.mcmeikan@gmail.com>
Sent: Tuesday, August 28, 2018 4:17 PM
To: Zdeba, Benjamin
Subject: Rezoning and Harbor Point Sr Care
Attachments: Ben Zdeba.docx

Dear Mr. Zdeba,

Please find attached my letter opposing the rezoning from CO-G to PI for the Harbor Pointe Senior Center.

Thank you for your attention to this matter.

Donna McMeikan

August 28, 2018

Ben Zdeba, Associate City Planner
City of Newport Beach
Community Development Department, Planning Division
100 Civic Center Drive
Newport Beach, CA 92660

Dear Mr. Zdeba,

I am a homeowner at 20422 Bayview Avenue, Newport Beach, CA 92660, which is near the proposed Harbor Pointe senior care facility. I am writing to you, as I strongly oppose rezoning this site from its current CO-G (Commercial Office) purpose of use to a PI (Private Institution).

Our neighborhood was never intended for Private Institutional use, and zoning for private institutional use has never been part of the Master Community Plan for Bayview. This type of zoning would set a precedent for other 24 hour 7 days a week businesses that include employee shift changes, emergency vehicles at all hours of the day and night, and increased holiday visitor traffic. Businesses that require 24/7 activity, are not appropriate next to residential neighborhoods.

Current traffic down Mesa Drive and Bayview Avenue before and after work hours is dangerous enough, as people speed through our neighborhood to cut through from Irvine Avenue to Bristol. The addition of a 24/7 business would further increase traffic and extend it to all day and all night, 7 days a week.

We have already had to fight to preserve our neighborhood from inappropriate businesses like the Laugh Stop that turned into a topless bar. This bar was completely unacceptable for a neighborhood environment. Businesses such as

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Harbor Pointe senior care, albeit for different reasons, are as inappropriate as well, and zoning for Private Institutions will pave the way for a variety of business to take over the site in the future that would negatively affect our property values and the safety of our neighborhood.

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(cont'd)

I am not against redevelopment of the site for a use that was intended in the Master Plan. What I am against is rezoning to use for Private Institutions.

} 4

Sincerely,

Donna & Bruce McMeikan

Letter 46: Donna & Bruce McMeikan**Comment Letter Dated August 28, 2018**

- D&BM-1 The comment expresses opposition to re-designating the property from CO-G to PI. For a detailed discussion of re-designation of the site and rezoning, please refer to the to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Additionally, please note that amendment to Area 5 of the PC-32 text would include provisions that would limit the uses permitted on the site and prohibit uses that are not appropriate at this location. The revised provisions would only allow for a Residential Care Facility for the Elderly (RCFE), which includes assisted living and memory care. All other uses currently listed under Area 5 of the PC-32 plan would be eliminated.
- D&BM-2 The comment states that the addition of a 24/7 use would increase traffic in the area. For a detailed discussion of this issue, please refer to the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments). As indicated in the Topical Response and throughout this document, using the Institute of Transportation Engineers' (ITE's) 2017 *Trip Generation Manual*, 10th Edition rates for the existing and proposed uses on the site, the proposed Project would result in 426 fewer trips than the existing use. Regardless of the hours of operation, a restaurant generates more trips compared to a senior living facility. The analysis reviewed and accepted by the City Traffic Engineer, used the ITE's 2017 *Trip Generation Manual*, 10th Edition rates for the existing (restaurant) and proposed (assisted living) uses.
- D&BM-3 The comment asserts that changing the zoning would threaten safety and property values and could provide for a variety of business to occur on the site in the future. Regarding safety, the comment does not elaborate on what would adversely impact safety in the neighborhood. Comment regarding property values is noted and will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required. Please also refer to Topical Response pertaining to General Plan Amendment/Zone Change in Section 3.1.1 of these Responses to Comments. The revised provisions in Area 5 of the PC-32 would only allow for an RCFE, which includes assisted living and memory care. All other uses currently listed under Area 5 of the PC-32 plan would be eliminated.
- D&BM-4 The commenter states that they are not against redevelopment of the site in accordance with the Master Plan (PC-32); however, they are opposed to rezoning the site. For a detailed discussion of rezoning, please refer to the to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).

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From: Wende Lichon <wendelichon@gmail.com>
Sent: Wednesday, August 29, 2018 10:32 AM
To: Zdeba, Benjamin
Subject: Harbor Pointe project

Dear Mr. Zdeba,

I am a resident in the Bayview community adjacent to the proposed Harbor Pointe senior care facility. I am strongly opposed to this project and deeply concerned about what it will do the quality of daily life as well as property value. Had the center been there when I first made the investment, I would not have considered purchasing my home. I like my quiet little neighborhood and did not sign up to live next to a private institution.

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I am concerned about noise, traffic, safety and what that might do to the value of the property, especially since this condo is really my only asset.

} 2

From what I understand, the first step for the project includes a rezoning request. I am writing to plead with you to protect the property and neighborhood and turn down the rezoning request for Harbor Pointe or any other private institutions.

} 3

Thank you for your consideration.

Sincerely,
Wende Lichon

Letter 47: Wende Lichon

Comment Letter Dated August 29, 2018

- WL-1 The comment expresses opposition to the proposed Project and states that the proposed development will negatively impact quality of life and property values. Comments regarding quality of life and property values are noted and will be forwarded to the decision makers. Quality of life and property values are outside the scope of CEQA, no further response is required.
- WL-2 The comment expresses concern regarding traffic, noise, safety, and property values. For a discussion of traffic issues, please refer to the Topical Response in Section 3.1.2 of these Responses to Comments. In terms of noise, per the analysis in Section 4.9, Noise, of the Draft EIR and as indicated in the Topical Response pertaining to Transportation/Traffic (Section 3.1.2), the Project would generate less traffic than the existing restaurant. Thus, Project-generated traffic would not substantially increase existing ambient noise levels and the impact would be less than significant. Additionally, Project-generated on-site noise levels would comply with the NBMC and would not result in excessive noise beyond the existing levels. It should also be noted that, as demonstrated in similar facilities, a senior living facility is a quiet use and would not result in generating noise exceeding the existing levels. As the proposed facility would have a subterranean parking, the noise from employees existing and entering the facility would not be audible to the surrounding uses. The comment regarding property values is noted and will be forwarded to the decision makers. As indicated in Response WL-1, above, property values is outside the scope of CEQA, no further response is required.
- WL-3 The comment expresses opposition to rezoning and requests that rezoning request be denied. The comment is noted and will be forwarded to the decision makers. For a detailed discussion of rezoning, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).

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From: nicole brunelle <nikkibrunelle@outlook.com>
Sent: Thursday, August 30, 2018 4:27 PM
To: Zdeba, Benjamin
Cc: pzak@newportbeach.gov; eweigand@newportbeach.gov;
bdunlap@newportbeach.gov; kkramer@newportbeach.gov;
pkoetting@newportbeach.gov; lkleiman@newportbeach.gov;
llovery@newportbeach.gov
Subject: Proposed zoning change -Kitayama/Bayview redevelopment

Dear Mr. Zdeba,

I am not only an original resident of the Baycrest Court neighborhood, I was also the Sales Manager in charge of the sale for both The Court as well as the Terrace communities at this location for the J.M.Peters Co. The subject of zoning for the surrounding area was a very hot topic as well as a large concern for the builder, the potential homeowners, and the community in general located adjacent to us.

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We all purchased our homes knowing the Kitayama site was designated as a Commercial Office, in conjunction with the other buildings directly across from our site, per our CC&R's, and Master Community Plan. We all absolutely have the right to expect that the city will honor their original commitment the the Master Plan and thereby protect our property values, physical safety, and our continued quiet enjoyment of our homes and neighborhood.

} 2

Restaurants and offices are NOT open all night. An Institution is however, with employee shift changes, ambulances, police activity, and even coroners and mortuary vehicles disrupting our neighborhoods and our lives. Both Baycrest and the Terraces will be hardest hit with people turning around in our entry circles at all hours of the day and night.

} 3

We all know that Bristol and Jamboree is one of the most dangerous intersections in the city and county. Memory care patients are (per the EIR) to be housed on the lower level of the facility can potentially "wander", particularly in the evening hours opening the opportunity for a tragic event such as their death, the death or injury of one or more motorists, and the mental anguish of all concerned.

} 4

This is obviously the wrong site for a senior care facility for all the reasons I've outlined as well as many more I could elaborate on... this leads us all to wonder why the City of Newport Beach is even considering a change of this magnitude, when the zoning change could also lead to this or other locations being used for a drug rehab facility, private jails, or mental institutions either in the future or even as an alternative to the senior center now being proposed.

} 5

I would like everyone on this board to consider the reliance of all the homeowners concerned that our original Master Community Plan with the city will be honored, and that whether you yourself live in or around this City, many residents will be effected by the ill-considered request.

} 6

Obviously we are not opposed to a business replacing Kitayama's as per our Commercial. Office Office designation.

Thank you,

Nikki Brunelle
nikki brunelle@outlook.com
126 Baycrest Ct.

Letter 48: Nicole Brunelle**Comment Letter Dated August 30, 2018**

- NB-1 The comment expresses concern over rezoning the property. For a detailed discussion of rezoning, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).
- NB-2 The comment requests that the City honor the original commitment to the Master Plan (PC-32) and not impact property values and physical safety. For a detailed discussion of rezoning, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). The comment does not elaborate on the issue of physical safety, so a response cannot be provided. Regarding property values, comment is note and will be forwarded to the decision makers. Property values is outside the scope of CEQA, no further response is required.
- NB-3 The comment expresses concern over the 24/7 nature of the proposed use and its implications disrupting the neighborhood. For a detailed discussion of traffic associated with the proposed facility, please refer to Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments). As discussed in the Topical Response, the proposed Project would result in reduced trips compared to the existing restaurant use.

Regarding emergency vehicles, based on correspondence from NBFD, it is the practice of NBFD to only use their sirens in traffic, as necessary, and rarely in residential areas. The Project would create the typical range of service calls for a project of this nature and size, including emergency medical and police services. The Project would replace an existing use with demand for such services already in place, even though it is anticipated that there would be more emergency medical to a senior facility than a restaurant. Additionally, it should also be noted that the ITE trip generation rate (2017 *Trip Generation Manual*, 10th Edition) that was used to determine the proposed Project trips takes into account service trips associated with the facility; therefore, the Project's reduced trips, compared to the trips from the existing restaurant, is inclusive of all trips to the facility.

Regarding the use of the entry circles of the adjacent residential development, signage will be required for the site to help protect the surrounding community from Project visitors and staff or the emergency service vehicles using neighboring entry circles. Most of the drivers accessing the assisted living community will be either employees familiar with the recommended traffic pattern or public safety personnel familiar with the street patterns.

- NB-4 The comment expresses concern over the Bristol Street and Jamboree Road intersection and the potential safety issues for the future residents of the facility wandering off. It should be recognized that memory care residents would be in a secured and monitored section of the facility, separated from the assisted living residents, and their recreational amenities would be completely enclosed. The facility would have extensive security systems for the memory care portion of the building. The staff would be trained

thoroughly to frequently monitor and care for memory impaired residents on a 24/7 basis. A confidential key pad code would be used to enter the memory care area. The fire access doors would be locked and if accidentally opened, an alarm would sound to allow staff to intervene immediately, as necessary. Additionally, all exterior windows would have window stops installed. As a result, unintentional exits by unaccompanied residents would be rare, if not impossible.

- NB-5 The comment expresses opinion that the site is not appropriate for a senior care facility, and that the rezoning could result in using the site for undesirable uses, such as drug rehabilitation facility, private jails, or mental institutions as an alternative for the proposed project. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Additionally, the revised provisions would only allow for a Residential Care Facility for the Elderly (RCFE), which includes assisted living and memory care. All other uses currently listed under Area 5 of the PC-32 plan would be eliminated.
- NB-6 The comment asked that the board (Planning Commission) consider honoring the original Master Plan (PC-32) and further indicates that the many residents will be negatively affected. The commenter is not opposed to redeveloping the site in accordance with the CO-G designation. The comment is noted and will be forwarded to the decision makers. No further response is required.

From: Andrea Kane <californiakane@yahoo.com>
Sent: Friday, August 31, 2018 11:57 AM
To: Zdeba, Benjamin
Subject: Harbor Pointe Senior facility proposal

Dear Ben,

As a resident of Bayview Heights near the proposed harbor Pointe senior care facility, I am “strongly” and unwaveringly opposed to rezoning this site from its current CO-G (commercial office) purpose to use of a PI (private institution)

Our quiet and safe neighborhood was never intended to include Private Institutions and I call on you to protect our property values and safety by denying this rezoning. It has never been part of the Master Community Plan for Bayview and therefore this type of rezoning would set a precedent that is neither safe or appropriate for our beautiful and serene neighborhoods or for that matter, any other similar neighborhoods in the City of Newport Beach.

I am greatly concerned and troubled by the validity of the claims from the builder and the Environmental Impact Report that traffic will not increase as a result of a 24/7 business that includes employee shift changes, emergency vehicles and increased holiday traffic.

A zoning change of this precedent setting magnitude in the city of Newport Beach (a direct zone change from CO-G to PI) paves the way for a variety of businesses to take over the site in the future that would tank property values and our neighborhood safety should the proposed senior facility not be built, sold or goes out of business.

Protect our property values and our neighborhoods by turning this request down. I am not against redevelopment of the site for use it was intended, I am abasing this precedent setting rezoning to a Private institution.

WATER is the one resource we have that is finite and limited in its availability. WATER is the only natural resource we have that the state and city governments have put a monetary fine and a limit on in its use and consumption. All residents of Newport Beach have been told to reduce WATER consumption by 20%, when Governor Jerry Brown proclaimed a fine for excessive use in 2017. Many environmentally conscientious Newport residence have gone through the expense of removing their lawns and replacing them with stones and some sort of succulent plant, in some cases they have removed all greenery including any plants. The majority of citizens have followed the rules watering only twice or once a week and sacrificing there beautiful lawns by replacing them with gravel and cement.

Newport beach has more than its fair share of high-rise hotels and commercial buildings that, in themselves, use excessive amounts of water, most of which is not governed by the state or city. For example, two blocks from the KITA YAMA restaurant are large office buildings and at least one high-rise hotel. The hotel alone in my estimation, uses more water in one week than the entire Santa Ana Heights residential neighborhood in one month. Unlike any city resident, (the residents get a report card in every monthly bill , that shows are water usage and how much we have been over charged if any), any hotel guests can run tap-water and shower water without restraints continuously for their stay if they chose, also the laundry in the hotel including the kitchen services that run sinks continuously use excessive and exorbitant amounts of water. Within a 10 square block of commercial buildings across the street from the KITA YAMA restaurant, there are millions of gallons of water used daily.

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Adding to that use is, in my opinion, reckless and unnecessary to accommodate only one business for the purpose of expanding its footprint by eight times to increase their annual profit. You are asking Newport residence to take a glass of water and at the same time offering a vendor a tub full, that does not support a fair sharing of a environmental resource, in our Community.

Please do what is best for the environment and community of Newport Beach and vote NO on changing the zoning to P1, to expand to 10 times the size of the business on the property known as KITAYAMA restaurant. We look forward to sharing our comments in person at the meeting on September **13th**.

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Sincerely
Andrea Kane

Letter 49: Andrea Kane**Comment Letter Dated August 31, 2018**

- AK-1 The comment expresses opposition to re-designating the site from the CO-G to PI land use category and urges denial to protect property values. The comment additionally states that the rezoning would set a precedent with safety implications for the neighborhood. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Re-designating the site is not a prohibited action, and it can occur anywhere within the City regardless of whether or not this particular property is re-designated. The reference to safety does not elaborate on the type of safety that is of concern. The comment regarding property values is noted and will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required.
- AK-2 The comment questions the validity of the transportation/traffic conclusion that the Project would not result in increased traffic despite the 24/7 nature of the facility and associated traffic. For a detailed discussion of this issues, please refer to Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments) that indicates a restaurant would generate more trips compared to an assisted living facility, based on the Institute of Transportation Engineers' (ITE's) 2017 *Trip Generation Manual*, 10th Edition rates for the existing and proposed uses on the site.
- AK-3 The comment states that the rezoning would be precedent setting and would result in bringing in a variety of businesses if the proposed assisted living facility fails. This would affect property values and safety in the neighborhood. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). It should also be noted that amending the existing land use designation is not a prohibited action, and it could occur anywhere within the City regardless of whether or not this particular property is rezoned. The reference to safety does not elaborate on the type of safety that is of concern. The comment regarding property values is noted and will be forwarded to the decision makers. Property values is outside the scope of CEQA, no further response is required. Furthermore, the amendment to Area 5 of the PC-32 would only allow for a Residential Care Facility for the Elderly (RCFE), which includes assisted living and memory care. All other uses currently listed under Area 5 of the PC-32 plan would be eliminated.
- AK-4 The comment expresses concern for increased water usage by the proposed facility and states that water is a resource with limited capacity. The comment elaborates on City residents' efforts in reducing water usage and criticizes the excessive use of water by uses such as offices and hotels. The comment is noted, but as indicated in Section 4.12, Utilities and Service Systems, of the Draft EIR, the proposed Project would result in an estimated water demand of approximately 3,803 gal/ksf/day (gallons per thousand square feet per day) on average. Given the existing restaurant's water use of approximately 1,232 gal/ksf/day, the projected net increase in water demand from the proposed Project would be approximately 2,571 gal/ksf/day. Based on correspondence from IRWD, as the

water provider for the Project, the water demand of the proposed facility could be accommodated with the existing IRWD infrastructure, and IRWD has sufficient capacity to meet the water demand of the proposed Project. Additionally, the IRWD has issued a Conditional Water and Sewer Will Serve Letter, indicating that the IRWD would have adequate domestic water supplies to accommodate the Project.

- AK-5 The comment request denial of the proposed rezoning of the site to PI. For clarification, it should be noted that rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI.

From: Wendy Haigh <wendhaigh@gmail.com>
Sent: Tuesday, September 04, 2018 5:12 PM
To: Zdeba, Benjamin
Subject: Proposed Harbor Pointe Senior Care

Dear Mr. Zdeba,

As a resident at 84 Bayercrest Court, I am strongly opposed to rezoning the proposed Harbor Pointe Senior Care facility for the following reasons:

1. Rezoning from Commercial Office to Private Institution will pave the way for any type of institution including mental institutions, drug re-hab centers and other private businesses on this site.
2. Restaurants and Offices are not open all night, but an institution such as proposed will be open all night with employee shift changes, ambulances, police activity, and mortuary vehicles disrupting our quiet neighborhood and our lives.
3. Traffic will be increased, and parking may be used along Bayview Place.
4. How will the facility handle potentially wandering memory care patients who can wander out onto Bristol (one of the busiest streets in Newport) or wander into the Baycrest or Terraces communities which are private?
5. Our property values will be affected and probably go down.

We purchased our homes knowing that the Kitayama site is designated as a Commercial Office designation, not a Private Institution. We have the right to expect that the city will protect values and physical safety.

Please protect our property values and our neighborhoods by turning this rezoning request down.

Sincerely,
Wendy Haigh

Letter 50: Wendy Haigh**Comment Letter Dated September 4, 2018**

WH-1 The comment expresses concern over re-designating the site from the CO-G to PI land use category, and that the rezoning could result in any type of institutions, such as mental institutions, drug rehabilitation centers, and other private businesses. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Further, the proposed amendment to Area 5 of the PC-32 would limit the permitted use to Residential Care Facility for the Elderly (RCFE).

WH-2 The comment states that the proposed Project operating all night and the associated traffic from employee shift changes, ambulances, police activity, and mortuary vehicles would disrupt the neighborhood. For a detailed discussion of traffic related issues, please refer to Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments) that indicates that a restaurant would generate more trips compared to an assisted living facility.

Regarding police activities, the proposed Project would generate a total resident population of 120, which is a nominal increase to the City's overall population to be served by police protection services. As indicated in Section 4.10, Public Services, of the Draft EIR, based on correspondence with the Police Department, the Project would result in the typical range of service calls for a project of this nature and size, including police protection services. It should also be noted that the Project would replace an existing use with demand for such services already in place. Additionally, it should also be noted that the ITE trip generation rate (2017 *Trip Generation Manual*, 10th Edition) that was used to determine the proposed Project trips takes into account service trips associated with the facility; therefore, the Project's reduced trips, compared to the trips from the existing restaurant, is inclusive of all trips to the facility.

WH-3 The comment indicates that the Project would increase traffic and parking along Bayview Place. For a detailed discussion of traffic and associated issues, please refer to Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments). In terms of parking, as indicated in Section 3.0, Project Description, of the Draft EIR, based on the NBMC Section 20.40.040 (Off-Street Parking Requirements), the proposed facility would be required to provide a total of 40 parking spaces (one parking space per three beds). However, the proposed Project includes 53 parking spaces, which is 13 spaces or approximately 33 percent more than the City requirement. With no overflow parking anticipated, it is unlikely that staff or visitors would park on surrounding neighborhood streets. It should be noted that parking on Bayview Place is prohibited on both sides of the street, and there is no direct access from the Santa Ana Heights neighborhood to the proposed development. In the absence of direct access and distance, employees and visitors are not likely to park on residential streets of Santa Ana Heights neighborhood and walk to the facility. Additionally, the City would require as a condition of approval (as part of the Conditional Use Permit [CUP]) that all staff and visitors park on-site.

- WH-4 The comment expresses concern over the Bristol Street and Jamboree Road intersection and the potential safety issues for the future residents of the facility wandering off. It should be recognized that memory care residents would be in a secured and monitored section of the facility, separated from the assisted living residents, and their recreational amenities would be completely enclosed. The facility would have extensive security systems for the memory care portion of the building. The staff would be trained thoroughly to frequently monitor and care for memory impaired residents on a 24/7 basis. A confidential key pad code would be used to enter the memory care area. The fire access doors would be locked and if accidentally opened, an alarm would sound to allow staff to intervene immediately, if necessary. Additionally, all exterior windows would have window stops installed. As a result, unintentional exits by unaccompanied residents would be rare.
- WH-5 The comment expresses concern over reduced property values in light of rezoning the site and states that the City should protect property values and physical safety. Comment regarding property values is noted and will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required. Regarding physical safety, the comment does not elaborate on what type of impacts would occur to physical safety in the neighborhood. No response can be provided.

From: Fred Cartozian <fredcartozian@aol.com>
Sent: Wednesday, September 05, 2018 12:01 PM
To: Zak, Peter; eweigland@newportbeachca.gov; Dunlap, Bill; Kramer, Kory; pkoeting@newportbeachca.gov; Kleiman, Lauren; Lowrey, Lee; Zdeba, Benjamin
Cc: fredcartozian@aol.com
Subject: Protect Our Neighborhood, Bayview Terraces

Dear City Planners,

As residents for over 21 years at 3 Cormorant Circle in Newport Beach, we are very concerned over the possible zoning change that would alter our beautiful neighborhood forever. The proposal of a senior care center goes against the current zone CO-G into a PI zoning. Please follow the Master Community Plan for Bayview and consider the retention of the beautiful and serene surroundings that we now enjoy as citizens of Newport Beach.

} 1

The element inflicted by the emergency vehicles, employee shifts, as well as the outside visitor traffic will greatly affect the environment that we now enjoy. We are not against redevelopment of this site, we are against rezoning for a Private Institution.

} 2

Please consider the welfare of the citizens of Newport Beach who have lived in this neighborhood of Bayview Terraces for so long.

} 3

I remain, Sincerely,
Arlene Cartozian

Letter 51: Arlene Cartozian

Comment Letter Dated September 5, 2018

- AC-1 The comment expresses the opposition of the residents to rezoning, which would alter the neighborhood. The comment urges following the Master Plan (PC-32). For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).
- AC-2 The comment states that while they are not against redeveloping the site, they are against rezoning. The comment further states that the environment will be affected by emergency vehicles, employee shifts, and visitor traffic. For a detailed discussion of traffic and associated issues, please refer to Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments).
- AC-3 The comment asks that the welfare of the people in the neighborhood be considered. The comment is noted and will be forwarded to the decision makers no further response is required.

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From: runfastalrun@aol.com
Sent: Thursday, September 06, 2018 4:40 PM
To: Zdeba, Benjamin
Subject: Re: Complaint for proposed rezoning for Harbor Pointe senior center
Attachments: Rezoning letter for Baycrest Court Sept. 2018.docx

Dear NB city council members,

Please find attached a letter in regards to opposing the rezoning of a CO-G property to a PI property.

Thank you,
The Wakelings at Baycrest Court Newport Beach

9/5/2018

Dear Newport Beach Planning Commission,

My husband and I are very disheartened and greatly concerned to hear that the city of Newport Beach has put forth a proposal to make a direct zone change from it's current CO-G to PI in regards to the Harbor Pointe senior care facility.

When we purchased our property, this was never an issue that we were concerned about because we had checked out the city planning for the surrounding area and it was only zoned for commercial offices. We moved to Baycrest Court because we liked the idea of living in a small QUIET community.

Now the city wants to change the zoning and build a senior facility which will not only lower our property values but also have a huge impact on traffic in the surrounding area.

As it stands now the traffic on the weekends from the office buildings is minimal.

The builder claims that this proposed building will not have an adverse effect on the traffic. Seriously how could they even make a silly statement like that.

Think about it logically this is a nursing home which will have employee rotations all day (weekends included) and night emergency vehicles (sirens) visitors etc etc.

What happens if Harbor Pointe is sold or goes out of business and the zoning is now changed so it would not be hard for example a drug rehab or private jail to take over the premises.

GREAT destroying our property values even more

We all work very hard to achieve what we have as I am sure you do. Please help us to protect our property values and save our neighborhood by turning this rezoning request down.

We are not against redevelopment of the site for CO-G commercial office zoning.

But we are strongly against and opposed to rezoning this property to PI for building a private institution.

Sincerely,

The Wakelings

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2
3
4

Letter 52: The Wakelings

Comment Letter Dated September 6, 2018

TW-1 The comment expresses concern about re-designating the site from CO-G to PI land use category, which was not anticipated when they bought their property. For a detailed discussion of rezoning, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).

TW-2 The comment asserts that the rezoning will impact property values and have an impact on traffic. Comment regarding property values is noted and will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required.

For a detailed discussion of traffic issues, please refer to the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments). As indicated in the Topical Response and throughout this document, using the Institute of Transportation Engineers' (ITE's) 2017 *Trip Generation Manual*, 10th Edition rates for the existing (restaurant) and proposed (assisted living) uses on the site, the proposed Project would result in 426 fewer trips than the existing use. Therefore, regardless of the hours of operation, a restaurant generates more trips compared to a senior living facility.

TW-3 The comment states that rezoning could result in undesirable uses such as drug rehabilitation or private jail to occur on the site should the proposed use goes out of business. It should be noted that the amendment to Area 5 of the PC-32 would limit the permitted use to Residential Care Facility for the Elderly (RCFE).

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From: Carol McDermott <carol@entitlementadvisors.com>
Sent: Friday, September 07, 2018 7:32 PM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Lowrey, Lee
Cc: Jurjis, Seimone; Campbell, Jim; Ramirez, Gregg; Zdeba, Benjamin
Subject: Harbor Pointe Study Session on September 13 Responses from applicant to letters of opposition (b)
Attachments: 2018-09-06 Responses to Opponents on Harbor Pointe for Planning Commission.docx

Mr. Chairman and Members of the Commission: I am representing the applicant and developer of the proposed Harbor Pointe assisted living and memory care facility on your agenda September 13 for a Study Session. I have received copies of the repetitive letters of opposition and wish to provide our responses based on the findings of the DEIR and the plans on file with the City for this use. I have assembled them by topic on an Issue/Response basis and hope you find this to be informative. We look forward to presenting our revised project to you at the meeting and receiving your comments now that we have lowered the height of the building in response to community concerns expressed at the previous study session. Sincerely, Carol

Carol Mentor McDermott, AICP
Principal

MIG | Entitlement Advisors
3 Park Plaza 17th Floor
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Responses to Letters from Opponents re: Harbor Pointe Assisted living

Typical Issues are as described by several residents from the Baycrest Condominium and Santa Ana Heights communities and are excerpted below from their letters by issue topic

Safety of all area Residents

Issue 1: *Bristol and Jamboree is one of the most dangerous intersections in the city and county. Memory care patients who are (per the EIR) to be housed on the lower level of the facility can potentially wander. How will you handle the tragedy of these patients wandering out onto Bristol and potentially being killed? How will you handle these same patients potentially wandering into Baycrest and the Terraces, into these busy surrounding streets, yards, decks and pool areas-all potentially leading to unnecessary tragedies?*

Response 1: Memory care patients are in a completely secured and monitored portion of the building and their recreational amenities are completely enclosed. The operator provides extensive security systems for the Memory Care portion of the building. They train their staff thoroughly to frequently monitor and care for memory impaired residents on a 24/7 basis; the memory care portion of the building is secured and separate from the assisted living residents. Entrance into the memory care area is only by using a confidential key pad code, the fire access doors are locked and if accidentally opened, an alarm sounds to allow staff to intervene immediately if necessary. Additionally, window stops are installed on all the exterior windows. As a result, unintentional exits by unaccompanied residents is extremely rare. Also, the memory impaired residents are physically incapable of entering the gated community of Baycrest.

Issue 2: *This building would bring in 100's of people to this site including residents, their visitors, employees, emergency response, vendors, etc. coming and going at all times of the day & night.*

Response 2: None of the residents are capable of driving. Unfortunately, they receive very few visitors, and certainly not at peak hours when residents and office employees are headed to their jobs and/or returning home. The number of employees is expected to range between 10-20 with a maximum of 30 employees for a brief amount of time during shift changes. According to the traffic study attached as a technical appendix to the Environmental Impact Report (EIR), the existing restaurant generates 738 trips per day and the proposed project is expected to generate approximately 312 trips per day or 426 trips less.

Issue 3: *What will happen in the event of an emergency such as an earthquake, fire, major car accidents, etc.? What is the plan? How will the required evacuation of this institution's residents with memory care patients, the very ill and elderly impact the safety and lives of existing residents and occupants of the office buildings in the event of natural disaster?*

Response 3: The building is being designed to the most up-to-date and stringent earthquake standards, evacuation plans are required by City fire codes and State Department of Health Services permits, there is an emergency exit out onto Bristol, and this senior residential community represents no known danger to surrounding residents or employees. We will be happy to review these restrictions with our neighbors and the Commission and accept conditions of approval to address these concerns.

Issue 4: *Just this year there was a small aircraft that crashed into the homes of people that lived in the terraces. Due to John Wayne Airport flight patterns, what additional risk are you putting these memory care patients into?*

Response 4: As with all previous (including Baycrest) and proposed developments in the area near the airport, this community will require approval by the Airport Land Use Commission which will review and require compliance with all their standards.

Issue 5: *The street boundary to the East (Bristol) of this location is a major one-way street that already has major traffic delays/back-ups at many times throughout the day. The building of this type of facility at this intersection further places all residents at a higher risk for accidents. Our community cannot handle this increase in traffic flow. The increase in traffic to this area also places residents at a higher risk for vandalism, theft, etc.*

Response 5: The EIR and Traffic Study prepared by an independent consultant under contract to the City has found that there is no increase in traffic and in fact a significant decrease from the existing restaurant, having little or no peak hour effects on either Bristol or Bayview Place, unlike if an office building were developed on the same property which increases peak hour traffic. Harbor Pointe will reduce traffic from that of the restaurant by 426 daily trips and will be less than an office building by 370 trips. Without such feared increases, there is little likelihood of an increase in vandalism or theft.

Issue 6: *The site will have controlled substances in medication rooms which will surely put them at risk for theft and all residents at higher risk.*

Response 6: The State also controls the use, security and storage of controlled substances eliminating risk of theft and risk to residents. We are happy to share these restrictions with our neighbors and the Commission.

Noise Concern

Issue 7: *Restaurants and offices are not open all night. An institution like this is open ALL NIGHT with employee shift changes, ambulances, coroners, mortuary vehicles, police activity, etc. disrupting our neighborhoods and our lives. Baycrest and the Terraces will be particularly hard hit being adjacent to this site and people turning around in our entry circles at all hours of the night.*

Response 7: The proposed use is a demonstrably quiet use and the Noise Study in the EIR demonstrates that employees exiting and entering the underground parking structure will generate little noise to the surrounding community because their cars will all be underground when they leave or arrive. The Fire Department has stated that it is their practice not to use sirens when entering a residential community such as Harbor Pointe or Baycrest. Signage will be required for the site to help protect the Baycrest community from the use the Baycrest entry circles and most of the drivers accessing the assisted living community will be either employees familiar with the recommended traffic pattern or public safety personnel familiar with the street patterns. Also, there is an emergency exit out onto Bristol for emergency personnel to utilize.

Issue 8: *The residents that would be housed here are all high risk and mostly elderly which will most definitely ensure emergency vehicles being called at all times of the day and night for assistance. This is not acceptable to people who have lived here for years in a quiet community free of noise. If there is a noise abatement law mandated by John Wayne Airport after 11pm to minimize noise in this area, how can a Senior Living Facility be built directly behind the same communities that will require non-stop traffic in and out and emergency vehicles? A 24/7 facility includes shift changes, sirens, people from out of the area being dropped off, etc. which can dramatically increase traffic and the tranquility of our neighborhoods at night.*

Response 8: Examples of other assisted living and memory care communities in the city have shown that medical emergencies are typically no more frequent than in surrounding communities. Additionally, emergency vehicles do not use their sirens in residential areas, typically used only when moving through intersections against a signal phase. Drop-offs are typically done during normal working hours and a shuttle is available to residents minimizing any additional trips to doctor's appointments or pharmacy visits which are all done during the day. Shift changes are of such minimal numbers, 10-20 regular staff and a maximum of 30 onsite due to staggered shift scheduling overlap, that no significant increase in traffic will be experienced in the neighborhood.

Issue 9: *How will distress noises from patients living their effect surrounding communities? How will outside garden, grill and lounge areas impact noise levels next to surrounding communities?*

Response 9: There are no outdoor gardens or courtyard spaces adjacent to the surrounding residential communities. All such spaces and amenities are internal and surrounded by the building. Additionally, there is a block wall separating the communities on the south and west with the nearest homes approximately 90 feet away from our building.

Environmental Impact to the Back Bay Ecological Reserve

Issue 10: *The massive Increase in utilization of water that will be required makes no sense when we have been under a drought for years here. How will this impact the Bay? How does another building this size effect the protected species in the Back Bay? Increase in litter, trash to area. How will medical waste be handled?*

Response 10: The EIR reveals that the increase in water demand over a restaurant or a potential office building is insignificant. Also, unlike when Baycrest was built, stringent water quality control and run-off management plans are required such that there will be no water quality impact to the Bay. Since residents are always managed by staff there is little potential for litter. The existing and proposed trees on the site provide the same buffer for protected species as the existing development. Additionally, the site is approximately one-third of a mile from the Back Bay with intervening development and vegetation. Medical waste is controlled by strict State guidelines, and we are happy to share those regulations with our neighbors and the Commission.

Issue 11: *Level of CO2 emissions caused by building as well as increased traffic flow. How does all of this impact the air we are breathing and each and every day?*

Response 11: The EIR Traffic Study shows that there is little or no increase in traffic compared to the existing use therefore no significant increase in CO2 emissions.

Issue 12: *How many parking spaces will be provided for residents, employees, medical practitioners, visitors, etc.? Will they now park up and down Bayview place which in turn adds to more accident risk?*

Response 12: Parking is completely provided in the underground structure with an elevator into the building. The City requires 40 parking spaces and the project provides 53. The excess parking ensures that the parking supply exceeds the demand by 33%. With more than adequate parking, it is unlikely that parking on Bayview Place will occur. The City requires that all staff and visitors park on-site and they can all be instructed not to park on Bayview Place.

Rezoning

Issue 13: *Rezoning to a private institutional design violates the general and master plan. The rezoning from Commercial office to PI will pave the way for any type of institution including mental institutions, drug-rehab centers, etc. to do business at this site.*

Response 13: The Bayview Planned Community Development Plan amendment is designed to add the proposed assisted living use to the list of land uses that requires a Use Permit approval. The proposed amendment to the Bayview Planned Community Development Plan does not include a provision to allow mental institutions or drug-rehab centers, etc., making it infeasible at this location. The City's General Plan allows for updates and the public hearing process provides for analysis of the compatibility of a proposal.

Financial

Issue 14: *A building of this size, bringing in increased traffic flow, noise, pollution, etc. will surely have a negative impact on the property value of all homes & condos in the area that will suffer a great financial loss and quality of life if such a building is approved.*

Response 14: The EIR has evaluated all the factors of traffic, noise, air quality etc. and has found no significant impacts which could affect surrounding uses and therefore land values. Local realtors have denied the impact of this use on home values and the operator has never seen an impact to adjacent property values in other locations; in fact, it is most often seen as an amenity or convenience to grown children who want their aging relatives nearby.

Letter 53: Carol McDermott

Comment Letter Dated September 7, 2018

- CMD -1 This letter presents comments/issues raised by a number of commenters and responses to those comments. The responses, contained in the letter, have been prepared by the Applicant's representative. Comments are noted, and no further response is required.

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Michael and Kristina Kiper
31 Baycrest Court
Newport Beach, CA 92660
Islandmd1@aol.com
(949) 350-2884

Letter 54

September 9, 2018

Dear Mr. Zdeba,

We are writing to express our deep opposition to the proposed rezoning next door to our community to allow the Harbor Pointe Senior Care Facility development. We purchased our condo expressly for the tranquility of the neighborhood. The rezoning of the Kitayama site threatens the safety and peacefulness of our neighborhood.

} 1

We should not be forced to watch our property values plummet as these "private institutions" profit. The space should remain and be used as it always has, as a "Commercial Office" site. For the same reason that the airport is not allowed to operate all night, nor should we be subjected to a facility that will operate all night as we try to rest. We are sure that you as a homeowner would not want a zoning change where you live either.

} 2

Thank you for your attention to this matter.

Sincerely,

Michael & Kristina Kiper

Letter 54: Michael & Kristina Kiper

Comment Letter Dated September 9, 2018

- M&KK -1 The comment expresses opposition to the proposed rezoning, which would threaten the safety and peacefulness of the neighborhood. Please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). The comment does not elaborate on the topic of safety, no response can be provided.
- M&KK -2 The comment reiterates opposition to rezoning and adds the rezoning would affect property values. The comment is noted and will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required.

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From: Paula Hurwitz <paulakhurwitz@yahoo.com>
Sent: Monday, September 10, 2018 1:32 PM
To: Zdeba, Benjamin
Subject: Harbor Pointe Senior Living

I am a resident at 112 Baycrest Ct. and am in the most visually effected location. My front window faces directly towards the Kityama parking lot. The restaurant is set back to be closer to Bristol St. East. They are good neighbors and do not operate 24 hours. The new proposed footprint of the Senior center will be less than 90 feet away from my kitchen window and the noise, traffic, lighting will be 24 hours with no respite. How can this be good?

1

This is my retirement investment. I feel threatened by the possibility that I would no longer want to reside here. We all purchased our units knowing that the site was designated as a commercial site under the Master Plan. That is how we chose this lovely area.

2

I can only speak to what I perceive is a massive change to the area. I am opposed to this project on many levels and will list them below.

- Making a change to the Master Community Plan that has protected our neighborhood will threaten the area in safety, as well as traffic. Changing the site from CO-G to PI would set a precedent in the entire city. It could pave the way for a variety of businesses to take over the site if the project fails or decides to sell to another institutional concern.

3

- I am troubled that the claims from the builder and the EIR has stated that there would be no increase in traffic.n There will be shift changes, emergency vehicle traffic and increased visitor traffic.

4

- Traffic safety is a concern as Bristol St going East is a major traffic area and prone to more accidents than others and any major disaster would be hampered in evacuation due to the direction of the streets and intersections.

5

- After being urged as citizens of the city to conserve our water and even being restricted. How does it help when an 8,000 sq foot building is replaced by an 85,000 sq foot building with 120 or so units with showers, toilets and sinks. The increase in water usage could effect our abilities during a future drought. A change in zoning for one individual business will set a bad precedent as unfair to the neighbors surrounding the site.

} 6

- I urge you to not to let this project be allowed and ruin what we believe to be the best place in Newport Beach to live.

} 7

Please say no to this!

Paula K. Hurwitz

Letter 55: Paula K. Hurwitz**Comment Letter Dated September 10, 2018**

PKH -1 The commenter expresses her opinion about the existing restaurant use, as a good neighbor not operating 24/7, and that the building is set closer to Bristol Street. She further adds that the footprint of the proposed facility will be less than 90 feet away from her unit. Residing in a unit where the kitchen is facing the site, she will be affected by noise, traffic, and lighting. The comment is noted, and it should be recognized that the proposed structure would also be set closer to the Bristol Street, and that the setbacks to the surrounding uses would exceed the currently required minimum setbacks currently allowed by PC-32, as follows:

- 41-foot setback from the southwest property line, near the Baycrest condominiums (the PC requires 20 feet between commercial and residential uses)
- 41-foot setback from the office building and residential uses to the northwest (the PC requires 0 feet to the office and 20 feet to the residential uses)
- 15-foot setback from Bristol Street (the PC requires 10 feet)
- 11-foot setback from Bayview Place (the PC requires 10 feet)

Additionally, as stated in Section 3.0, Project Description, of the Draft EIR, the Project would include ample landscaping incorporated near the southwest property line adjacent to Baycrest condominiums to create an enhanced buffer. Furthermore, Section 4.1, Aesthetics, of the Draft EIR, includes a visual simulation study (View Simulation 2) with a view from the back of the Baycrest condominiums toward the Project site. Based on the visual simulation, only the third story of the proposed structure would be visible from this vantage point. The additional trees would significantly screen the views of the structure from this view point.

For a discussion of traffic issues please refer to the Topical Response pertaining to Transportation/Traffic in Section 3.1.2. Section 4.9, Noise, of the Draft EIR provides a detailed analysis of the Project's potential noise impacts. Per the analysis, and as indicated in the Topical Response, the Project would generate less traffic than the existing restaurant. Thus, Project-generated traffic would not substantially increase existing ambient noise levels and the impact would be less than significant. Additionally, Project-generated on-site noise levels would comply with the NBMC and would not result in excessive noise beyond the existing levels. It should also be noted that, as demonstrated in similar facilities, a senior living facility is a quiet use and would not result in generating noise exceeding the existing levels. As the proposed facility would have a subterranean parking, the noise from employees existing and entering the facility would not be audible to the surrounding uses.

In terms of lighting, the discussion in Section 4.1, Aesthetics, of the Draft EIR demonstrates that the Project is located in an area that is already subject to ambient lighting from existing surrounding uses, including lighting within the surface parking lot of the existing restaurant. Consistent with existing conditions in the vicinity, the proposed Project would include new exterior light sources that would generate light at

levels sufficient for safety and visibility. These would include pole lighting, small light bollards, path lighting, minor accent lighting, and code-required egress lighting at exit doors. All exterior lighting would be shielded and facing down and away from adjacent properties. The enhanced landscaping and the existing perimeter block walls would also provide additional screening.

PKH -2 The comment expresses opposition to the Project and indicates that the neighbors bought their properties in the area assuming that the existing zoning would not change, and that the Project would result in significant changes to the area. The comment is noted and will be forwarded to the decision makers. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). The specific issues raised are addressed in this letter.

PKH -3 The comment asserts that changing the zoning would threaten safety and increase traffic. The comment further indicates that the rezoning would set a precedent, and if the proposed facility fails, a variety of business could take over the site. For a detailed discussion of traffic issues, please refer to the Topical Response in Section 3.1.2. Regarding safety, the comment does not elaborate on what would adversely impact safety in the neighborhood, no response can be provided.

It should also be noted that the amendment to Area 5 of the PC-32 would limit the permitted use to Residential Care Facility for the Elderly (RCFE).

PKH -4 The comment questions the Draft EIR's conclusion that there would be no increase in traffic as a result of the proposed Project. For a detailed discussion of traffic and why the Project would not increase traffic, please refer to the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments).

PKH -5 The comment expresses concern about traffic safety on Bristol Street (one-way street) affecting evacuation during a major disaster. As indicated in the Topical Response pertaining to Transportation/Traffic in Section 3.1.2, the proposed Project would result in reduced trips compared to the existing use. Therefore, while comment regarding traffic on Bristol Street is noted, the proposed facility would not result in substantial traffic on Bristol Street such that it would exacerbate accidents or would affect evacuation in the event of a disaster.

PKH -6 The comment expresses concern for increased water usage by the proposed facility and states that rezoning would set a bad precedent. As indicated in Section 4.13, Utilities and Service Systems, of the Draft EIR, the proposed Project would result in an estimated water demand of approximately 3,803 gal/ksf/day (gallons per thousand square feet per day) on average. Given the existing restaurant's water use of approximately 1,232 gal/ksf/day, the projected net increase in water demand from the proposed Project would be approximately 2,571 gal/ksf/day. Based on correspondence from IRWD, as the water provider for the Project, the water demand of the proposed facility could be accommodated with the existing IRWD infrastructure, and IRWD has sufficient capacity to meet the water demand of the proposed Project. Additionally, the IRWD has issued a Conditional Water and Sewer Will Serve Letter, indicating that the IRWD would have adequate domestic water supplies to accommodate the Project.

PKH -7 The comment asks that the Project not be allowed and that it would ruin the neighborhood. The comment is noted and will be forwarded to the decision makers. The comment does not raise any issues pertaining to CEQA, no further response is required.

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From: Suzanne Gee <suzgee23@yahoo.com>
Sent: Wednesday, September 12, 2018 7:31 PM
To: Zdeba, Benjamin
Subject: Kitayama Site Rezoning

Dear Ben,

As a resident at Baycrest near the Harbor Pointe senior care facility, I am strongly opposed to rezoning this site from its current CO-G (Commercial Office) purpose of use to a PI (Private Institution).

I am greatly concerned of the impact that a zoning change of this type and magnitude will have on our quiet and safe neighborhood. It has never been part of the Master Community Plan for Bayview to include a Private Institution and therefore this type of rezoning would set a precedent that is neither safe or appropriate for our beautiful and serene neighborhood.

I am greatly concerned that a 24 X 7 facility will dramatically increase traffic and noise in our tranquil neighborhood and am greatly concerned and troubled by the validity of the claims from the builder and the Environmental Impact Report that traffic will not increase as a result of a 24 X 7 business that includes employee shift changes, emergency vehicles and increased holiday traffic.

This precedent setting direct zone change from CO-G to PI would also pave the way for a variety of businesses to take over the site in the future that would greatly decrease our property values and our neighborhoods safety should the senior facility not be built, sold, or goes out of business.

Please protect the property values and safety of our quiet and safe neighborhood by denying this rezoning. I am not against redevelopment of the site for a use it was intended, I am against this precedent setting rezoning to a Private Institution.

Sincerely,

Suzanne Gee

Letter 56: Suzanne Gee**Comment Letter Dated September 12, 2018**

- SG -1 The comment expresses opposition to rezoning the property from CO-G to PI. The comment is noted and will be forwarded to the decision makers. No further response is required.
- SG -2 The comment states that rezoning (re-designating) the site would be precedent setting, and that the intent of the PC-32 was never to include PI uses. The comment is noted, for a detailed discussion of rezoning of the property, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Additionally, it should be noted that the process for re-designating any parcel in the City is a public process and each land use re-designation case is evaluated on its own merits after careful evaluation of the potential impacts. Therefore, re-designating a particular site would not set a precedent to amending land uses elsewhere in the City.
- SG -3 The comment indicates that the Project would result in impacts associated with traffic noise due to the 24/7 nature of the proposed Project. For a detailed discussion of traffic issues, please refer to the Topical Response pertaining to Transportation/Traffic in Section 3.1.2. As indicated in the Topical Response and throughout this document, using the Institute of Transportation Engineers' (ITE's) 2017 *Trip Generation Manual*, 10th Edition rates for the existing (restaurant) and proposed (assisted living) uses on the site, the proposed Project would result in 426 fewer trips than the existing use. Therefore, regardless of the hours of operation, a restaurant generates more trips compared to a senior living facility. Section 4.9, Noise, of the Draft EIR provides a detailed analysis of the Project's potential noise impacts. Per the analysis, and as indicated in the Topical Response pertaining to Transportation/Traffic (Section 3.1.2), the Project would generate less traffic than the existing restaurant. Thus, Project-generated traffic would not substantially increase existing ambient noise levels and the impact would be less than significant. Additionally, Project-generated on-site noise levels would comply with the NBMC and would not result in excessive noise beyond the existing levels. It should also be noted that, as demonstrated in similar facilities, a senior living facility is a quiet use and would not result in generating noise exceeding the existing levels. As the proposed facility would have subterranean parking, the noise from employees existing and entering the facility would not be audible to the surrounding uses.
- SG -4 The comment asserts that the rezoning would be precedent setting and would result in bringing in undesirable uses if the proposed assisted living facility fails. This would affect property values and safety in the neighborhood. Further, as indicated in the Topical Response pertaining to General Plan Amendment/Zone Change (Section 3.1.1), the amendment to Area 5 of the PC-32 would limit permitted use to Residential Care Facility for the Elderly (RCFE). Comment regarding safety does not elaborate on the topic of safety, no response can be provided. Comment regarding property values is noted and will be forwarded to the decision makers. Property values is outside the scope of CEQA, no further response is required.

- SG -5 The comment reiterates opposition to rezoning the site, which would affect property values and safety. The comment is noted and will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required. The comment does not elaborate on the type of safety referenced, no response can be provided.

From: Carol McDermott <carol@entitlementadvisors.com>
Sent: Wednesday, September 12, 2018 1:41 PM
To: pete.zak@newportbeach.ca.gov; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; kleiman@newportbeachca.gov; Lowrey, Lee
Cc: Zdeba, Benjamin; Anne Fox
Subject: Letter from Harbor Pointe Assisted Living Neighbor (a)
Attachments: 2018-09-11 Borak Kityama Support.docx

Mr. Chairman and Members of the Commission: I received this email of support for Harbor Pointe. Thank you for reading it. cmmc

Carol Mentor McDermott, AICP
Principal

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Irvine, Ca 92614
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Mobile: (949) 422-2303
www.entitlementadvisors.com | www.migcom.com

Mr. Chairman and Members of the Commission:

I live in Bayview Terrace, next to Baycrest condominiums which are adjacent to Kitiyama restaurant and the proposed Harbor Pointe Assisted Living and Memory Care project. I am in favor of the project and disagree with the negative claims made by some residents of Baycrest Condominiums, on the impact of this project. I appreciate that the applicant reduced the height of the building from 5 stories to 3 and are willing to add extensive landscaping to buffer our community from the new use. I know that senior living projects do not generate traffic nor are the residents a danger to our community. I strongly oppose another office building replacing Kityama. An office building will create more of the same problems I'm currently having with the office buildings across the street from Kityama. Everyday I deal with cars speeding off of Bristol, cutting me and my children off, and swerving into the office building turn lanes across the street. These are business people, usually in a rush, and with absolutely no concern for the residents that have to drive in and out of this area everyday. A retirement community will not have the same clientele as an office building, and will not have cars speeding and driving at dangerous speeds. Many of my neighbors share my same thoughts on this matter. As a resident of the neighborhood, thank you for considering my concerns against building another office building, and in support of a new retirement home.

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Christine Borak

29 Shearwater Place

Newport Beach, CA 92660

Letter 57: Christine Borak

Comment Letter Dated September 12, 2018

- CB -1 The comment expresses support for the proposed Project and states that she disagrees with the claims of the opposition. The commenter is appreciative of the effort in reducing the original height of five stories to three stories, and the additional landscaping that would buffer the community from the proposed use. The commenter further indicates that the Project would not result in traffic in the area, and the future residents would not pose a danger to the community. The comment is noted and will be forwarded to the decision makers. No further response is required.
- CB -2 The comment expresses opposition to another office building in the area (under the existing zoning). The comment states that additional trips from a new office building would exacerbate the current traffic problem in the neighborhood, including cars speeding, swerving, and cutting off traffic. Compared to an office building, she states, the proposed use would not generate the same clientele and the drivers would not be speeding. The commenter states that the drivers of the office buildings have no concern for the neighborhood, and therefore she prefers the proposed use over another office building in the area. The comment is acknowledged and will be forwarded to the decision makers. No further response is required.

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Kirk Snyder
41 Baycrest Court
Newport Beach, CA 92660
kdsnyder@cox.net

Newport Beach Planning Commissioners
City of Newport Beach Planning Department
100 Civic Center Dr.
Newport Beach, CA 92660

Dear Planning Commissioners,

I am a homeowner at 41 Baycrest Court in Newport Beach, located in the Bayview master planned community and the current President of our HOA. I am writing to strongly voice my personal opposition to rezoning the current Kitayama site that sits at the corner of Bristol and Bayview from CO-G to PI, documented to me in an email from the City of Newport Beach Planning Department as a precedent setting direct zoning change.

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There are many significant issues that I believe warrant the city to refuse this request to change the zoning for the Harbor Pointe senior and memory care facility proposed on this site, but I will focus on only one in this letter. The Bayview master plan never intended for any type of “institutional” business to be included in our quiet and safe neighborhoods here at the top of our city’s beautiful upper Newport Bay Ecological Preserve. It is loud and clear that the overwhelming majority of residents would never have purchased their homes if this had been part of the original master community plan. To change the zoning in this precedent setting and radical way, is to undermine the faith that hundreds of homeowners collectively representing multi-millions of dollars of property have in our city’s leaders to protect and preserve the value of their communities.

2

As President of our HOA, I am fortunate to know most of the homeowners and residents in our own safe and tranquil neighborhood as well as the community leaders in the neighboring Terraces and Santa Ana Heights communities. We all know that if a zoning change is permitted, it paves the way for all types of businesses fitting under the banner of a Private Institution to set up shop on that site. And of course, we also all know that the drug rehabilitation business is currently thriving, and a Newport Beach address is worth a great deal of money. Therefore, it is entirely possible that the current developers will sell the site to one of these other types of institutional businesses that would now be sanctioned to operate less than 100 feet from the doors of many hard working, tax paying and voting homeowners. Perhaps this would occur should their proposed senior and memory care business fail or perhaps they would never open their doors and sell it to a drug rehabilitation center once the rezoning occurs. Of course, this would net the developers a great deal of money based on the rezoned PI status alone.

3

Because this rezoning would be precedent setting, its significance goes far beyond the master community plan of Bayview and should sound a loud warning siren to every homeowner in Newport Beach. If institutional businesses are allowed in one safe, quiet and tranquil neighborhood, they

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could be coming soon to their neighborhoods once this precedent is set. I am confident that as soon as the entire city knows about how destructive this type of rezoning could be to their own beautiful neighborhoods, creating a myriad of safety and crime issues, noise problems, an on-going influx of people from outside the area visiting the facility, thousands of residents will want to be heard. Let's not kid ourselves with developer propaganda—no one wants to live next to any business that is categorized as an institution.

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(cont'd)

I will end this letter by stating that based on having my ear to the ground on this issue, the majority of homeowners in our communities, myself included, welcome redevelopment on the site that fits within the existing zoning and building parameters. We are ready to work hand in hand to create a win-win project that does not require rezoning and will enhance our beautiful enclave of Newport. A radical zoning change from CO-G to PI would undermine the lives of so many wonderful residents who contribute to the city every day in so many ways.

5

Sincerely,

Kirk Snyder

Letter 58: Kirk Snyder

Comment Letter Dated September 12, 2018

KS -1 The comment expresses opposition to re-designating the site from CO-G to PI land use category. The comment further states that a correspondence from the City of Newport Beach documented the action as precedent setting. For a detailed discussion of rezoning of the property, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).

KS -2 The comment expresses opposition to rezoning the site and states that the intent of PC-32 was never to include institutional uses on the site. The proposed Project would include an amendment to Area 5 of the PC-32 to allow for Residential Care Facility for the Elderly (RCFE) (assisted living and memory care for seniors) and to change the development standards for the Project site. It should also be noted that upon submittal of plans for a new development project and the request for a zone change, the City staff meticulously examine the request to ensure that it preserves the integrity of the area and does not create incompatibility with the existing surrounding uses.

The comment regarding protection of the property values and the neighborhood is noted and will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required.

KS -3 The comment asserts that the PI designation paves the way to undesirable uses if the proposed assisted living facility fails. For a detailed discussion of this issue, please refer to the Topical Response in Section 3.1.1 of these Responses to Comments.

KS -4 The comment states that the rezoning (re-designating the site) would be precedent setting and would result in rezoning within other neighborhoods in the City. The process for rezoning any parcel in the City is a public process and each rezoning case is evaluated on its own merits after careful evaluation of the potential impacts. Amending a particular site would not therefore set a precedent to amending land uses elsewhere in the City. Regarding potential for undesirable uses in the future, please refer to Response KS-3, above.

KS -5 The comment states that the community would not be opposed to redevelopment of the site compatible within the existing zoning and building parameters. Comment is noted and will be forwarded to the decision makers. Comment does not raise a CEQA issue, therefore no further response is required.

The proposed building is within the existing parameters of the PC-32 since it is uniformly three stories, or 33 feet, at the top of the roof, and 39 feet, 6 inches at the highest point, which includes mechanical equipment screening. Additionally, all setbacks for the building location comply with the current requirements outlined in PC-32. Although not specifically required by PC-32, the Project includes ample landscaping along the southwest and northwest property lines, adjacent to Baycrest condominiums and Santa Ana Heights development to create a buffer and enhance compatibility.

The comment regarding opposition of the homeowners of the community to the proposed use will be forwarded to the decision makers. As the comment does not raise any issues pertaining to CEQA, no further response is required.

Form Letter 2 (FL2)

As indicated above, the following is a “form letter” submitted by a number of commenters, as listed in Section 3.6 of these Responses to Comments. The responses to the “form letter” follow the letter and are referenced in the subsequent responses to the same letter.

As a resident at Bayview near the proposed Harbor Pointe senior care facility , I am strongly unwaveringly opposed to rezoning this site from its current CO-G (Commercial Office) purpose of use to a PI (Private Institution)

Our quiet and safe neighborhood was never intended to include a Private Institution and I call on you to protect our property values and safety by denying this rezoning. . It has never been part of the Master Community Plan for Bayview and therefore this type of rezoning would set a precedent that is neither safe or appropriate for our beautiful and serene neighborhoods or for that matter, any other similar neighborhoods in the city of Newport Beach.

I am greatly concerned and troubled by the validity of the claims from the builder and the Environmental Impact Report that traffic will not increase as a result of a 24x7 business that includes employee shift, changes emergency vehicles, and increase holiday visitor traffic.

A zoning change of this precedent setting magnitude in the city of Newport Beach (a direct zone change from CO-G to PI) paves the way for a variety of businesses to take over the site in the future that would tank property values and our neighborhood’s safety should the proposed senior facility not be built, sold, or goes out of business.

Protect our property values and our neighbors by turning this rezoning request down. I am not against redevelopment of this site for use it was intended I am against this precedent setting rezoning to a Private Institution .

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Responses to Form Letter 2 (FL2)

FL2-1 The comment expresses opposition to re-designating the Project site from the current CO-G to PI land use category and asserts that the new zoning will establish a precedent that would not be safe and appropriate for the area. For a detailed description of rezoning, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Additionally, the discussion on page 4.8-18 of Section 4.8, Land Use and Planning, of the Draft EIR indicates that:

The proposed Project is within Zoning District PC-32, which is the Bayview Planned Community Development Plan (PC-32), that provides for residential, recreational, commercial, professional, institutional, hotel, and office uses. The Project site is located in Area 5 of the Bayview Planned Community, which is intended for commercial uses, specifically facilities for shopping goods, convenience goods and services, food services, and recreation for the community. Permitted uses include restaurants, bars, theaters, and nightclubs. Permitted uses subject to a Conditional Use Permit include automobile washing; health clubs; helistops; mini-storage facilities; public utility exchanges and substations; retail businesses; service businesses; animal clinics and hospitals; administrative and professional offices; automobile parking lots and structures; commercial recreation; nurseries and garden supply stores; day nurseries; financial institutions; public/private utility buildings and structures; self-service laundry and dry cleaning facilities; accessory structures and uses necessary and customarily incidental to the above uses; and any other uses that, in the opinion of the City of Newport Beach Planning Commission, are of a similar nature.

Therefore, upon closure of the existing restaurant and in the absence of a zone change, any of the above uses, including bars, theaters, and nightclubs could replace the existing restaurant. These uses could have more impacts associated with noise, traffic, land use compatibility, and safety than the proposed Project.

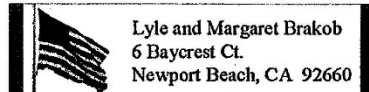
Regarding rezoning setting a precedent, it should be noted that the process for re-designating any parcel in the City is a public process and each land use re-designation case is evaluated on its own merits after careful evaluation of the potential impacts. Therefore, re-designating a particular site would not set a precedent to amending land uses elsewhere in the City.

FL2-2 The comment questions the validity of the conclusion pertaining to traffic associated with the proposed use and indicates that the Project would result in impacts associated with traffic due to the 24/7 nature of the proposed Project. Please refer to the Topical Response pertaining to Transportation/Traffic (Section 3.1.2 of these Responses to Comments) for a detailed discussion of traffic and its implications. As indicated in the Topical Response and throughout this document, using the Institute of Transportation Engineers' (ITE's) 2017 *Trip Generation Manual*, 10th Edition rates for the existing (restaurant) and proposed (assisted living) uses on the site, the proposed Project would result in 426 fewer trips than the existing use., Therefore, regardless of the hours of operation, a restaurant generates more trips compared to a senior living facility. In light of the discussion and substantiation in the Topical Response, the conclusion of less than

significant impact in the Section 4.11, Transportation/Traffic, of the Draft EIR is valid and supported by substantial evidence.

- FL2-3 The comment further states that if the proposed facility is not implemented, sold, or goes out of business, other uses permitted under the new land use designation of PI would be allowed on the site, jeopardizing safety and property values. The comment does not elaborate on what type of uses would adversely impact property values or safety in the neighborhood, no response can be provided. Please see Response FL2-1, above, regarding rezoning. Additionally, please note that amendment to Area 5 of the PC-32 would limit the use permitted on the site to Residential Care Facility for the Elderly (RCFE).
- FL2-4 The comment expresses concern regarding property values and the precedent setting rezoning. The comment regarding property values will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required. Regarding precedent setting rezoning, please refer to Response FL2-1, above.

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8-20-18

Dear Mr. Ike,

As a resident at 6 BAYCREST COURT near the proposed Harbor Pointe senior care facility, I am strongly and unwaveringly opposed to rezoning this site from its current CO-G (Commercial Office) purpose of use to a PI (Private Institution).

Our quiet and safe neighborhood was never intended to include a Private Institution and I call on you to protect our property values and safety by denying this rezoning. It has never been part of the Master Community Plan for Bayview and therefore this type of rezoning would set a precedent that is neither safe or appropriate for our beautiful and serene neighborhoods or for that matter, any other similar neighborhoods in the city of Newport Beach.

I am greatly concerned and troubled by the validity of the claims from the builder and the Environmental Impact Report that traffic will not increase as a result of a 24 X 7 business that includes employee shift changes, emergency vehicles, and increased holiday visitor traffic.

A zoning change of this precedent setting magnitude in the city of Newport Beach (a direct zone change from CO-G to PI) paves the way for a variety of businesses to take over the site in the future that would tank property values and our neighborhood's safety should the proposed senior facility not be built, sold, or goes out of business.

Protect our property values and our neighborhoods by turning this rezoning request down. I am not against redevelopment of the site for a use it was intended, I am against this precedent setting rezoning to a Private Institution.

Sincerely,

The Brakob
949 856 4445

RECEIVED BY
COMMUNITY
DEVELOPMENT

AUG 23 2018

CITY OF
NEWPORT BEACH

Letter 59: The Brakobs

Comment Letter Dated August 20, 2018

- TB-1 Please refer to Response LF2-1 of the “form letter”, above.
- TB-2 Please refer to Response LF2-2 of the “form letter”, above.
- TB-3 Please refer to Response LF2-3 of the “form letter”, above.
- TB-4 Please refer to Response LF2-4 of the “form letter”, above.

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August 24th, 2018

Dear Ben Zdeba

As a resident at Bayview near the proposed Harbor Pointe senior care facility , I am strongly unwaveringly opposed to rezoning this site from its current CO-G (Commercial Office) purpose of use to a PI (Private Institution)

Our quiet and safe neighborhood was never intended to include a Private Institution and I call on you to protect our property values and safety by denying this rezoning. . It has never been part of the Master Community Plan for Bayview and therefore this type of rezoning would set a precedent that is neither safe or appropriate for our beautiful and serene neighborhoods or for that matter, any other similar neighborhoods in the city of Newport Beach.

I am greatly concerned and troubled by the validity of the claims from the builder and the Environmental Impact Report that traffic will not increase as a result of a 24x7 business that includes employee shift, changes emergency vehicles, and increase holiday visitor traffic.

A zoning change of this precedent setting magnitude in the city of Newport Beach (a direct zone change from CO-G to PI) paves the way for a variety of businesses to take over the site in the future that would tank property values and our neighborhood's safety should the proposed senior facility not be built, sold, or goes out of business.

Protect our property values and our neighbors by turning this rezoning request down. I am not against redevelopment of this site for use it was intended I am against this precedent setting rezoning to a Private Institution .

Sincerely, Elizabeth Pearson

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Letter 60: Elizabeth Pearson

Comment Letter Dated August 24, 2018

- EP-1 Please refer to Response LF2-1 of the “form letter”, above.
- EP-2 Please refer to Response LF2-2 of the “form letter”, above.
- EP-3 Please refer to Response LF2-3 of the “form letter”, above.
- EP-4 Please refer to Response LF2-4 of the “form letter”, above.

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From: RYAN MILLER <charlottesweb4u@cox.net>
Sent: Monday, August 27, 2018 11:01 AM
To: Zdeba, Benjamin; Zak, Peter; Weigand, Erik; bdunla@newporbeachca.gov; kkramer@newprtbeachca.gov; Koetting, Peter; Kleiman, Lauren; Lowrey, Lee
Subject: Harbor Pointe Senior Care

Dear City Council Members,

I currently live at Baycrest Court, near the proposed Harbor Pointe senior care facility. I am very strongly opposed to any rezoning of this site from CO-G (Commercial Office), to PI (Private Institution).

Baycrest Court is a quiet, safe gated community that was never intended to include a Private Institution and I call on you to property values and safety by denying this rezoning. It has never been part of the Master Community Plan for Bayview and therefore this type of rezoning would set a precedent that is neither safe or appropriate for our beautiful and serene neighborhoods or for that matter, any other similar neighborhood in the city of Newport Beach.

I am greatly concerned and troubled by the validity of the claims from the builder and the Environmental Impact Report that traffic that includes employee shift changes, emergency vehicles, and increased holiday visitor traffic.

A zoning change of this precedent setting magnitude in the city of Newport Beach (a direct zone change from CO-G to PI) paves the way for a variety of businesses to take over the site in the future that would tank property values and our neighborhood's safety should the proposed senior facility not be built, sold or goes out of business.

Protect our property values and our neighborhoods by turning this rezoning request down. I am not against redevelopment of the site for a use it was intended. I am against this precedent setting rezoning to a Private Institution.

Sincerely,

Charlotte and Ryan Miller

122 Baycrest Court

p.s. our unit, 122 Baycrest Court, would be significantly impacted as we face directly lateral to the proposed site. Again, thank you for hearing us and for your consideration.

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Letter 61: Charlotte & Ryan Miller

Comment Letter Dated August 27, 2018

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|--------|---|
| C&RM-1 | Please refer to Response LF2-1 of the “form letter”, above. |
| C&RM-2 | Please refer to Response LF2-2 of the “form letter”, above. |
| C&RM-3 | Please refer to Response LF2-3 of the “form letter”, above. |
| C&RM-4 | Please refer to Response LF2-4 of the “form letter”, above. |

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From: CHRISTINE OSAKI <cosaki@cox.net>
Sent: Monday, August 27, 2018 3:06 PM
To: Zdeba, Benjamin
Subject: Harbor Pointe Senior Living Project PA2015-210

Dear Mr Zdeba,

As a resident at 100 Baycrest Court near the proposed Harbor Pointe senior care facility, I am strongly and unwaveringly opposed to the rezoning of this site from its current CO-G (Commercial Office) purpose of use to a PI (Private Institution).

Our quiet and safe neighborhood was never intended to include a Private Institution and I call on you to protect our property values and safety by denying this rezoning. It has never been part of the Master Community Plan for Bayview and therefore, this type of rezoning would set a precedent that is neither safe or appropriate for our beautiful and serene neighborhoods or for that matter, any other similar neighborhoods in the city of Newport Beach.

I am greatly concerned and troubled by the validity of the claims from the builder and the Environmental Impact Report that traffic will not increase as a result of a 24 x 7 business that includes employee shift changes, emergency vehicles and increased holiday visitor traffic.

A zoning change of this precedent setting magnitude in the city of Newport Beach (a direct zone change from CO-G to PI) paves the way for a variety of businesses to take over the site in the future that would tank property values and our neighborhood's safety should the proposed senior facility not be built, sold, or goes out of business.

Protect our property values and our neighborhoods by turning this rezoning request down. I am not against redevelopment of this site for a use it was intended for, I am against this precedent setting rezoning to a Private Institution.

Sincerely,

Christin Osaki

100 Baycrest Court

Newport Beach, CA 92660

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Letter 62: Christine Osaki

Comment Letter Dated August 27, 2018

- CO-1 Please refer to Response LF2-1 of the “form letter”, above.
- CO-2 Please refer to Response LF2-2 of the “form letter”, above.
- CO-3 Please refer to Response LF2-3 of the “form letter”, above.
- CO-4 Please refer to Response LF2-4 of the “form letter”, above.

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From: t skeber <tskeber@yahoo.com>
Sent: Tuesday, August 28, 2018 2:42 PM
To: Zdeba, Benjamin; pza@newportbeachca.gov; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Lowrey, Lee
Subject: Harbor Pointe

To Whom it may Concern,

As a resident at 50 Cormorant Circle near the proposed Harbor Pointe senior care facility, I am strongly and unwaveringly opposed to rezoning this site from its current CO-G (commercial office) purpose of use to a PI (private institution).

Our quiet and safe neighborhood was never intended to include a private institution and I call on you to protect our property values and safety by denying this rezoning. It has never been part of the master community plan for Bayview and therefore this type of rezoning would set a precedent that is neither safe nor appropriate for our beautiful and serene neighborhoods or for that matter, any other similar neighborhoods in the city of Newport Beach.

I am greatly concerned and troubled by the validity of the claims from the builder and the environmental impact report that traffic will not increase as a result of a 24/7 business that includes employee shift changes, emergency vehicles, and increased holiday visitor traffic.

A zoning change of this precedent setting magnitude in the city of Newport Beach (a direct zone change from CO-G to PI) paves the way for a variety of businesses to take over the site in the future that would tank property values and our neighborhoods safety should the proposed senior facility not be built, sold, or goes out of business.

Protect our property values and our neighborhoods by turning this rezoning request down. I am not against redevelopment of the site for a use that it was intended, I am against this precedent setting rezoning to a private institution.

Sincerely,

Tim Skeber
50 Cormorant Circle, Newport Beach

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Letter 63: Tim Skeber

Comment Letter Dated August 28, 2018

- TS-1 Please refer to Response LF2-1 of the “form letter”, above.
- TS-2 Please refer to Response LF2-2 of the “form letter”, above.
- TS-3 Please refer to Response LF2-3 of the “form letter”, above.
- TS-4 Please refer to Response LF2-4 of the “form letter”, above.

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From: Sharina Ross <bgordonr@cox.net>
Sent: Tuesday, September 04, 2018 10:44 AM
To: Zdeba, Benjamin; Zak, Peter; eweigland@newportbeachca.gov; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Lowrey, Lee
Subject: 9/6/18 Meeting re: Harbor Pointe Senior Living Project SCH No. 2016071062

To the Newport Beach Planning Commissioners,

As residents of Baycrest Court near the proposed Harbor Pointe senior care facility, we are strongly and unwaveringly opposed to rezoning this site from its current CO-G (Commercial Office) purpose of use to a PI (Private Institution).

Our quiet and safe neighborhood was never intended to include a Private Institution and we call on you to protect our property values and safety by denying this rezoning. It has never been part of the Master Community Plan for Bayview, and therefore, this type of rezoning would set a precedent which is neither safe or appropriate for our beautiful and serene neighborhoods, or for that matter, any other similar neighborhoods in the city of Newport Beach.

We are greatly concerned and troubled by the validity of the claims from the builder and the Environmental Impact Report that traffic will not increase as a result of a 24 X 7 business that includes employee shift changes, emergency vehicles, and increased holiday visitor traffic.

A potential zoning change of this precedent setting magnitude in the city of Newport Beach (a direct zone change from CO-G to PI) paves the way for a variety of businesses to take over the site in the future and would severely have a detrimental impact on our property values and our neighborhood's safety should the proposed senior facility not be built, sold, or goes out of business.

Protect our property values and our neighborhoods by turning this rezoning request down. We are not against redevelopment of the site for a use it was intended as Commercial Office, we are adamantly against this precedent setting rezoning to a Private Institution.

Barry and Sharina Ross

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Letter 64: Barry & Sharina Ross

Comment Letter Dated September 4, 2018

- B&SR -1 Please refer to Response LF2-1 of the “form letter”, above.
- B&SR -2 Please refer to Response LF2-2 of the “form letter”, above.
- B&SR -3 Please refer to Response LF2-3 of the “form letter”, above.
- B&SR -4 Please refer to Response LF2-4 of the “form letter”, above.

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From: Teresa Watanabe <teresa.watanabe@broadcom.com>
Sent: Monday, September 10, 2018 1:25 PM
To: Zdeba, Benjamin
Subject: Concerns about proposed harbor Pointe senior care facility

Dear Ben and other Newport Beach commissioners,

As a resident at Baycrest Court, near the proposed Harbor Pointe senior care facility, I am strongly and unwaveringly opposed to rezoning this site from its current CO-G (Commercial Office) purpose of use to a PI (Private Institution). The proposed care facility (or any future private institution) is in close proximity to our neighborhood. In some case, it's almost adjacent to some residential properties.

Our quiet and safe neighborhood was never intended to include a Private Institution and I call on you to protect our property values and safety by denying this rezoning. It has never been part of the Master Community Plan for Bayview and therefore this type of rezoning would set a precedent that is neither safe or appropriate for our beautiful and serene neighborhoods or for that matter, any other similar neighborhoods in the city of Newport Beach.

I am greatly concerned and troubled by the validity of the claims from the builder and the Environmental Impact Report that traffic will not increase as a result of a 24 X 7 business that includes employee shift changes, emergency vehicles, and increased holiday visitor traffic.

A zoning change of this precedent setting magnitude in the city of Newport Beach (a direct zone change from CO-G to PI) paves the way for a variety of businesses to take over the site in the future that would tank property values and our neighborhood's safety should the proposed senior facility not be built, sold, or goes out of business.

Protect our property values and our neighborhoods by turning this rezoning request down. I am not against redevelopment of the site for a use it was intended, I am against this precedent setting rezoning to a Private Institution.

Sincerely,
Teresa & Ross Watanabe at Baycrest Ct.

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Letter 65: Teresa & Ross Watanabe

Comment Letter Dated September 10, 2018

- T&RW-1 Please refer to Response LF2-1 of the “form letter”, above.
- T&RW-2 Please refer to Response LF2-2 of the “form letter”, above.
- T&RW-3 Please refer to Response LF2-3 of the “form letter”, above.
- T&RW-4 Please refer to Response LF2-4 of the “form letter”, above.

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From: Jeanette Bianchini <hisjoyandpeace@yahoo.com>
Sent: Monday, September 10, 2018 4:08 PM
To: Zdeba, Benjamin
Subject: Fw: Ben Zdeba - City of Newport Beach RE: The Proposed Harbor
Pointe Senior Care Facility
Attachments: 20180910080548613.pdf

Dear Ben,

We are strongly against rezoning! Please read our attached letters.

Thank you for the opportunity to voice our serious concerns.

If my people, who are called by my name, will humble themselves and pray, I will hear them from heaven and heal their land. 2 Chron. 7:14

-

Dear Ben Zdeba,

As a resident at BAYCREST CT near the proposed Harbor Pointe senior care facility, I am strongly and unwaveringly opposed to rezoning this site from its current CO-G (Commercial Office) purpose of use to a PI (Private Institution).

Our quiet and safe neighborhood was never intended to include a Private Institution and I call on you to protect our property values and safety by denying this rezoning. It has never been part of the Master Community Plan for Bayview and therefore this type of rezoning would set a precedent that is neither safe or appropriate for our beautiful and serene neighborhoods or for that matter, any other similar neighborhoods in the city of Newport Beach.

I am greatly concerned and troubled by the validity of the claims from the builder and the Environmental Impact Report that traffic will not increase as a result of a 24 X 7 business that includes employee shift changes, emergency vehicles, and increased holiday visitor traffic.

A zoning change of this precedent setting magnitude in the city of Newport Beach (a direct zone change from CO-G to PI) paves the way for a variety of businesses to take over the site in the future that would tank property values and our neighborhood's safety should the proposed senior facility not be built, sold, or goes out of business.

Protect our property values and our neighborhoods by turning this rezoning request down. I am not against redevelopment of the site for a use it was intended, I am against this precedent setting rezoning to a Private Institution.

Sincerely,

Carol Prademyr

76 BAYCREST CT.
NEWPORT BEACH, CA.
92660

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Letter 66: Jeanette Bianchini, signed by David Rivadeneyra

Comment Letter Dated September 10, 2018

- JB-1 Please refer to Response LF2-1 of the “form letter”, above.
- JB-2 Please refer to Response LF2-2 of the “form letter”, above.
- JB-3 Please refer to Response LF2-3 of the “form letter”, above.
- JB-4 Please refer to Response LF2-4 of the “form letter”, above.

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3.7 INDIVIDUALS (POST PLANNING COMMISSION STUDY SESSION)

A total of 16 comments were received from individuals, post Planning Commission Study Session. The comment letters are listed below:

- Paula Hurwitz (PH)—September 14, 2018
- Karen Larsen (KL)—September 15, 2018
- Andrea Kane (AK)—September 17, 2018
- Donna McMeikan (DMM)—September 19, 2018
- Laura Minarsch (LM)—September 19, 2018
- Cathy Schwartz (KS)—September 19, 2018
- Michael W. Smith (MWS)—September 19, 2018
- Anne & Craig Ima (A&CI)—September 22, 2018
- Cara Weichman (CW)—September 22, 2018
- Rodger & Julie Lowery (R&JL)—September 24, 2018
- Peggy Kerr (PK)—September 26, 2018
- Nancy Buck (NB)—September 26, 2018
- Linda Wooters (LW)—September 26, 2018
- Pat Peters (PP)—September 28, 2018
- Maureen Peters (MP)—September 28, 2018
- Jessica & Ryan Schleiger (J&RS)—September 28, 2018

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From: Paula Hurwitz <paulakhurwitz@yahoo.com>
Sent: Friday, September 14, 2018 1:36 PM
To: Zdeba, Benjamin
Subject: Last night's Study Session

Mr. Zbeda,

After last night's Study Session you may guess that the change in zoning was the most important to the people in opposition to this project. This type of business seems ill suited for the property and a rezone would set a precedent that may open the floodgates for more requests.

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One thought that I had last night after looking at the schematic, was that what I thought was in ingress from Bristol East for the emergency driveway was an egress. Driving by there today and seeing where the emergency lane would come out is directly where the right hand turn lanes begins. This is where we dodge the Jamboree off ramp people, the 73 Freeway people and begin our turn onto Bayview Ave for home.. Imagine merging into the right hand lane and having a full siren Fire Engine or Ambulance emerge directly on your right as you start your approach. This is the route that I take daily. The idea is quite frightening.

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If you are able to forward this email to the members of the Planning Commission it would be a great help.

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Thank you and the members of the Commission for keeping the meeting respectful and on task.

Sincerely,

Paula K. Hurwitz 112 Baycrest Court

Letter 67: Paula Hurwitz (PH)

Comment Letter Dated September 14, 2018

- PH -1 The comment states that the proposed Project would not be suited at the site, and that rezoning would set a precedent. The comment is noted. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).
- PH-2 The comment expresses concern over the ambulances exiting through the emergency exit off Bristol Street. The comment is noted. However, it should be recognized that the emergency exit/driveway has been designed in accordance with all safety requirements and in consideration of the existing traffic on Bristol Street. In light of compliance with design standards, no potential conflict with the traffic merging into the right lane of Bristol Street is anticipated. It would be speculative to assume that emergency vehicles would be daily phenomena at the Project site or that emergency vehicles would be egressing on Bristol during all PM peak hours.
- PH-3 The commenter requests that this comment letter be forwarded to the Planning Commissioners. The comment is noted and will be forwarded to the members of the Planning Commission and the decision makers. No additional response is required.

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From: Karen Larsen <kalsign@cox.net>
Sent: Saturday, September 15, 2018 11:39 AM
To: Zdeba, Benjamin; Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; pkoeting@newportbeachca.gov; lkleinman@newportbeachca.gov; Lowrey, Lee
Cc: Mark Eubanks; SRL
Subject: Re: Rezoning for Bayview

Dear Planning Commissioners,

As a resident of Bayview Court near the proposed Harbor Pointe senior care facility, I am strongly opposed to rezoning this site from its current CO-G (Commercial Office) purpose of use to a PI (Private Institution).

My quiet and safe neighborhood was never intended to include a Private Institution and the significant impact of an unprecedented change of city zoning. It was never intended as part of the Master Community Plan for Bayview.

I purchased my property with the expectation that the sanctity of my community and property value would be protected by the current zoning law and affirmed by the Newport Beach City planner and commissioners.

I am concerned about the validity of claims made by the builder and the Environmental Impact Report that traffic will not increase as a result of a 24 x 7 business that includes employee shift changes, emergency vehicles and increased holiday visitor traffic. I have resided in Newport Beach in the nearby Belcourt and now current Bayview areas since 1977 and have personally witnessed many accidents at the Bristol/Jamboree intersection which is identified as the highest traffic accident site in the city.

As a special education teacher in the Huntington Beach area, I have experienced the significant impact of increased traffic on the 73 freeway and the Jamboree/Bristol entrance and exit ramps due to new building projects in nearby city locations during the past few years.

The corner of the proposed building site already poses a very significant traffic accident hazard due to the Jamboree exit from the 73 freeway and immediate right turn onto Bayview Place.

I have a personal familiarity with issues related to senior care facilities. I have a family member who resides in a like senior care facility in another location who wandered out of the facility and caused great concern for her safety in a traffic area like our Jamboree/Bristol intersection.

I hope that you are responsive to the concerns expressed by myself and neighbors to uphold the current zoning in Newport Beach which were established to protect residential communities like my own. By authorizing an unprecedented zoning change in the city, you open the door for this builder and others to negatively impact the safety and property values of not only my community, but other residential communities, and possibly your own, in the future.

Thank you for your thoughtful and responsible consideration.

Karen Larsen
 46 Baycrest Court

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Newport Beach, CA 92660

Letter 68: Karen Larsen (KL)

Comment Letter Dated September 15, 2018

- KL -1 The comment expresses opposition to rezoning the Project site from the current CO-G to PI and asserts that the new zoning will establish a precedent. The comment adds that she thought her property value would be protected by the existing zoning.

For a detailed description of rezoning, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Additionally, the discussion on page 4.8-18 of Section 4.8, Land Use and Planning, of the Draft EIR indicates that:

The proposed Project is within Zoning District PC-32, which is the Bayview Planned Community Development Plan (PC-32), that provides for residential, recreational, commercial, professional, institutional, hotel, and office uses. Permitted uses include restaurants, bars, theaters, and nightclubs. Permitted uses subject to a Conditional Use Permit include automobile washing; health clubs; helistops; mini-storage facilities; public utility exchanges and substations; retail businesses; service businesses; animal clinics and hospitals; administrative and professional offices; automobile parking lots and structures; commercial recreation; nurseries and garden supply stores; day nurseries; financial institutions; public/private utility buildings and structures; self-service laundry and dry cleaning facilities; accessory structures and uses necessary and customarily incidental to the above uses; and any other uses that, in the opinion of the City of Newport Beach Planning Commission, are of a similar nature.

Therefore, upon closure of the existing restaurant and in the absence of a zone change, any of the above uses, including bars, theaters, and nightclubs could replace the restaurant. These uses would have far more impacts than the proposed Project.

Regarding rezoning (re-designating a site) setting a precedent, it should be noted that the process for re-designating any parcel in the City is a public process and each land use re-designation case is evaluated on its own merits after careful evaluation of the potential impacts. Therefore, re-designating a particular site would not set a precedent to amending land uses elsewhere in the City.

Comments regarding property values is noted and will be forwarded to the decision makers. Property values is not required topic under CEQA, no further response is required.

- KL-2 The comment questions the validity of the conclusions pertaining to traffic and indicates that the Project would result in impacts associated with traffic due to the 24/7 nature of the proposed Project. The comment expresses concern about the accidents at the intersection of Bristol Street and Jamboree Road. Please refer to the Topical Response pertaining to Transportation/Traffic (Section 3.1.2 of these Responses to Comments) for a detailed discussion of traffic and its implications. As indicated in the Topical Response and throughout this document, using the Institute of Transportation Engineers' (ITE's)

2017 *Trip Generation Manual*, 10th Edition rates for the existing (restaurant) and proposed (assisted living) uses on the site, the proposed Project would result in 426 fewer trips than the existing use. Therefore, regardless of the hours of operation, a restaurant generates more trips compared to a senior living facility. Thus, in light of reduced trips, the Project would not exacerbate traffic at SR-73 exit ramps, nor would it further cause accidents in the area.

With the above discussion and substantiation in the Topical Response, the conclusion of less than significant impact in the Section 4.11 of the Draft EIR is valid and supported by substantial evidence.

- KL-3 The comment expresses concern regarding future residents wandering out of the facility in an area with high traffic. The comment is noted; however, it should be recognized that memory care residents would be in a secured and monitored section of the facility, separated from the assisted living residents, and their recreational amenities would be completely enclosed. The facility would have extensive security systems for the memory care portion of the building. The staff would be trained thoroughly to frequently monitor and care for memory impaired residents on a 24/7 basis. A confidential key pad code would be used to enter the memory care area. The fire access doors would be locked and if accidentally opened, an alarm would sound to allow staff to intervene immediately, if necessary. Additionally, all exterior windows would have window stops installed. As a result, unintentional exits by unaccompanied residents would be rare.
- KL-4 The comment asks that current zoning be upheld to protect property values and safety. Regarding zoning, please refer to Response KL-1, above. Comments regarding property values is noted and will be forwarded to the decision makers. Property values is not required topic under CEQA, no further response is required. In terms of safety, as the comment does not elaborate on what would impact safety in the neighborhood, no response can be provided.

From: Andrea Kane <californiakane@yahoo.com>
Sent: Monday, September 17, 2018 3:44 PM
To: Zdeba, Benjamin
Cc: Andrea Kane
Subject: Harbor Pointe Senior Living Center / Kitayama

Ben

Thank you very much for allowing public comment at the study session for the planning commission on the Harbor Pointe Senior Center. The community appreciates our ability to share our point of view and concerns for the re-zoning,

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I have several additional concerns and questions I would love to understand based on the presentation:

Safety of all the area residents

-The intersections of Bristol/Campus; Bristol/Birch and Bristol/Jamboree my understanding are among the highest traffic accident rates in the entire county based on the information from TIMS Berkley website. In addition we have the new housing/retail project at 4100 Jamboree, how has the traffic from that project been incorporated into the additional traffic impact on Bristol? How many units and whats the projected traffic amount it will create given many of these folks will exit jamboree off of the 73 south and increase traffic.

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-this proposed facility would run 24/7 & 365 and multiple entire staff shift changes, as opposed to restaurant lunch and dinner that closes at 9:30pm. On average how many patrons visit Kitayama on a weekday and weekend as compared to the staff/visitors of this facility weekday & weekend?

-What are the statistics of patients wandering away from facilities? Do they provide that information to you? Is it required to report how often this happens? How does this impact police resources that then search for the missing patients?

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-How will the already lack of paramedic services of the local fire station and resources be impacted with the amount of times they are called to the senior center? What are the statistics of the other Newport Beach facilities? And/or other facilities of this many beds?

} 4

-Santa Ana Heights Neighborhood has received no communication from the developer that I am aware of and my neighbors don't recall receiving anything either and we are concerned about the planning commission moving the meeting date to

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September 13th as this impacted Back to School nights and many parents could not attend to share their POV.

-The staff, ambulances and visitors to the facility are likely to use Bayview and/or Spruce to cut through to the facility, as people from outside the area have discovered this avoids traffic light delays along Birch and Bristol and is the fastest route to the facility.

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Quality of care for milestone properties

~It was mentioned in the presentation the "quality" of Milestone company that would run the facility, there are several websites that collect feedback from employees that is

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unfiltered that folks use to gauge if they want to work for companies and is used frequently by applicants because its employee generated. The reviews for Milestone on these sites are highly concerning about the work environment and the quality of care then patients receive

Indeed : <https://www.indeed.com/cmp/Milestone-Retirement-Communities/reviews> rating them at 2.4 out of 5 with very recent postings from employees
GlassDoor : <https://www.glassdoor.com/Reviews/Milestone-Retirement-Communities-Reviews-E1010935.htm> rating then 2.3 out of 5 with very recent postings from employees

Number of parking spaces

-the presentation shared there would be 53 parking spaces and they said they would have 20-25 people on staff so at shift change there might be 25-30 spaces occupied. I would be curious if that is just nursing/health aid employees? Having run similar staffing needs for 25+ years the numbers don't make sense to me but perhaps they are different. Again I don't know but would want to confirm that its 20 total staff and the breakdown or was that just nursing, if its total I would be concerned for the quality of care the residents would perhaps receive. Could you get clarity on the complete total number of staff & support staff?

- ~nursing/health aids for 3 floors of patients **if patients decided evenly 120 for 3 floors 40 per floor perhaps 4-5 nurses/health aids per floor (12-15 total)
- ~housekeeping/laundry/trash collection for 120 beds / clothing of patients & cleaning of rooms and general area **6-8 people
- ~security? **1-2 people
- ~front desk staff. *1-2 people
- ~full service meals / snacks 120 beds 3x per day over 360 meals (special dietary meals per day) food delivery, food prep, cooking, serving, clean up, dishwashers *6-8 people
- ~gym bottom floor observation/manager? **1-2 people
- ~groundskeeper/gardening services weekly for a huge facility inside the courtyard/interior and exterior **weekly
- ~visitors **varies but if you estimate staff parking of 30, 120 patients and 50% visits on a Holiday or a Saturday about 90 spaces on Saturdays and even more on holidays & all the overflow of parking comes into the Santa Ana Heights neighborhood as BayCrest & BayView are gated

Courtyard space

~what is the sq footage of the courtyard common area? It appears small? On a average Saturday if only 25% residents had a visitor then lets say 30-35 patients plus 1-2 visitors, is that enough space? And what happens on a Holiday when its more than 50% of the patients have visitors? Where do they visit if the space doesn't fit all of them?

~the other Centerpoint/Milestone communities what are the allocated open space for residents?

~what does the geriatric medicine doctor community recommend for allocated open space for patient care?

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(cont'd)

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Rezoning

~rezoning to a PI violates the general and master plan

~rezoning as a precedent setting decisions will impact other surrounding business to lobby for changing to PI and creating even more mental, drug-rehab, private jail etc to do business in surrounding buildings and throughout Newport Beach.

~my understanding is the applicant Mr. Habeeb is “not” the owner of Kitayama?

Why is there energy to re-zone and set precedent for the non-owner of the current property?

~most of the entire community purchased their homes understanding that Kitayama was a CO (restaurant or office) and that it would at some point likely be upgraded and remodeled however had no idea that it would even be considered to be re-zoned.

Thank you for answering my questions and listening to my concerns. I am not against upgrading and progress for the property, I am 100% against a precedent setting re-zoning of this property.

Andrea Kane

Letter 69: Andrea Kane (AK)**Comment Letter Dated September 17, 2018**

- AK -1 The commenter appreciates the ability to share their views on the Project at the Planning Commission Study Session. The comment is noted, no response is required.
- AK-2 The comment expresses concern over increased traffic in the area and the existing traffic conditions. For a detailed analysis, please refer to the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments). As indicated in the Topical Response and throughout this document, using the Institute of Transportation Engineers' (ITE's) 2017 *Trip Generation Manual*, 10th Edition rates for the existing (restaurant) and proposed (assisted living) uses on the site, the proposed Project would result in 426 fewer trips than the existing use. Therefore, regardless of the hours of operation, a restaurant generates more trips compared to a senior living facility. Thus, in light of reduced trips, the Project would not exacerbate traffic, nor would it further cause accidents in the area.
- AK-3 The comment expresses concern about the patients wandering away from the facility. It should be recognized that memory care residents would be in a secured and monitored section of the facility, separated from the assisted living residents, and their recreational amenities would be completely enclosed. The facility would have extensive security systems for the memory care portion of the building. The staff would be trained thoroughly to frequently monitor and care for memory impaired residents on a 24/7 basis. A confidential key pad code would be used to enter the memory care area. The fire access doors would be locked and if accidentally opened, an alarm would sound to allow staff to intervene immediately, if necessary. Additionally, all exterior windows would have window stops installed. As a result, unintentional exits by unaccompanied residents would be rare.
- AK-4 The comment states that paramedic services would be impacted by the number of service call to the proposed facility. The Project would generate a total resident population of 120, which is a nominal increase to the City's overall population to be served by emergency services. Based on the analysis in Section 4.10, Public Services, of the Draft EIR, the Project would create the typical range of service calls for a project of this nature and size, and regardless of location, the future residents of the proposed facility would need to be served by emergency services. Additionally, the Project would replace an existing use with demand for services, including emergency medical services already in place. No new services or significant increase in the existing services would occur as a result of the proposed Project. It should also be noted that the ITE trip generation rate (2017 *Trip Generation Manual*, 10th Edition) that was used to determine the proposed Project trips takes into account service trips associated with the facility; therefore, the Project's reduced trips, compared to the trips from the existing restaurant, is inclusive of all trips to the facility.
- AK-5 The comment indicates that the Santa Ana Heights neighborhood has not received any communication regarding the Project, and that the postponed Planning Commission Study Session conflicted with the back to school nights. As a result many residents were

not able to attend. It should be noted that the EIR preparation process has followed all noticing requirements in accordance with NBMC Chapter 20.62 (Public Hearings) and State Law. The community was provided notice very early on in the process for the EIR scoping meeting, which was held on August 15, 2016, to facilitate public review and comment on the Project. Not only were notices sent to the surrounding property owners within 300 feet of the Project limits, in accordance with NBMC Section 20.62.020 (B)(2)(c), a notice was also published in the Orange County Daily Pilot regarding the meeting.

Further, similar noticing procedures were followed for the release of the Draft EIR for public review. While noticing requirements call for notifying the property owners within 300 feet of the Project boundary by mail at least ten days before the final public hearing (Government Code Section 65353 and Section 20.62.020 (B)(2)(c) of Chapter 20.62 of NBMC), the City mailed out notices on August 10, 2018, at the beginning of the public review period for the EIR. Additionally, a notice was published in the Orange County Daily Pilot on August 10, 2018. By providing the notice as soon as the EIR was available, rather than the required 10 days before the hearing, the City exceeded the requirements to encourage public participation. A study session with the Planning Commission was also held on September 13, 2018 as another opportunity for the public to provide input. Based on the information above, the City clearly exceeded the noticing requirements for the outreach to the community.

Regarding postponement of the study session, as indicated above, the notice of the Planning Commission Study Session was published ahead of time to inform the interested parties and the surrounding community. The intent of this noticing was to inform the public of the Study Session and provide an opportunity for comment. Additionally, it should be noted that the Draft EIR review period continued for more than two weeks after the study session, which is an adequate amount of time to still provide comments.

- AK-6 The comment speculates that the future staff and visitors of the facility as well as the ambulances would use the community local street to bypass traffic. As indicated in the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments), the Project would result in reduced traffic trips compared to the existing use on site, as a senior living facility would generate fewer trips compared to a restaurant. Also, it should be noted that there is no direct access from the Santa Ana Heights neighborhood to the proposed development. In the absence of direct access, use of the local streets in the community to bypass traffic is unlikely if not physically impossible. Therefore, it is speculative to assume that the future users of the facility would use community streets to bypass traffic and avoid traffic light delays.
- AK-7 The comment expresses concern over the quality of care offered by the future operator of the proposed facility (Milestone). The commenter provides links online to reviews of the operator. The comment is noted and will be forwarded to the decision makers. Quality of care to be provided by the future operator of the facility is not a topic under CEQA, no further response is required.
- AK-8 The comment expresses concern over parking for the proposed facility and provides a detailed breakdown of employees assigned to different tasks. The comment questions the quality of care in light of the number of employees proposed. As detailed in Section 3.0,

Project Description, of the Draft EIR, the proposed facility would have subterranean parking with an elevator into the building and would be accessed off the main entry. According to Chapter 20.40.040 (Off-Street Parking Spaces Required) of the NBMC, the parking requirement for convalescent facilities is one space per three beds, resulting in a total requirement of 40 parking spaces (36 standard and 4 accessible or barrier-free) for the proposed facility. However, the Project would include a total 53 spaces, which is 33 percent more than the required number. Of the proposed 53 parking spaces, 49 would be standard and 4 would be accessible or barrier-free. With the excess parking, it is unlikely that future employees or visitors would park on neighborhood streets. It should be noted that parking on Bayview Place is prohibited on both sides of the street, and there is no direct access from the Santa Ana Heights neighborhood to the proposed development. In the absence of direct access and distance, employees and visitors are not likely to park on residential streets of Santa Ana Heights neighborhood and walk to the facility. Additionally, it should be recognized that the requirement of 40 spaces for the proposed facility is an all-inclusive requirement that would take into account the employees, vendors, and visitors to the facility (memory care residential would not drive, and only up to five percent of the assisted living residents may drive). Additionally, the City would require as a condition of approval (as part of the Conditional Use Permit [CUP]) that all staff and visitors park on-site.

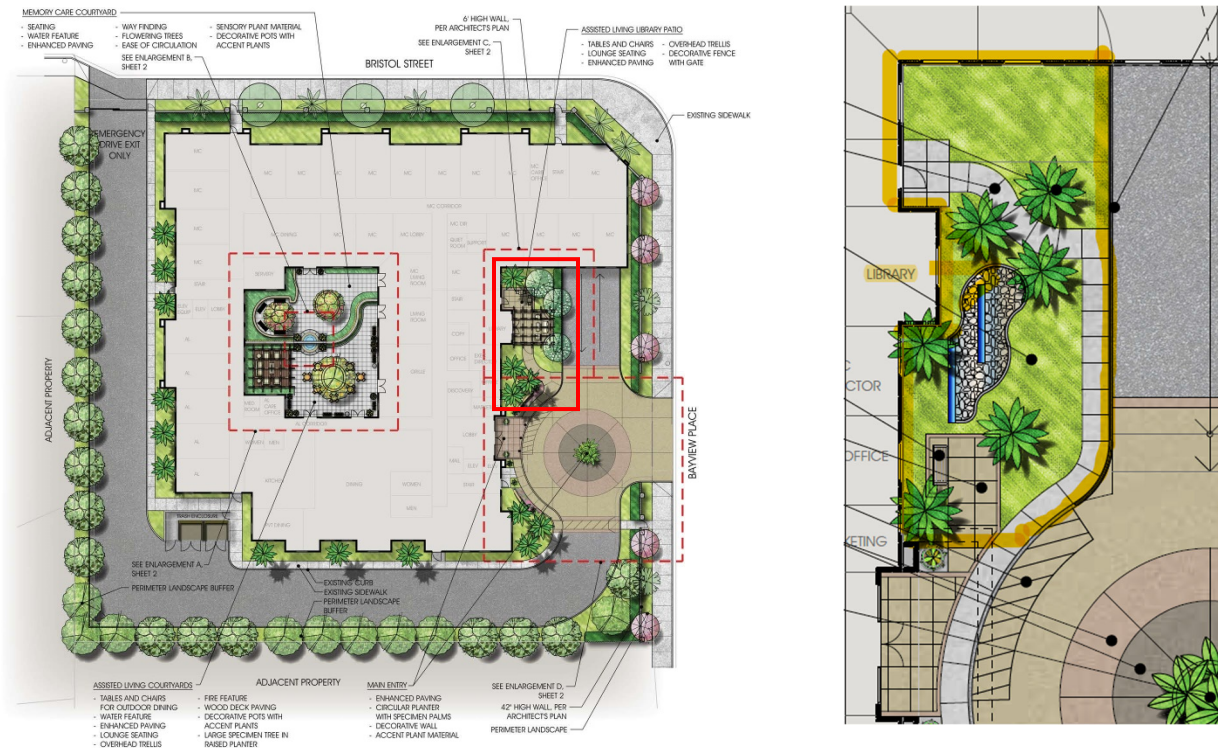
Additionally, in terms of the number of employees for the facility, although the State of California does not have a specific requirement for staffing assisted living and memory care facilities, typical standards utilized by similar facilities have been used for determining the number of employees. For assisted living the typical ratio is 1 employee per 12 to 18 (1:12 – 18) residents during daytime hours and 1 employee per 18 to 25 (1:18 – 25) residents during the nighttime hours. For the memory care the typical ratio is 1 employee per 6 to 8 (1:6 – 8) residents during the daytime hours and 1 employee to 10 to 16 (1:10 – 16) residents during the nighttime hours.

With the mix of unit types as discussed in the Draft EIR, there will be up to 93 assisted living and 27 memory care residents. Using the lower end of the above staffing ranges would result in a total of 22 and 13 employees during the daytime and nighttime, respectively. This would account for the overlap in staggered shifts to ensure adequate staffing. The analysis associated with the 22 daytime and 13 nighttime employees has been covered in the Draft EIR.

It should be noted that the State Department of Health Services (DHS) will review the Project and the staffing plan prior to approval and issuance of a Residential Care Facility for the Elderly (RCFE) license. The DHS is also responsible for monitoring the licensee and the adequacy of staffing for every assisted living and memory care facility in the State.

- AK-9 The comment expresses concern over the lack of adequate open space and the size of the court yards within the proposed facility. Even though neither the State nor the City has an open space requirement, each RCFE is designed to have amenities, both indoor and outdoor, appropriate for that particular facility. The Draft EIR discusses these amenities, including the internal courtyards and the roof garden on the third floor of the facility. In response to comments regarding lack of adequate outdoor space, the Applicant has redesigned the planter area located adjacent to the building's main entrance to create a passive outdoor space with seating, a garden, and a trellis. The new space would be

accessible from the library on the first floor of the facility. Below is a snapshot of the newly proposed outdoor amenity/patio.



The updated Draft EIR exhibits, in light of the above modification, are included in Section 4.0, Clarification and Revisions as Part of the Final EIR, of these Responses to Comments.

AK-10 The commenter expresses opposition to rezoning and states that rezoning the site to PI was not anticipated and would set a precedent attracting undesirable uses to the area. For a detailed discussion of this issue, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).

From: Donna McMeikan <donna.mcmeikan@gmail.com>
Sent: Wednesday, September 19, 2018 9:50 AM
To: Zdeba, Benjamin
Subject: Harbor Pointe Senior Center
Attachments: Ben Zdeba.docx

Dear Mr. Zdeba,

Please find attached my comments following last week's meeting regarding rezoning for the Harbor Pointe Senior Center.

Thank you in advance for your consideration,

Donna McMeikan

September 19, 2018

Ben Zdeba, Associate City Planner
City of Newport Beach
Community Development Department, Planning Division
100 Civic Center Drive
Newport Beach, CA 92660

Dear Mr. Zdeba,

I am writing to thank you and the planning commission for your time on September 14th to hear from the public regarding the proposed zoning change from the current CO-G (Commercial Office) purpose of use to a PI (Private Institution) to accommodate building the Harbor Pointe Senior Facility. I am a homeowner at 20422 Bayview Avenue, Newport Beach, CA 92660.

The meeting was very informative, and I came away with the following comments.

Harbor Pointe (HP) Meeting

Location: 101 Bayview Place / Kitayama site

- HP Assured the Planning Commission that, with the zoning change, the land will not be used for anything other than a Sr Care facility. How can they guarantee that?
- HP stated that noise and traffic would not increase when compared to that generated by Kitayama restaurant.
 - They will have a minimum of 2 shift changes: 7am and 4pm. Based on their staff estimates of 20-25 people, that will increase traffic through our neighborhood at those times.

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- Unlike Kitayama, Harbor Pointe will be a 24/7 facility. Kitayama serves lunch and dinner and closes at 9:30pm. People will be accessing the Harbor Pointe Facility day and night. } 3 (cont'd)
- There will be an increase in noise from ambulances (day and night) due to the nature of elder care needs. } 4
- The staff, ambulances and visitors to the facility are likely to use Bayview and/or Spruce to cut through to the facility, as people from outside the area have already discovered that this route avoids traffic light delays along Birch and Bristol and is the fastest way to the facility. } 5
- As mentioned many times during the meeting, the added staff/visitors, etc. will increase the already dangerous traffic flow along Bristol with cars maneuvering across lanes to turn left or right onto Jamboree or enter the 73 fwy south. } 6
 - As mentioned, we know that many people from outside the Santa Ana Heights neighborhood currently use this route for quicker access to Jamboree, the freeway, and the local office buildings.
- While we were assured that residence at the Senior Care facility would not wander out, based on my experience with my dad, who had dementia and had an ankle detector added following his multiple escapes from a guarded facility, I know that people do get out. } 7
 - The potential of dementia patients wandering into traffic on Bristol could be devastating to both the senior as well as drivers.
 - Dementia patients could also wander into the local neighborhoods. While many are harmless, some do get highly agitated.
- Harbor Point developers said that they reached out to the people in our neighborhood (Santa Ana Heights). Those of us at the meeting discussed and agreed that we never received a notification. } 8
- Parking: HP said that they are required to have 1 space for every 3 beds, which includes all staff, visitors, etc. } 9
 - It became clear, that any parking overflow would naturally end up on Bayview, Zenith and/or the end of Spruce, as this is one of the only locations for public parking in the area.

- This is particularly true during the holidays when the the number of visitors will double or triple, especially on Mother's Day and Christmas.

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(cont'd)

- Rezoning for HP sets a precedent for PI rezoning in Newport Beach and changes the initial Master Plan.

} 10

Thank you again for your consideration.

Sincerely,

Donna & Bruce McMeikan

Letter 70: Donna McMeikan (DMM)**Comment Letter Dated September 19, 2018**

- DMM-1 The commenter appreciates the information regarding rezoning the site, at the Planning Commission Study Session. The comment is noted, and no further response is required. For clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI.
- DMM-2 The comment questions how the applicant can guarantee that the site would not be used for anything else but a senior care facility. For a detailed discussion of re-designating the site, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Additionally, the proposed Project would include an amendment to the existing PC-32 to only allow for a Residential Care Facility for the Elderly (RCFE), as defined by the State of California, which includes assisted living and memory care. All other uses currently listed under Area 5 of the PC-32 plan would be eliminated. Further, it should be noted that the process for re-designating any parcel in the City is a public process and each land use re-designation case is evaluated on its own merits after careful evaluation of the potential impacts. Therefore, re-designating a particular site would not set a precedent to amending land uses elsewhere in the City.
- DMM-3 The comment questions the reduced traffic from the proposed Project, given the 24/7 nature of the facility. For a detailed discussion of traffic and reduced trips, please refer to the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments). As indicated in the Topical Response and throughout this document, using the Institute of Transportation Engineers' (ITE's) 2017 *Trip Generation Manual*, 10th Edition rates for the existing (restaurant) and proposed (assisted living) uses on the site, the proposed Project would result in 426 fewer trips than the existing use. Therefore, regardless of the hours of operation, a restaurant generates more trips compared to a senior living facility.
- DMM-4 The comment indicates that due to the nature of the Project, there would be an increase in noise from ambulances. Section 4.9, Noise, of the Draft EIR provides a detailed analysis of the Project's potential noise impacts. Per the analysis, the Project would generate less traffic than the existing restaurant use. Thus, Project-generated traffic would not substantially increase existing ambient noise levels and the impact would be less than significant. Furthermore, the proposed Project would generate a total of 120 resident population, which is a nominal increase to the City's population to be served by City services. The Project would create the typical range of service calls for a project of this nature and size, including emergency medical services. The Project would replace an existing use with demand for such services already in place, even though it is anticipated that there would be more responses to a senior living facility than a restaurant. However, it should also be noted that the ITE trip generation rate (2017 *Trip Generation Manual*, 10th Edition) that was used to determine the proposed Project trips takes into account service trips associated with the facility;

therefore, the Project's reduced trips, compared to the trips from the existing restaurant, is inclusive of all trips to the facility. Additionally, based on correspondence from NBFD, it is the practice of the NBFD to only use their sirens in traffic, as necessary, and rarely in residential areas.

- DMM-5 The comment speculates that the future staff and visitors as well as the ambulances would use the community local street to cut through traffic. As indicated in the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments), the Project would result in reduced traffic trips compared to the existing use on site (i.e., 312 daily trips versus 738 daily trips), as a senior living facility would generate fewer trips compared to a restaurant, based on the ITE's 2017 *Trip Generation Manual*, 10th Edition rates for the existing and proposed uses. Also, not knowing the direction of incoming trips, it is speculative to assume that the future users of the facility would use community streets to avoid traffic light delays.
- DMM-6 The comment expresses concern over the existing traffic volumes on Bristol Street and states that the Project would further exacerbate the dangerous condition on Bristol Street. Section 4.11, Transportation/Traffic, of the Draft EIR backed by technical analysis, has determined that the trips associated with the proposed use would be reduced by 426 trips compared to the existing restaurant (having little or no peak hour effects on either Bristol or Bayview Place) or an office use under the existing zoning. For a detailed discussion, please refer to the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments). While comment regarding traffic on Bristol Street is noted, the proposed facility would not result in substantial traffic on Bristol Street such that it would further exacerbate traffic volumes.
- DMM-7 The comment expressed concern regarding the future residents of the facility, more specifically, the dementia patients wandering out of the facility and into traffic. It should be recognized that memory care residents would be in a secured and monitored section of the facility, separated from the assisted living residents, and their recreational amenities would be completely enclosed. The facility would have extensive security systems for the memory care portion of the building. The staff would be trained thoroughly to frequently monitor and care for memory impaired residents on a 24/7 basis. A confidential key pad code would be used to enter the memory care area. The fire access doors would be locked and if accidentally opened, an alarm would sound to allow staff to intervene immediately, if necessary. Additionally, all exterior windows would have window stops installed. As a result, unintentional exits by unaccompanied residents would be rare.
- DMM-8 The comment indicates that the Santa Ana Heights neighborhood has not received any notices regarding the Project. It should be noted that the EIR preparation process has followed all noticing requirements in accordance with NBMC, Chapter 20.62 (Public Hearings). The community was provided notice very early on in the process for the EIR scoping meeting, which was held on August 15, 2016, to facilitate public review and comment on the Project. Not only were notices sent to the surrounding property owners within 300 feet of the Project limits, in accordance with Section 20.62.020 (B)(2)(c) of Chapter 20.62 of NBMC, a notice was also published in the Orange County Daily Pilot regarding the meeting.

- Further, similar noticing procedures were followed for the release of the Draft EIR for public review. While noticing requirements call for notifying the property owners within 300 feet of the Project boundary by mail at least ten days before the final public hearing (Government Code Section 65353 and Section 20.62.020 (B)(2)(c) of Chapter 20.62 of NBMC), the City mailed out notices on August 10, 2018, at the beginning of the public review period for the EIR. Additionally, a notice was published in the Orange County Daily Pilot on August 10, 2018. By providing the notice as soon as the EIR was available, rather than the required 10 days before the hearing, the City exceeded the requirements to encourage public participation. A study session with the Planning Commission was also held on September 13, 2018 as another opportunity for the public to provide input. Based on the information above, the City clearly exceeded the noticing requirements for the outreach to the community.
- DMM-9 The comment expresses concern over parking for the proposed facility and indicates that the overflow parking would end up on the community streets. As detailed in Section 3.0, Project Description, of the Draft EIR, the proposed facility would have subterranean parking with an elevator into the building and would be accessed off the main entry. According to Chapter 20.40.040 (Off-Street Parking Requirements) of the NBMC, the parking requirement for convalescent facilities is one space per three beds, resulting in a total requirement of 40 parking spaces (36 standard and 4 accessible or barrier-free) for the proposed facility. However, the Project would include a total 53 spaces, which is 33 percent more than the required number. Of the proposed 53 parking spaces, 49 would be standard and 4 would be accessible or barrier-free. With the excess parking, it is unlikely that future employees or visitors would park on surrounding neighborhood streets within the community of Santa Ana Heights. It should be noted that parking on Bayview Place is prohibited on both sides of the street, and there is no direct access from the Santa Ana Heights neighborhood to the proposed development. In the absence of direct access and distance, employees and visitors are not likely to park on residential streets of Santa Ana Heights neighborhood and walk to the facility. Additionally, the City would require as a condition of approval (as part of the Conditional Use Permit [CUP]) that all staff and visitors park on-site
- DMM-10 The commenter expresses opposition to rezoning setting a precedent. For a detailed discussion of this issue, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).

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From: Laura Minarsch <laura22@mmc-medical.com>
Sent: Wednesday, September 19, 2018 7:13 AM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Ramirez, Gregg; Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: BAYVIEW TERRACE

I am a homeowner at 97 PELICAN COURT in Newport Beach, located in the Bayview TERRACE, I am writing to STRONGLY OPPOSE ANY REZONING and in particular the rezoning of Kitayama site that sits at the corner of Bristol and Bayview from CO-G to PI, documented to me in an email from the City of Newport Beach Planning Department as a precedent setting direct zoning change.

} 1

I did not buy back in 1992 with the notion that rezoning could occur and that an "institutional" business to be included in our quiet and safe neighborhoods here at the top of our city's beautiful upper Newport Bay Ecological Preserve. It is loud and clear that the overwhelming majority of residents would never have purchased their homes if this had been part of the original master community plan. To change the zoning in this precedent setting and radical way, is to undermine the faith that hundreds of homeowners, collectively representing multi-millions of dollars of property, have in our city's leaders to protect and preserve the value of their communities.

} 2

We all know that if a zoning change is permitted, it paves the way for all types of businesses fitting under the banner of a Private Institution to set up shop on that site. And of course, we also all know that the drug rehabilitation business is currently thriving and a Newport Beach address is worth a great deal of money. Therefore, it is entirely possible that the current developers will sell the site to one of these other types of institutional businesses that would now be sanctioned to operate less than 100 feet from the doors of many hard working, tax paying and voting homeowners. Perhaps this would occur should their proposed senior and memory care business fail or perhaps they would never open their doors and sell it to a drug rehabilitation center once the rezoning occurs.

} 3

I believe that we will obtain significant opposition to this and would hope that you will support our efforts. If we allow this then we will be allowing other rezoning like this to occur in other parts of Newport Beach.

} 4

Laura Minarsch, Resident Bayview Terrace

97 Pelican Court

Letter 71: Laura Minarsch (LM)**Comment Letter Dated September 19, 2018**

LM -1 The comment expresses opposition to rezoning (re-designating the site) stating it was never anticipated, as part of the original master community plan. The comment also indicates that the property owners would expect the City to preserve the property values. For clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Regarding rezoning (re-designating the site) setting a precedent, it should be noted that the process for re-designating any parcel in the City is a public process and each land use re-designation case is evaluated on its own merits after careful evaluation of the potential impacts. Therefore, re-designating a particular site would not set a precedent to amending land uses elsewhere in the City.

The comment regarding property values is noted and will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required.

LM-2 The comment notes that the rezoning would facilitate all types of businesses to be developed on the site. For a detailed description of rezoning, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Additionally, the discussion on page 4.8-18 of Section 4.8, Land Use and Planning, of the Draft EIR indicates that:

The proposed Project is within Zoning District PC-32, which is the Bayview Planned Community Development Plan (PC-32), that provides for residential, recreational, commercial, professional, institutional, hotel, and office uses. The Project site is located in Area 5 of the Bayview Planned Community, which is intended for commercial uses, specifically facilities for shopping goods, convenience goods and services, food services, and recreation for the community. Permitted uses include restaurants, bars, theaters, and nightclubs. Permitted uses subject to a Conditional Use Permit include automobile washing; health clubs; helistops; mini-storage facilities; public utility exchanges and substations; retail businesses; service businesses; animal clinics and hospitals; administrative and professional offices; automobile parking lots and structures; commercial recreation; nurseries and garden supply stores; day nurseries; financial institutions; public/private utility buildings and structures; self-service laundry and dry cleaning facilities; accessory structures and uses necessary and customarily incidental to the above uses; and any other uses that, in the opinion of the City of Newport Beach Planning Commission, are of a similar nature.

Therefore, upon closure of the existing restaurant and in the absence of a zone change, any of the above uses, including bars, theaters, and nightclubs could replace the

restaurant. These uses would have far more impacts compared to the proposed Project or an office using under existing zoning.

- LM-3 The comment reiterates opposition to rezoning (re-designating the site) and indicates that it would result in rezoning (re-designating a site) in other parts of the City. Please refer to Response LM-1, above.

From: Schwartz, Cathy <Cathy.Schwartz@PacificLife.com>
Sent: Wednesday, September 19, 2018 9:54 AM
To: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kramer, Kory; Koetting, Peter; Kleiman, Lauren; Zdeba, Benjamin; Ramirez, Gregg
Subject: Opposition to rezoning Kitayama site

Dear Planning Commissioners,

I am a homeowner at 87 Pelican Court in Newport Beach, located in the Bayview master planned community. I am writing to strongly voice my personal opposition to rezoning the current Kitayama site that sits at the corner of Bristol and Bayview from CO-G to PI, as a precedent setting direct zoning change. Below, I am echoing the sentiments previously expressed by Kirk Snyder, President of the neighboring HOA, as I am strongly supportive of his well stated points.

1

There are many significant issues that I believe warrant the city to refuse this request to change the zoning for the Harbor Pointe senior and memory care facility proposed on this site, but I will focus on only one in this letter. The Bayview master plan never intended for any type of “institutional” business to be included in our quiet and safe neighborhoods here at the top of our city’s beautiful upper Newport Bay Ecological Preserve. It is loud and clear that the overwhelming majority of residents, including myself, would never have purchased their homes if this had been part of the original master community plan. To change the zoning in this precedent setting and radical way, is to undermine the faith that hundreds of homeowners, collectively representing multi-millions of dollars of property, have in our city’s leaders to protect and preserve the value of their communities.

2

The Bayview and Santa Ana Heights communities all know that if a zoning change is permitted, it paves the way for all types of businesses fitting under the banner of a Private Institution to set up shop on that site. And of course, we also all know that the drug rehabilitation business is currently thriving and a Newport Beach address is worth a great deal of money. Therefore, it is entirely possible that the current developers will sell the site to one of these other types of institutional businesses that would now be sanctioned to operate less than 100 feet from the doors of many hard working, tax paying and voting homeowners. Perhaps this would occur should their proposed senior and memory care business fail or perhaps they would never open their doors and sell it to a drug rehabilitation center once the rezoning occurs. Of course, this would net the developers a great deal of money based on the rezoned PI status alone.

3

Because this rezoning would be precedent setting, its significance goes far beyond the master community plan of Bayview and should sound a loud warning siren to every homeowner in Newport Beach. If institutional businesses are allowed in one safe, quiet and tranquil neighborhood, they could be coming soon to their neighborhoods once this precedent is set. I am confident that as soon as the entire city knows about how destructive this type of rezoning could be to their own beautiful neighborhoods, creating a myriad of safety and crime issues, noise problems, an on-going influx of people from outside the area visiting the facility, thousands of residents will want to be heard. Let’s not kid ourselves with developer propaganda.

4

Homeowners in our communities, myself included, welcome redevelopment on the site that fits within the existing zoning and building parameters. We are ready to work hand in hand to create a win-win project that does not require rezoning and will enhance our beautiful enclave of Newport. A radical

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zoning change from CO-G to PI would undermine the lives of so many wonderful residents who contribute to the city every day in so many ways.

Sincerely,

Cathy Schwartz

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Letter 72: Cathy Schwartz (KS)

Comment Letter Dated September 19, 2018

KS-1 The comment expresses opposition to rezoning the site from CO-G to PI stating it would set a precedent. The commenter also supports the comments expressed by Kirk Snyder, president of the neighboring HOA. For clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Regarding rezoning (re-designating the site) setting a precedent, it should be noted that the process for re-designating any parcel in the City is a public process and each land use re-designation case is evaluated on its own merits after careful evaluation of the potential impacts. Therefore, re-designating a particular site would not set a precedent to amending land uses elsewhere in the City.

KS-2 The comment expresses opposition to rezoning (re-designating the site) stating it was never anticipated, as part of the original master community plan. The comment also indicates that the property owners would expect the City to preserve the property values. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Regarding rezoning setting a precedent, please see Response KS-1, above. .

The comment regarding property values is noted and will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required.

KS-3 The comment notes that the rezoning would facilitate all types of businesses to be developed on the site. For a detailed description of rezoning, please refer to Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Additionally, the discussion on page 4.8-18 of Section 4.8, Land Use and Planning, of the Draft EIR indicates that:

The proposed Project is within Zoning District PC-32, which is the Bayview Planned Community Development Plan (PC-32), that provides for residential, recreational, commercial, professional, institutional, hotel, and office uses. The Project site is located in Area 5 of the Bayview Planned Community, which is intended for commercial uses, specifically facilities for shopping goods, convenience goods and services, food services, and recreation for the community. Permitted uses include restaurants, bars, theaters, and nightclubs. Permitted uses subject to a Conditional Use Permit include automobile washing; health clubs; helistops; mini-storage facilities; public utility exchanges and substations; retail businesses; service businesses; animal clinics and hospitals; administrative and professional offices; automobile parking lots and structures; commercial recreation; nurseries and garden supply stores; day nurseries; financial institutions; public/private utility buildings and structures; self-service laundry

and dry cleaning facilities; accessory structures and uses necessary and customarily incidental to the above uses; and any other uses that, in the opinion of the City of Newport Beach Planning Commission, are of a similar nature.

Therefore, upon closure of the existing restaurant and in the absence of a zone change, any of the above uses, including bars, theaters, and nightclubs could replace the restaurant. These uses would have far more impacts compared to the proposed Project or an office using under existing zoning.

- KS-4 The comment reiterates that rezoning (re-designation) of the site would set a precedent that would have implications elsewhere in the City with impacts associates with safety, crime, noise, and influx of people. Please refer to Responses KS-1 through KS-3 above. Additionally, comment regarding potential rezoning elsewhere in the City and associated issues is speculative, as potential rezoning (re-designation) and impacts cannot be determined at this time as each location where re-designation is proposed is evaluated on its own merits; thus, no response is required.

From: M. Smith <mws.aspenroyal@gmail.com>
Sent: Wednesday, September 19, 2018 6:00 PM
To: Zdeba, Benjamin
Cc: Zak, Peter; Weigand, Erik; Dunlap, Bill; Kleiman, Lauren; Koetting, Peter; Kramer, Kory; Lowrey, Lee; Michael W. Smith
Subject: 101 Bayview Place/Kitayama site re-zoning issue

9/19/2018

Dear Mr. Zdeba,

Re: 101 Bayview Place/Kitayama site re-zoning issue

I would like to thank you and all the Planning Commission Members for your time and attention at the 9/13/2018 Planning Commission Meeting. The professional manner in which the meeting was conducted by Mr. Peter Zak, Chairman, allowed my neighbors and I the opportunity to speak out, in person, against the proposed re-zoning change for this site.

I respectfully request and urge the Planning Commission Members and the City Council, should it come before them for a vote, to please **vote NO** on this re-zoning item.

Thank you for your time.

Sincerely,

Michael W. Smith
20342 Bayview Ave., Newport Beach, CA 92660
Santa Ana Heights/Bayview Heights

} 1

Letter 73: Michael W. Smith (MWS)

Comment Letter Dated September 19, 2018

MWS -1 The comment appreciates the opportunity at the Planning Commission Study Session to speak out and expresses opposition to rezoning. The comment is noted. For clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).

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From: anne ima <anneima@yahoo.com>
Sent: Saturday, September 22, 2018 9:35 AM
To: Zdeba, Benjamin; Zak, Peter; Weigand, Erik; Kleiman, Lauren; Kramer, Kory; Koetting, Peter; Dunlap, Bill; Lowrey, Lee
Cc: Craig Ima
Subject: 101 Bayview Re-Zoning

Dear Mr. Zdeba and Planning Commissioners,

We heard about the re-zoning project at 101 Bayview and **are against it** as it will greatly impact the neighborhood we live in. Unfortunately, we weren't able to make the last city council meeting but wanted to communicate our position. Thank you for your careful consideration on this issue.

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Very truly yours,

Anne and Craig Ima
20461 Bayview Avenue (residents for 20 years)

Letter 74: Anne & Craig Ima (A&CI)

Comment Letter Dated September 19, 2018

A&CI -1 The comment expresses opposition to rezoning and that it would impact the neighborhood. The comment is noted. For clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). The comment does not elaborate on the specific impacts, no further response is required.

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From: cara.weichman@gmail.com
Sent: Saturday, September 22, 2018 10:23 AM
To: Zdeba, Benjamin
Subject: Kitayama

Hi Ben,

I am a NB resident and used to work in development so I am familiar with the work it takes to get a property rezoned. I understand the reason why an owner might wish to maximize their property value by changing the allowed use and on a case-by-case basis I often agree with it.

However, in the case of the potential rezone of Kitayama I must let you and the commissioners know I am against it and hope you will consider sending this one back to the owners.

I am at the corner of Jamboree and Bristol several times a day due to driving various carpools for my kids. That intersection as well as all of the intersections between Irvine Ave and Jamboree along both sides of Bristol are already heavily congested and frankly, quite dangerous as-is. I have seen and reported more accidents along that stretch than I care to remember.

The proposed rezone and more importantly, the proposed structure size, is a use that will add significantly to the traffic numbers, which will already be impacted by the new residential going in by Conexant. Please ask the owners to go back to the drawing board and improve their property within either the current zoning or a more comparable zoning to the existing businesses along the Bristol corridor.

Thanks so much for the hard work you and your team do as well as the work put forth by planning commission. I really appreciate the thought that goes into balancing individual property rights and the overall balance needed in Newport.

Best,

Cara Weichman

Sent from my iPhone

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Letter 75: Cara Weichman (CW)

Comment Letter Dated September 22, 2018

- CW-1 The commenter states she was in development and understands the efforts that go into rezoning. The comment also expressed opposition to rezoning the site. Comment noted. For clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed discussion of this issues, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).
- CW-2 The comment expresses concern over the existing traffic volumes on Bristol Street and Jamboree Road and states that the Project would further exacerbate traffic. The comment asks to improve the property either within the existing zoning or a more comparable zoning to the existing business along the Bristol Street (please to Response CW-1 for clarification on rezoning). Section 4.11, Transportation/Traffic, of the Draft EIR backed by technical analysis, has determined that the trips associated with the proposed use (i.e., 312 trips) would be reduced by 426 trips compared to the existing restaurant (i.e., 738 trips) use under the existing designation. For a detailed discussion, please refer to the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments). While comment regarding traffic on Bristol Street is noted, the proposed facility would not result in substantial traffic on Bristol Street such that it would further exacerbate traffic volumes.
- Regarding a use within a more comparable zoning to existing business along Bristol Street, it should be noted that existing uses along Bristol Street in the vicinity of the Project site, consist of commercial and office uses. Such a use on the Project site would have far more implications in terms of traffic by increasing traffic volumes in the area, compared to the proposed senior living facility.
- CW-3 The comment appreciates the City's hard work and balancing individual property right and the overall balance in the City. The comment is noted and will be forwarded to the decision makers. No response is required.

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Letter 76

From: Rodger & Julie Lowery <lowerynewport@sbcglobal.net>
Sent: Monday, September 24, 2018 11:17 AM
To: Zdeba, Benjamin
Subject: Harbor Pointe Senior Living

As a longtime resident of Bayview Heights, I would like to express my 100% opposition to the rezoning of the property that currently houses Kitayama restaurant.

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Julie Lowery
Spruce Ave.

Letter 76: Rodger & Julie Lowery (R&JL)

Comment Letter Dated September 24, 2018

CW -1 The comment expresses opposition to rezoning of the property. The comment is noted. For clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).

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From: Peggy Kerr <peggykerr22@hotmail.com>
Sent: Wednesday, September 26, 2018 9:01 AM
To: Zdeba, Benjamin
Subject: Senior Living/Re-Zoning Bayview Issue

Dear Mr. Zdeba,

There has been quite a bit of discussion on the Nextdoor webpage about a re-zoning plan for the Bayview Heights area of Newport Beach - where a new senior living facility may replace a Japanese restaurant on Bristol Ave.

I am a homeowner in this neighborhood and am personally UNopposed to this plan. (Frankly it doesn't make a difference to me if it stays as a restaurant, commercial office, or senior living facility.) However I'm writing because I think it's unfortunate and disappointing that residents would be vehemently against a senior living institution. As our community ages and as many of us will have to eventually care for aging parents I think it makes good sense to have living options within our communities that will keep our aging loved ones close by.

Please accept this email as a resident, and homeowner as my unopposed vote for this re-zoning to allow for a senior living facility.

Peggy Kerr

Letter 77: Peggy Kerr (PK)

Comment Letter Dated September 26, 2018

- PK -1 The commenter states that she is not opposed to the Project, and that it does not make a difference for her what type of use is developed there. But she indicates that it is disappointing that residents would be opposed to this use, and adds that as the community ages, it makes sense to have living options within the community. The comment is noted and will be forwarded to the decision makers. No further response is required.

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Letter 78

From: Nancy Buck <nitannancy@sbcglobal.net>
Sent: Wednesday, September 26, 2018 5:00 PM
To: Zdeba, Benjamin
Subject: Rezoning proposal

Dear Sirs,
I have lived on Azure Ave since 1973. I opposed the rezoning proposal for our area! Nancy Buck Sent
from my iPhone

} 1

Letter 78: Nancy Buck (NB)

Comment Letter Dated September 26, 2018

NB -1 The comment expressed opposition to rezoning. The comment is noted. For clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).

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From: Linda Wooters <lindawooters@me.com>
Sent: Wednesday, September 26, 2018 8:11 PM
To: Zdeba, Benjamin
Subject: Rezoning on Bristol Ave

Dear Mr. Zdeba,

I live at 20442 Bayview Ave. and I'm opposed to rezoning the Kityama site. This will have negative impacts to our community. There was much consideration when this zoning this area when first developed. Traffic, height limits were all studied and agreed upon years ago. Nothing has changed in this neighbor that should be reconsidered. Just because a corporation wants to change it, it doesn't make it except able. Please listen to the community that lives and votes in this area.

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Thank you for your consideration, Linda Wooters

Sent from my iPhone

Letter 79: Linda Wooters (LW)

Comment Letter Dated September 26, 2018

LW -1 The comment expressed opposition to rezoning. For clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). Comment regarding previous consideration to zoning when the area was first developed is noted.

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From: patmail@moz-art.com
Sent: Friday, September 28, 2018 10:05 AM
To: Zdeba, Benjamin
Subject: re-zoning of Kitayama

Dear Planning Department

I am opposed to the rezoning of The Kitayama property. I believe it will have a negative impact on the surrounding residential area.

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Pat Peters
2351 Bay Farm Pl
Newport Beach 92660

Letter 80: Pat Peters (PP)

Comment Letter Dated September 28, 2018

- PP -1 The comment expresses opposition to rezoning and states that the Project would have a negative impact on the surrounding residential area. For clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). The comment does not elaborate on the specific impacts on the surrounding area, no further response is required.

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Letter 81

From: Maureen Peters <mopeters@roadrunner.com>
Sent: Friday, September 28, 2018 1:28 PM
To: Zdeba, Benjamin
Cc: 'pzak@newportbeachca.gov'; 'eweigand@newportbeachca.gov';
'kleiman@newportbeachca.gov'; 'kkramer@newportbeachca.gov';
'pkoetting@newportbeachca.gov'; 'bdunlap@newportbeachca.gov';
'llowrey@newportbeachca.gov'
Subject: Kitayama

Dear Planning Department

I am opposed to the rezoning of The Kitayama property. I believe it will have a negative impact on the surrounding residential area.

} 1

Maureen Peters
2351 Bay Farm Pl
Newport Beach 92660

Letter 81: Maureen Peters (MP)

Comment Letter Dated September 28, 2018

- MP -1 The comment expressed opposition to rezoning and states that the Project would have a negative impact on the surrounding residential area. For clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments). The comment does not elaborate on the specific impacts on the surrounding residential developments, no further response is required.

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From: Jessica Adams <jessicaadams1983@gmail.com>
Sent: Friday, September 28, 2018 3:23 PM
To: Zdeba, Benjamin
Cc: Zak, Peter; Weigand, Erik; Kleiman, Lauren; Kramer, Kory; Koetting, Peter; bdunlap@newportbeachca.gov; Lowrey, Lee
Subject: Re-zoning of Kitayama

Hello Ben,

I am writing on behalf of my husband and myself to inform you that we are against the rezoning of Kitayama restaurant at 101 Bayview Pl. We live at 20162 Spruce Ave, which is about a 5 minute walk to Kitayama. My husband is a firefighter and I am a registered nurse. My husband bought our house about five and a half years ago and we are just about finished remodeling it. Had we known that the Kitayama location would soon be converted to a senior living facility I think we would have invested our hard earned money elsewhere. Considering the type of work we do, we are both very familiar with senior living facilities and the challenges it would bring to the neighborhood. A facility like this would bring a significant increase in traffic to an already high traffic area, which is a safety concern for the neighborhood and the residents of the facility. Vehicles often speed down Spruce Ave and with an increase in traffic we fear that would get worse. Our plan is to raise a family in this house and we want a safe environment for our children and our neighbor's children. We are also concerned that this re-zoning could decrease our property value and that it could potentially be used for a purpose other than a senior living facility in the future.

Thank you for your time and for hearing our thoughts on this matter.

Sincerely,

Jessica & Ryan Schleiger
20162 Spruce Ave.
Newport Beach 92660

} 1
}
} 2
}

Letter 82: Jessica & Ryan Schleiger (J&RS)

Comment Letter Dated September 28, 2018

- J&RS -1 The commenters express opposition to rezoning and add that if they knew of rezoning they would have invested somewhere else. The comment is noted and will be forwarded to the decision makers. For clarification, rezoning would not change the land use designation from CO-G to PI, and that zoning for the site is controlled by Area 5 of the PC-32, which will include revisions to accommodate the proposed use. The amendment to the General Plan would change the existing land use designation of CO-G to PI. For a detailed discussion of rezoning, please refer to the Topical Response pertaining to General Plan Amendment/Zone Change (see Section 3.1.1 of these Responses to Comments).
- J&RS -2 The comment indicates that they are familiar with this type of use and that it would increase traffic to an already high traffic area, resulting in safety concerns. The existing condition of vehicles speeding down Spruce Avenue would get worse. The comment further states that rezoning would affect property value and could result in other uses coming to the area. The comment is noted. Regarding increased traffic, please refer to a detailed discussion in the Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments). The comment regarding speeding cars in the area is noted; however, it would be speculative to state that the condition would get worse in light of the proposed Project. It should be noted that there is no direct access from the Santa Ana Heights neighborhood to the proposed development. In the absence of direct access, use of the local streets in the community to bypass traffic is unlikely if not physically impossible. As indicated in the Topical Response (Section 3.1.2) and in Section 4.11, Transportation/Traffic, of the Draft EIR, the Project would result in a reduction in vehicular trips compared to the existing restaurant. In light of this, the proposed facility would not exacerbate traffic in the community. The comment regarding property values will be forwarded to the decision makers. Property values is not a required topic under CEQA, no further response is required.

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3.8 INDIVIDUALS (PLANNING COMMISSION STUDY SESSION)

Verbal comments were received at the Planning Commission Study Session held on September 13, 2018, at the City of Newport Beach. The individual commenters and their issues of concern are listed in the table below, and responses per topic are provided following the table. The full record of the Study Session is posted on the City's website: <http://ecms.newportbeachca.gov/Web/Browse.aspx?startid=691514&cnb=BoardsCommissions>

No.	Commenter	Issues/Comments	Reference
1	Marshall Hugo	Opposed - Traffic	- See TR in Section 3.1.2 for traffic
2	Dave O'Keefe	Supportive - Proposed use needed in Newport Beach	- Comment noted
3	Rhonda Watkins	Opposed - Rezoning - Traffic - Incompatibility - Lack of outdoor facilities	- See TRs in Sections 3.1.1 and 3.1.2 for rezoning and traffic - See responses below for incompatibility and lack of outdoor facilities
4	William Blakeney	Opposed - Water usage	- See response below
5	Lyle Brakob	Opposed - Noise from John Wayne Airport	- See response below
6	Mike Smith	Opposed - Rezoning—potential for uses such as drug rehabilitation - Traffic - Involvement after close of the review period	- See TRs in Sections 3.1.1 and 3.1.2 for rezoning and traffic - See response below for future involvement
7	Andrea Kane	Opposed - Traffic - Parking - PC Study Session—back to school	- See TR in Section 3.1.2 for traffic - See response below for parking and proper noticing
8	Dale Ransom	Opposed - Traffic - Property values - Quality of life	- See TR in Section 3.1.2 for traffic - See responses below for property values and quality of life
9	Chris Webb	Opposed - No proper noticing - Traffic - Parking - Change of view - Lack of adequate open space for the facility	- See TR in Section 3.1.2 for traffic - See responses below for noticing, parking, change in view, and lack of adequate open space
10	Patty Lampman	Opposed - Rezoning	- See TR in Section 3.1.1 for rezoning

Responses to Comments

No.	Commenter	Issues/Comments	Reference
11	Karen Santaniello	Supportive - Proposed use needed in the City - Seniors benefit—ties to the community - No overwhelming traffic	- Comment noted
12	Ann Janes	Supportive - Great location - Proposed use needed in the City - Traffic not an issue	- Comment noted
13	Dave Tax	Supportive - High demand for this type of use - High quality and aesthetically pleasing - No traffic and noise compared to an office building	- Comment noted
14	Aaron Rios	Opposed - Rezoning - Traffic	- See TRs in Sections 3.1.1 and 3.1.2 for rezoning and traffic
15	Michael McDonald	Opposed - Trees blocking sunshine	- See response below for change of views
16	Charlotte Miller	Opposed - Open all night - Police, ambulance, mortuary - Noise	- See responses below for nighttime hours; increased police, ambulance, mortuary trips; and noise
17	Chris Larkins	Opposed	- Comment noted
18	Scott Hyde	Opposed - Emergency cars—sirens (noise) - Impact to trail at Back Bay	- See responses below for noise from emergency cars/sirens and impact to Back Bay trail
19	Donna McMeikan	Opposed	- Comment noted
20	Stephen Wulfestieg	Opposed - Traffic - Parking - Impact to Fire Station 7	- See TR in Sections 3.1.2 for traffic - See response below for parking and Fire Station No. 7
21	Peter Dugan	Opposed - Rezoning	- See TR in Section 3.1.1 for rezoning
22	Doug Pancake	Supportive - Great location - Quality developer and operator—in 17 states - Appropriate location - Need for this type of facility	- Comment noted
23	Patricia Blakeney	Opposed - Rezoning	- See TR in Section 3.1.1 for rezoning
TR: Topical Response			

3.8.1 PARKING

Parking for the proposed facility was identified as an issue of concern by multiple commenters. As indicated in Section 3.0, Project Description, of the Draft EIR, the proposed facility would have subterranean parking with an elevator into the building and would be accessed off the main entry. According to Chapter 20.40.040 (Off-Street Parking Spaces Required) of the NBMC, the parking requirement for convalescent facilities is one space per three beds, resulting in a total requirement of 40 parking spaces (36 standard and 4 accessible or barrier-free) being required for the proposed facility. However, the Project would include a total of 53 spaces (49 standard and 4 accessible or barrier-free), which is 33 percent more than the required number. With no overflow parking anticipated, it is unlikely that staff or visitors would park on surrounding neighborhood streets, and there is no direct access from the Santa Ana Heights neighborhood to the proposed development. In the absence of direct access and distance, employees and visitors are not likely to park on residential streets of Santa Ana Heights neighborhood and walk to the facility. Additionally the City would require as a condition of approval (as part of the Conditional Use Permit [CUP]) that all staff and visitors park on-site.

3.8.2 NOISE

A number of commenters indicate that the proposed facility would increase noise associated with fire trucks, ambulances, police, delivery trucks, and alarms. Section 4.9, Noise, of the Draft EIR provides a detailed analysis of the Project's potential noise impacts. Per the analysis, and as indicated in the Topical Response pertaining to Transportation/Traffic (Section 3.1.2), the Project would generate less traffic than the existing restaurant. Thus, Project-generated traffic would not substantially increase existing ambient noise levels and the impact would be less than significant. Additionally, Project-generated on-site noise levels would comply with the NBMC and would not result in excessive noise beyond the existing levels. It should also be noted that, as demonstrated in similar facilities, a senior living facility is a quiet use and would not result in generating noise exceeding the existing levels. Additionally, as the proposed facility would have subterranean parking, the noise from employees exiting and entering the facility would not be audible to the surrounding uses. Further, based on correspondence from NBFD, it is the practice of the NBFD to only use their sirens in traffic, as necessary and rarely in residential areas. Therefore, in light of the above and based on the analysis in Section 4.9 of the Draft EIR, the proposed facility would not generate excessive noise.

3.8.3 WATER

Use of high volume of water by the proposed facility was expressed as a concern. As indicated in Section 4.12, Utilities and Service Systems, of the Draft EIR, using Irvine Ranch Water District's (IRWD's) water generation factor of 45 gal/ksf/day (gallons per thousand square feet per day), the proposed Project would result in an estimated water demand of approximately 3,803 gal/ksf/day on average. Given the existing restaurant's water use of approximately 1,232 gal/ksf/day, the projected net increase in water demand from the proposed Project would be approximately 2,571 gal/ksf/day. Additionally, on coordination with and correspondence from IRWD, as the water provider for the Project, the water demand of the proposed facility could be accommodated with the existing IRWD infrastructure, and IRWD has sufficient capacity to meet the water demand of the proposed Project. Furthermore, the IRWD has issued a Conditional Water and Sewer Will Serve Letter, indicating that the IRWD would have adequate domestic

water supplies to accommodate the Project. Therefore, based on correspondence with the IRWD and in light of their confirmation, the proposed Project would not increase demand such that it would exceed the existing supply and capacity resulting in a significant impact. Lastly, the Project site is served by reclaimed water, which would irrigate the landscaped areas.

3.8.4 INCOMPATIBILITY

Comments were expressed that the proposed facility, as well as the requisite re-designation to the PI land use category, would be incompatible with the surrounding uses, and that the site is appropriate for general commercial designation allowing administrative and professional uses. As analyzed in Section 4.8, Land Use and Planning, of the Draft EIR, the proposed Project would not conflict with existing land uses around the Project site. There is no predominant land use within this area of the City. Existing uses would either be compatible with the proposed use and/or buffered by expanded setbacks, walls, and existing and enhanced landscaping.

The Project site is located in an urbanized and fully developed portion of the City of Newport Beach with a mix of residential, commercial, retail, health care, and office uses. This portion of the City is characterized by a concentration of commercial and office uses along Bristol Street and residential development adjacent and behind the commercial uses, and as indicated above, there is no single predominant use such that the proposed Residential Care Facility for the Elderly (RCFE) would be an incompatible land use. Bayview Place provide sufficient buffer/right-of-way between the proposed use and the adjacent office uses across Bayview Place. Additionally, the proposed building height and the proposed setbacks, described in Section 3.0, are designed to provide compatibility with the adjacent uses in compliance with PC-32 requirements. The proposed building is uniformly three stories, or 33 feet, at the top of the roof, and 39 feet and 6 inches at the highest point, which includes mechanical equipment screening. This is within the height limits of PC-32 and is hence compatible with the surrounding structures and uses. Moreover, the building façade is designed to be compatible with the surrounding development in the Bayview area.

In terms of compatibility with the adjacent residential uses to the northwest and southwest, there are existing 6- and 8-foot walls in addition to the existing mature landscaping (to be further enhanced) along the northwest and southwest property boundaries. Furthermore, increased setbacks and enhanced landscaping are incorporated along the property lines adjacent to Baycrest Court condominiums and Santa Ana Heights single-family residential to create a buffer and enhance compatibility. The building, as situated on the Project site, exceeds the minimum required setbacks identified in PC-32. Therefore, the concern regarding lack of compatibility of the proposed Project in terms of land use and physical structure with the surrounding uses is not substantiated.

3.8.5 FUTURE INVOLVEMENT SUBSEQUENT TO THE REVIEW PERIOD

As indicated in Response FL1-1 (Form Letter 1), CEQA establishes a process whereby the interested parties have the opportunity to get involved by reviewing and commenting on the CEQA document. Per Section 15201 of CEQA Guidelines, public participation is an important component of the CEQA process. Opportunities for public participation are presented throughout the process, initially by attending and commenting at the scoping meeting;

participating at the Planning Commission Study Session; reviewing the Draft EIR during the mandated 45-day review period; and finally attending the Planning Commission and City Council public hearings during the Project's approval process. Written and verbal comments have been received during the mandated Draft EIR review period (August 10 through September 28, 2018) as well as the Planning Commission Study Session held on September 13, 2018. At this time, as the Draft EIR review period ended on September 28, 2018, the next formal opportunity for public participation and involvement would be the Planning Commission and City Council hearings. The Planning Commission Hearing is anticipated to occur on December 6, 2018.

3.8.6 IMPROPER NOTICING

All noticing for the proposed Harbor Pointe Project EIR complied with the applicable requirements in accordance with NBMC Chapter 20.62 (Public Hearings). The community was provided notice very early on in the process for the EIR scoping meeting, which was held on August 15, 2016, to facilitate public review and comment on the Project. Not only were notices sent to the surrounding property owners within 300 feet of the Project limits, in accordance with Section 20.62.020 (B)(2)(c) of Chapter 20.62 of NBMC, a notice was also published in the Orange County Daily Pilot regarding the meeting.

Further, similar noticing procedures were followed for the release of the Draft EIR for public review. While noticing requirements call for notifying the property owners within 300 feet of the Project boundary by mail at least ten days before the final public hearing (Government Code Section 65353 and Section 20.62.020 (B)(2)(c) of Chapter 20.62 of NBMC), the City mailed out notices on August 10, 2018, at the beginning of the public review period for the Draft EIR. A notice was also published in the Orange County Daily Pilot on August 10, 2018. By providing the notice as soon as the EIR was available, rather than the required 10 days before the hearing, the City exceeded the requirements to encourage public participation.

At the Planning Commission Study Session, held on September 13, 2018, it was announced that the intention was to return to the Planning Commission on December 6, 2018. Therefore, based on this information, the City exceeded the noticing requirements for the outreach to the community.

At the Planning Commission Study Session, a comment was made pertaining to the rescheduled Study Session conflicting with the back-to-school night and a number of residents missing the Study Session as a result. It should be noted that CEQA does not require a study session during the Draft EIR review period. The City scheduled the Planning Commission Study Session as an additional opportunity for interested parties to provide comments. Further, additional comments could be provided between the Planning Commission Study Session and the close of the Draft EIR review period on September 28, 2018.

3.8.7 CHANGE OF VIEW

Concern was expressed regarding potential visual impacts. Section 4.1, Aesthetics, of the Draft EIR provides detailed analysis, supported by a visual simulation study that identified before and after views of the facility from the adjacent residential uses to the southwest and northwest of the site. The analysis acknowledged that the views of the site would be altered in comparison to the existing condition; however, in light of the spatial relationship with the existing uses; height

and setbacks; quality of the design; and ample landscaping buffer, the changes of the views would not be substantial and adverse resulting in a significant visual impact. Thus, the proposed Project would be compatible with the surrounding use and not visually intrusive; the mass and scale of the proposed structure would be consistent with existing buildings along Bristol Street; and the height would not exceed the height limit of Area 5 of the PC-32. It should also be noted that while the “private” views from adjacent residential uses are not protected, the design takes into consideration the visual relationship with the surrounding uses.

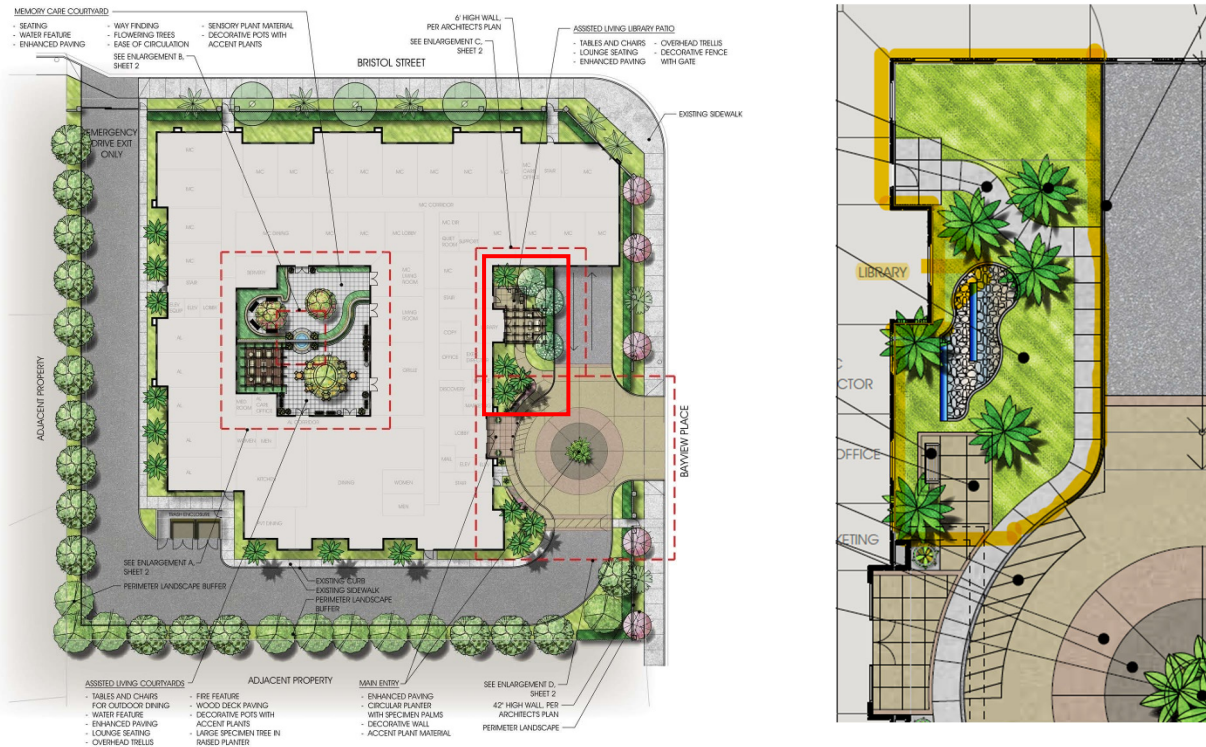
A comment was also made regarding the trees blocking the sunshine. The site currently includes mature trees along the southwest and northwest boundaries of the site. The Project proposes additional trees as enhancement of buffers between the proposed use and the existing residential units. It should also be noted that compatibility and visual impacts have been concerns raised by a number of commenters. The enhanced buffers aim to address those concerns, and no impact pertaining to trees blocking the sunshine is anticipated.

3.8.8 LACK OF ADEQUATE OPEN SPACE

Comments were made that the proposed facility does not include sufficient outdoor space for the future residents. As indicated in Section 3.0, Project Description, of the Draft EIR, the proposed structure would have a number of open space amenities (in the interior and exterior of the facility), which include a concrete walk, clad with trees and plantings around the structures; two interior courtyards for the assisted living and memory care residents, separated by a decorative stone wall with outdoor seating; and a roof garden on the third level overlooking the interior courtyards.

Additionally, in light of the comments received, a new outdoor amenity/patio has been proposed at the northeast of the building’s main entrance/waiting area to accommodate the outdoor needs of the assisted living residents of the facility. The previously proposed landscaped area has been modified and redesigned to create the new patio, accessible from the library on the first floor of the building. The patio would include enhanced paving, gardens, seating, and an overhead trellis.

The updated Draft EIR exhibits, in light of the above modification, are included in Section 4.0, Clarification and Revisions as Part of the Final EIR, of these Responses to Comments. Below is a snapshot of the newly proposed outdoor amenity/patio.



3.8.9 INCREASED TRAFFIC AND NOISE FROM POLICE AND AMBULANCE SERVICES DURING DAY AND NIGHT

Comments stated that the proposed Project operating all night and the associated traffic from ambulances, police activity, and mortuary vehicles would disrupt the neighborhood. For a detailed discussion of traffic related issues, please refer to Topical Response pertaining to Transportation/Traffic (see Section 3.1.2 of these Responses to Comments) that indicates that the proposed Project would generate less trips compared to the existing restaurant (i.e., 312 daily trips versus 738 daily trips). The analysis, reviewed and accepted by the City Traffic Engineer, used the Institute of Transportation Engineers' (ITE's) 2017 *Trip Generation Manual*, 10th Edition rates for the existing (restaurant) and proposed (assisted living and memory care for seniors) uses.

Regarding public services activities, the proposed Project would generate a total of 120 resident population, which is a nominal increase to the City's population to be served by public services. The Project would create the typical range of service calls for a project of this nature and size, including emergency and police protection services. It should also be noted that the Project would replace an existing use with demand for such services already in place, although it is acknowledged that there likely would be more responses to a senior living facility compared to a restaurant. However, it should also be noted that the ITE trip generation rate (2017 *Trip Generation Manual*, 10th Edition) that was used to determine the proposed Project trips takes into account service trips associated with the facility; therefore, the Project's reduced trips, compared to the trips from the existing restaurant, is inclusive of all trips to the facility.

Additionally, regarding emergency services, examples of other similar facilities in the City have shown that medical emergencies are typically no more frequent than in surrounding communities. Based on correspondence from NBFDD, it is the practice of NBFDD to only use sirens in traffic, as necessary, and rarely in residential areas. Therefore, the Project would not generate noise exceeding the requirement. Mitigation measures proposed would further ensure that no impacts would result.

3.8.10 POTENTIAL IMPACT TO TRAIL AT BACK BAY

The use of the trail at Back Bay by the future residents of the facility was questioned. It should be recognized that the proposed facility is designed to have a number of outdoor recreation amenities (in the interior and exterior of the facility) where future residents would visit with their family members. In light of the private amenities provided for the residents, the likelihood of accessing other outdoor amenities may be slim. However, it may be likely that the residents would desire going out of the facility for recreation purposes. In those instances, the residents would always be accompanied by their visitors or staff persons as a safety precaution. Therefore, it is not anticipated that the future residents of the facility would frequent the Back Bay trail creating a significant impact.

3.8.11 IMPACT TO FIRE STATION 7

Concern was expressed regarding potential impact to Fire Station No. 7. The discussion in Section 4.10, Public Services, of the Draft EIR identified Fire Station No. 7 as the closest to the site, located at 20401 Acacia Street. Station No. 7 provides fire prevention and protection, hazardous emergency response, and rescue and medic services and, also includes a training facility and a 48-person training room and related improvements. As indicated in Section 4.10, based on the data from Newport Beach Fire Department pertaining to similar senior living facilities in the City, it is estimated that the projected increase in the number of calls received by the Fire Department, that is reasonably expected, would be 1.72 percent. Although this would increase the demand on the Fire Department personnel and resources, the demand is not sufficient that it would require the construction of new or alteration of existing fire protection facilities (i.e., fire stations) to maintain an adequate level of fire protection service in the area. Because the proposed Project would not require any physical alterations to facilities, the impacts would be less than significant.

However, the incremental increase in demand would contribute to a need for additional personnel and equipment at the existing facilities. Although the Project's individual demand for fire protection services would not result in construction of new or expansion of existing facility, to meet the staffing demand of the proposed Project, a mitigation measure was proposed (MM FIRE-1) to address the Project's contribution to cumulative demand. The measure provides for the share of the cost toward purchasing a new rescue ambulance with patient transport and advanced life support to be located in Fire Station No. 7. This type of mitigation would address the demand for fire equipment from a number of new projects in the area, not just the proposed project.

Please note the revision to the timing of MM FIRE-1. MM FIRE-1 on page 4.10-7, Section 4.10, Public Services, is hereby revised to read as follows (*red italics* shows the additional text and ~~red strikethrough~~ show the deletions):

MM FIRE-1 *Within 60 calendar days of the City's issuance of the first building permit for the Project, ~~Prior to the issuance of a building permit,~~ the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.*

3.8.12 PROPERTY VALUES

Comments regarding property values are noted and will be forwarded to the decision makers. Property values is outside the scope of CEQA, no further response is required.

3.8.13 QUALITY OF LIFE

Comments regarding quality of life are noted and will be forwarded to the decision makers. Quality of life is outside the scope of CEQA, no further response is required.

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4.0 CLARIFICATIONS AND REVISIONS AS PART OF THE FINAL EIR

Some of the revisions included herein are based on input received from the commenters during the public review period, and some are City-identified changes. None of these clarifications and revisions reflect a substantial change to the Project, nor they result in a new impact or intensification of an impact already identified in the Draft EIR. Additions to the Draft EIR are shown in *red italicized* text and deletions are shown in ~~red strikethrough~~ text.

4.1 CLARIFICATIONS AND REVISIONS TO THE DRAFT EIR

4.1.1 SECTION 1.0, EXECUTIVE SUMMARY

The following revisions have been made to the last sentence of the second paragraph under Section 1.5.2 on page 1-4 of Section 1.0, Executive Summary:

The Office Development Alternative would not meet *three* ~~four~~ of the seven Project Objectives and would only partially meet *two other* ~~one~~ objectives.

The following revisions have been made to the last sentence of the first paragraph under Section 1.5.3 on page 1-4 of Section 1.0, Executive Summary:

In addition, this alternative would not meet *four* ~~any~~ of the Project Objectives.

The following addition has been made to Section 4.9-Noise (Mitigation Program column), page 1-16, Table 1-1, Summary of Potential Impacts, Mitigation Measures and Level of Significance, Section 1.0, Executive Summary:

MM NOI-4 Prior to the issue of the building permit for the proposed Project, the Applicant shall submit an acoustical analysis acceptable to the City of Newport Beach Community Development Director or Building Official, that demonstrates that the proposed architectural design would provide an interior noise level of 45 dBA CNEL or less (based on buildout traffic noise conditions *and in compliance with the AELUP for JWA*) in all habitable rooms of the proposed building facing Bristol Street or Bayview Place. The Applicant shall also submit plans and specifications showing that:

- All residential units facing Bristol Street and Bayview Place shall be provided with a means of mechanical ventilation, as required by the California Building Code for occupancy with windows closed.

The following additions have been made to Section 4.10-Public Services (Project Impacts column), page 1-16, Table 1-1, Summary of Potential Impacts, Mitigation Measures and Level of Significance, Section 1.0, Executive Summary:

The Project would create the typical range of service calls for a project of this nature and size, including structural fires and emergency medical and rescue services, and

hazardous materials inspections and response. No new or physically altered fire facilities that would result in substantial adverse physical impacts would be required as a result of the Project. Therefore, ~~the~~ *project-specific* impact is less than significant.

However, although the Project's demand for fire protection services would not result in construction of new or expansion of existing facility, to meet the staffing demand of the proposed Project, MM FIRE-1 is proposed to address the cumulative impacts.

The following addition has been made to Section 4.10-Public Services (Mitigation Program column), page 1-15, Table 1-1, Summary of Potential Impacts, Mitigation Measures and Level of Significance, Section 1.0, Executive Summary:

MM FIRE-1 *Within 60 calendar days of the City's issuance of the first building permit for the Project, the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.*

The following additions have been made to Section 4.10-Public Services (Level of Significance After Mitigation column), page 1-15, Table 1-1, Summary of Potential Impacts, Mitigation Measures and Level of Significance, Section 1.0, Executive Summary:

Less Than Significant (*project-specific*)

Less Than Significant with Mitigation (cumulative)

4.1.2 SECTION 3.0, PROJECT DESCRIPTION

The following addition has been made under Proposed Discretionary Actions, on page 3-10, Project Description:

Development Agreement No. DA2018-006

While a Development Agreement is not required for this Project based on NBMC Section 15.45.020 (Development Agreement Required), the Applicant is proposing a Development Agreement with the City. This agreement would provide public benefits. If the Development Agreement, beyond the monetary benefits, includes physical improvements, a separate CEQA document would be required to address the potential significant impacts emanating from those improvements.

Section 4.8, Land Use and Planning

The following revisions have been made to the fifth sentence of the third paragraph on page 4.8-20 in Section 4.8, Land Use and Planning:

Though not currently or projected to be in the 60-dB CNEL contour, the site is subject to aircraft noise and is located in the typical 85-~~dB~~ *departure noise contour for the* Single Event Noise Equivalent Level for several types of aircraft that operate at JWA (A300-600 and the 737-700).

Section 4.9, Noise

The following revisions have been made to MM NOI-4 on page 4.9-18 in Section 4.9, Noise:

MM NOI-4 Prior to the issue of the building permit for the proposed Project, the Applicant shall submit an acoustical analysis acceptable to the City of Newport Beach Community Development Director or Building Official, that demonstrates that the proposed architectural design would provide an interior noise level of 45 dBA CNEL or less (based on buildout traffic noise conditions *and in compliance with the AELUP for JWA*) in all habitable rooms of the proposed building facing Bristol Street or Bayview Place. The Applicant shall also submit plans and specifications showing that:

- All residential units facing Bristol Street and Bayview Place shall be provided with a means of mechanical ventilation, as required by the California Building Code for occupancy with windows closed.

Section 4.10, Public Services

The following revisions have been made to MM FIRE-1, on page 4.10-7, Section 4.10, Public Services:

MM FIRE-1 *Within 60 calendar days of the City's issuance of the first building permit for the Project, ~~Prior to the issuance of a building permit,~~* the Applicant shall provide payment to the City of Newport Beach for the Project's pro-rata share of the cost for purchasing and equipping a new rescue ambulance with patient transport and advanced life support (ALS) capabilities to be located at Santa Ana Heights Fire Station No. 7.

Section 4.12, Tribal Cultural Resources

The following revisions have been made to the text under Threshold 4.12-1 on page 4.12-8 of Section 4.12, Tribal Cultural Resources:

Although no impact *to TCR* has been identified, in recognition of the tribe's concerns *and to ensure no potential impacts would occur, a Native American monitor shall be retained by the Applicant when construction activities occur in native soils. In the event that TCRs are discovered, the Native American monitor shall be included in the consultation on the recommended next steps. ~~if requested, the Project Applicant would be required to allow representatives of cultural organization, including Native American tribes (i.e., Gabrieleno Band of Mission Indian—Kizh Nation) to access the Project site on a volunteer basis to monitor grading and excavation activities.~~*

Additionally, following revisions have been made to the text of the Impact Conclusion on page 4.12-8 of Section 4.12, Tribal Cultural Resources:

Impact Conclusion: *The Project has a low potential to cause a substantial adverse change in the significance of a tribal cultural resource, as defined by Section 21074 of the Public Resources Code. Given the disturbed*

nature of the site and the limited resources identified to date and the lack of evidence of known resources onsite, the impacts would be less than significant, pursuant to Threshold 4.12-1, and no mitigation is required. However, to further ensure no potential impacts would occur, a Native American monitor shall be retained by the Applicant when construction activities occur in native soils. ~~the Native American tribes could access the Project site on a volunteer basis during construction activities to monitor grading and excavation.~~

4.1.3 SECTION 5.0, ALTERNATIVES

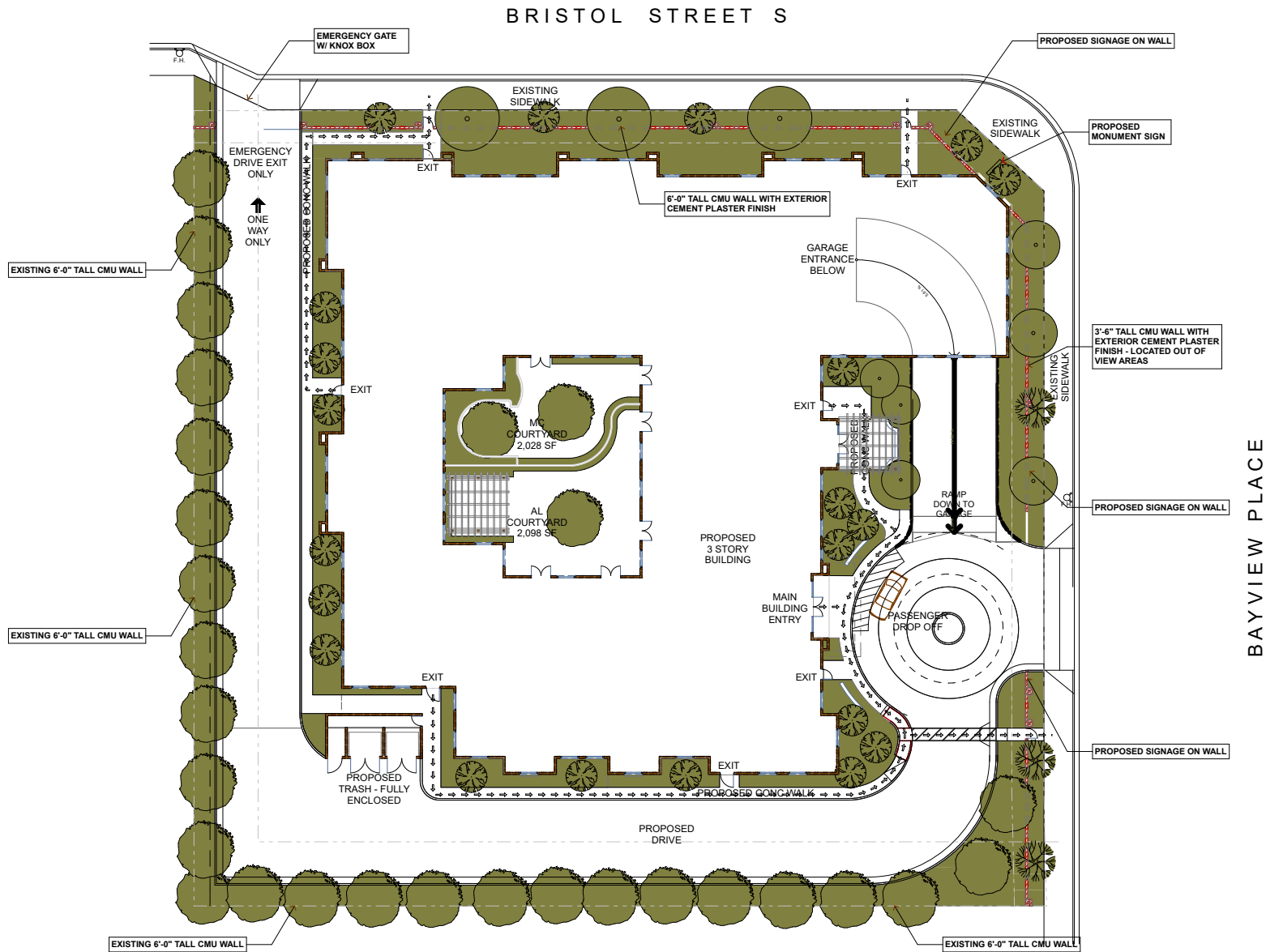
The following revisions have been made on page 5-5 of Section 5.0, Alternatives:

The site is subject to aircraft noise and is located in the typical 85-*dBA departure noise contour for the* Single Event Noise Equivalent Level for several types of aircraft that operate at John Wayne Airport (JWA).

4.2 REVISIONS TO THE EXHIBITS

Revisions have been made to Exhibits 3-1, 3-2a, 3-3, 3-5a, and 3-5b of the Draft EIR:

D:\Projects\Newport\031\Graphics\EIR\Ex_Site_Plan_20181128.ai



Source: Douglas Pancake Architects 2018

Site Plan

Harbor Pointe Senior Living Project



Map Not To Scale

Exhibit 3-1





Source: Douglas Pancake Architects 2018

Floor Plans – First Floor

Harbor Pointe Senior Living Project



Map Not To Scale

Exhibit 3-2a



(11/21/2018 MMD) R:\Projects\NEW3NEW003100\Graphics\EIR\Ex_1stFloor.pdf



Looking North at the Project Entry



Looking South at Emergency Drive and Gate

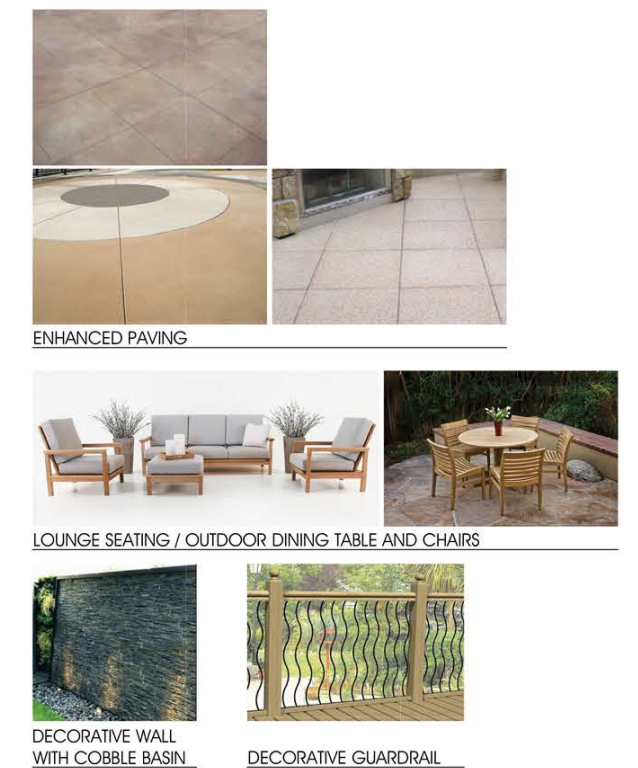
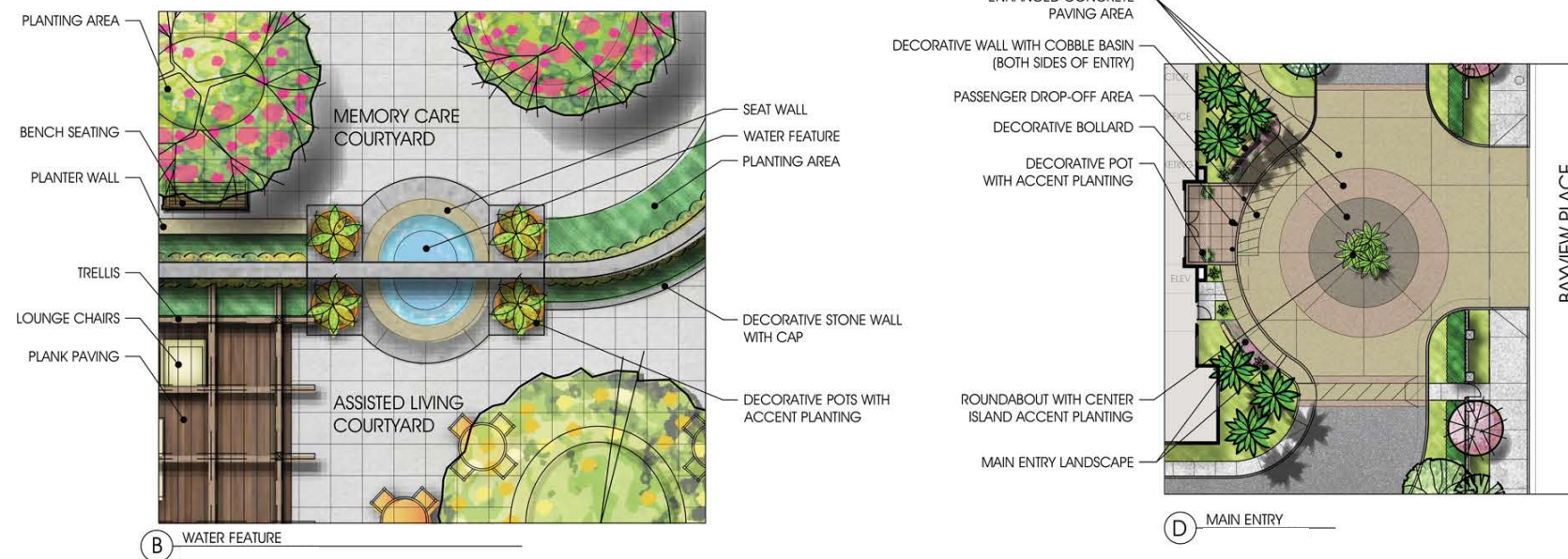
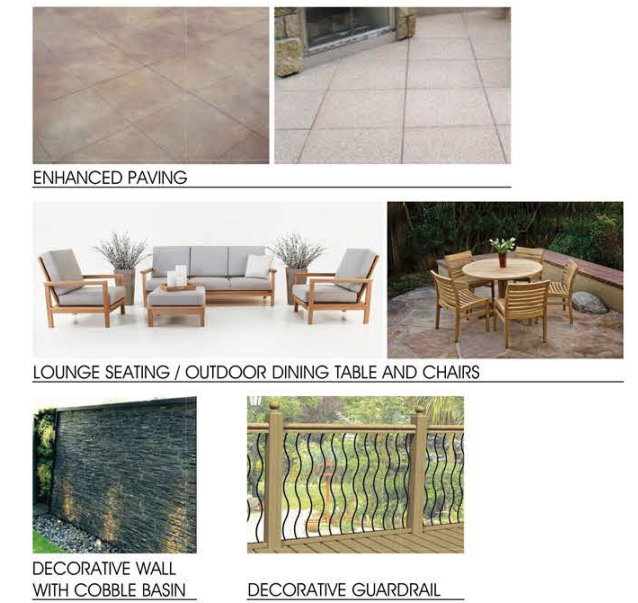
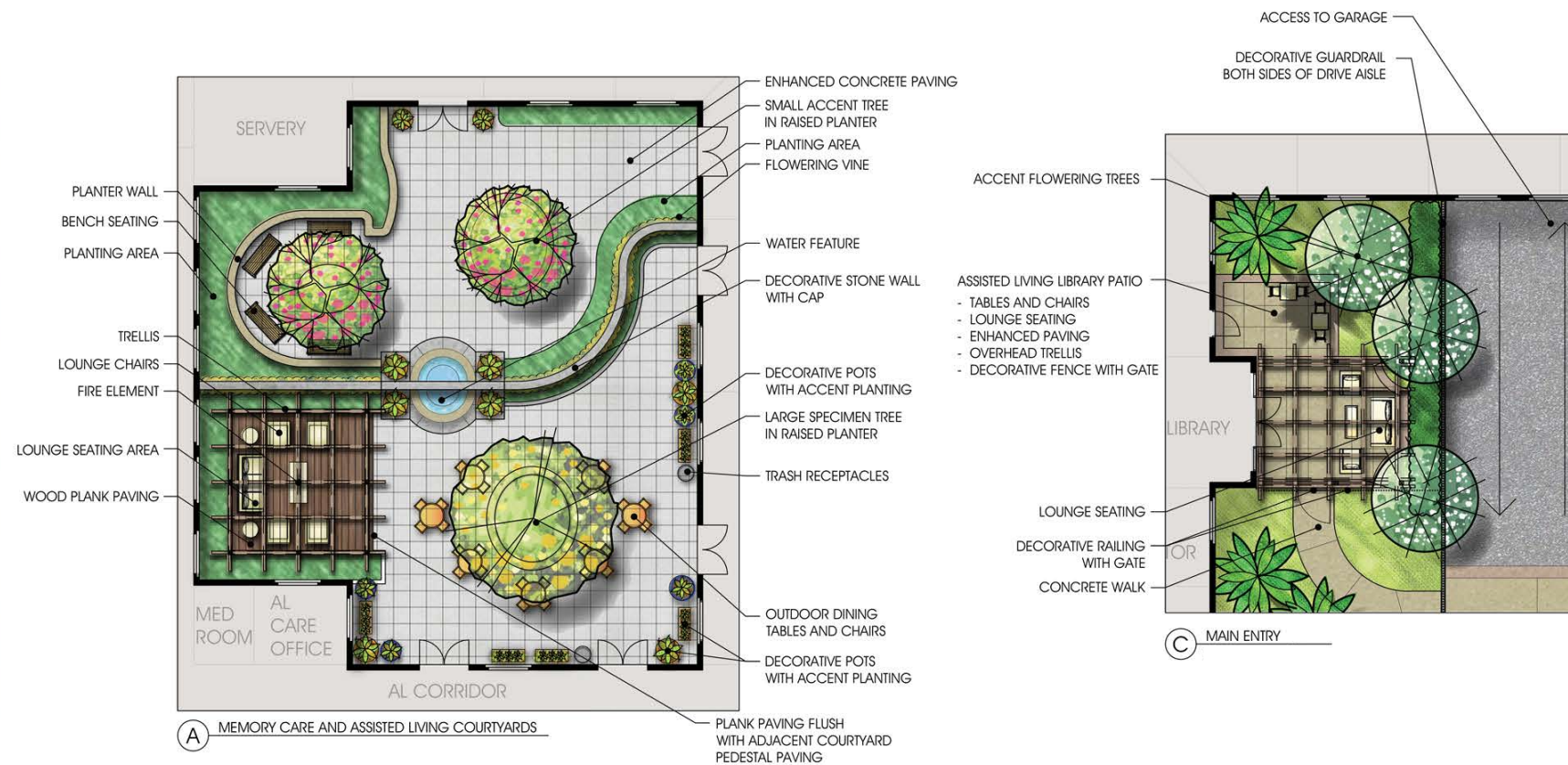
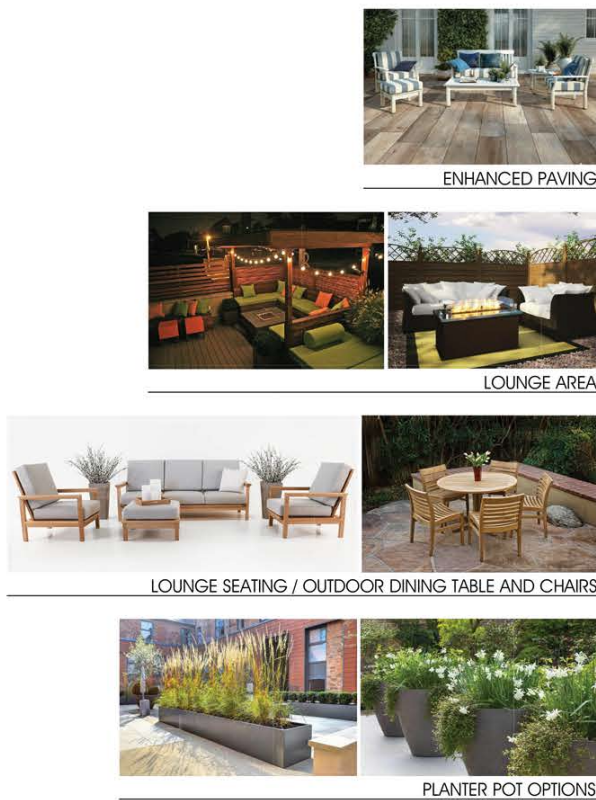
Source: Douglas Pancake Architects 2018

Project Renderings

Harbor Pointe Senior Living Project

Exhibit 3-3





Source: Conceptual Design & Planning Company, 2018

Conceptual Landscape Plan and Detail

Harbor Pointe Senior Living Project



Exhibit 3-5b



