

Proposed Final Environmental Impact Report

SCH No. 2009041010

City Hall and Park Development Plan City of Newport Beach

Volume III - Responses to Comments



Prepared by:

LSA

LSA ASSOCIATES, INC.

November 2009

ENVIRONMENTAL IMPACT REPORT

CITY HALL AND PARK DEVELOPMENT PLAN

CITY OF NEWPORT BEACH

SCH NO. 2009041010

Volume III: Responses to Comments

Submitted to:

City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92658
(949) 644-3200

Prepared by:

LSA Associates, Inc.
20 Executive Park, Suite 200
Irvine, California 92614-4731
(949) 553-0666

LSA Project No.

LSA

November 2009

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INTRODUCTION

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INTRODUCTION

This document comprises the Comments and Responses volume of the Final Environmental Impact Report (EIR) for the proposed City Hall and Park Development Plan project. The purpose of this document is to respond to all comments received by the City of Newport Beach (City) regarding the environmental information and analyses contained in the Draft EIR.

As required by the California Environmental Quality Act (CEQA) Guidelines Section 15087, a Notice of Completion (NOC) of the Draft EIR for the City Hall and Park Development Plan project was filed with the State Clearinghouse on September 1, 2009, and the Notice of Availability (NOA) of the Draft EIR was filed with the County Clerk on September 1, 2009.

The Draft EIR was circulated for public review for a period of 45 days, from September 1, 2009, to October 15, 2009. Copies of the Draft EIR were distributed to all Responsible Agencies and to the State Clearinghouse in addition to various public agencies, citizen groups, and interested individuals. Copies of the Draft EIR were also made available for public review at the City Planning Department, four area libraries, and on the internet.

Thirteen comment letters were received during the public review period or immediately thereafter, and one comment letter from the California Regional Water Quality Control Board, Santa Ana Region, was received after the close of the comment period. Comments were received from State, regional, and local agencies, organizations, and members of the public. Comments that address environmental issues are thoroughly responded to. Comments that (1) do not address the adequacy or completeness of the Draft EIR; (2) do not raise environmental issues; or (3) do request the incorporation of additional information not relevant to environmental issues do not require a response, pursuant to Section 15088(a) of the State CEQA Guidelines.

Section 15088 of the State CEQA Guidelines, Evaluation of and Response to Comments, states:

- a) The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The lead agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments.
- b) The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, major environmental issues raised when the lead agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail, giving the reasons that specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.

- c) The response to comments may take the form of a revision to the draft EIR or may be a separate section in the final EIR. Where the response to comments makes important changes in the information contained in the text of the draft EIR, the lead agency should either:
1. Revise the text in the body of the EIR; or
 2. Include marginal notes showing that the information is revised in the responses to comments.

Information provided in this Response to Comments document clarifies, amplifies, or makes minor modifications to the Draft EIR. No significant changes have been made to the information contained in the Draft EIR as a result of the responses to comments, and no significant new information has been added that would require recirculation of the document.

A revised version of the EIR has been prepared to make minor corrections and clarifications to the Draft EIR as a result of comments received during the public review period. Therefore, this Response to Comments document, along with the proposed Final EIR text (bound separately), has been prepared as a separate section of the EIR and is included as part of the Final EIR for consideration by the City Council prior to a vote to certify the Final EIR.

INDEX OF COMMENTS RECEIVED

The following is an index list of the agencies that commented on the Draft EIR prior to the close of the public comment period or immediately thereafter. The comments received have been organized in a manner that facilitates finding a particular comment or set of comments. Each comment letter received is indexed with a number below.

Comment Code	Signatory	Date
State		
S-1	Office of the State Clearinghouse	10/19/2009
S-2	Native American Heritage Commission	09/10/2009
S-3	California Department of Transportation	10/13/2009
S-4	California Regional Water Quality Control Board, Santa Ana Region	11/05/2009
Local		
L-1	Airport Land Use Commission	10/14/2009
L-2	City of Costa Mesa	10/14/2009
Organization		
O-1	California Cultural Resource Preservation Alliance, Inc.	09/18/2009
O-2	John Tommy Rosas for the Tongva Ancestral Territorial Tribal Nation	09/23/2009
O-3	Orange County Chapter of the California Native Plant Society	10/14/2009
O-4	Environmental Quality Affairs Citizens Committee	10/20/2009
Public		
P-1	Debbie and Ed Stevens	10/14/2009
P-2	Jon Vandersloot	10/15/2009
P-3	Sandra Genis	10/14/2009
P-4	George Jeffries	10/15/2009

FORMAT OF RESPONSES TO COMMENTS

Responses to each of the comment letters are provided on the following pages. The comment index numbers are provided in the upper right corner of each comment letter, and individual points within each letter are numbered along the right-hand margin of each letter. The City's responses to each comment letter immediately follow each letter and are referenced by the index numbers in the margins. As noted in some of the responses, a proposed Final EIR, with text revisions, has been prepared to provide corrections and clarifications to the Draft EIR. The proposed Final EIR is bound separately.

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COMMENTS AND RESPONSES

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ARNOLD SCHWARZENEGGER
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



RECEIVED BY CYNTHIA BRYANT
PLANNING DEPARTMENT DIRECTOR

October 19, 2009

OCT 32 2009

Jaime Murillo
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92685-8915

CITY OF NEWPORT BEACH

Subject: Newport Beach City Hall and Park Development Plan
SCH#: 2009041010

Dear Jaime Murillo:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on October 15, 2009, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

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 contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

fm: Scott Morgan
Acting Director, State Clearinghouse

Enclosures:
cc: Resources Agency

**Document Details Report
State Clearinghouse Data Base**

S-1

SCH# 2009041010
Project Title Newport Beach City Hall and Park Development Plan
Lead Agency Newport Beach, City of

Type EIR Draft EIR

Description The proposed project would result in the relocation of City Hall (except for Fire Station No. 2) currently taking place at the existing City Hall located at 3300 Newport Boulevard to the proposed project site. The proposed project includes 8 primary components, including: (1) construction and operation of an ~98,000 sf City Hall facility; (2) a 450 space parking structure; (3) a 17,000 sf expansion of the Newport Beach Central Library; (4) a dedicated 4,800 sf Emergency Operations Center; (5) a Civic Green; (6) a 14.3 acre public park; (7) widening of San Miguel Drive; and (8) reuse of the existing City Hall structures located at 3300 Newport Boulevard with public facilities uses.

Lead Agency Contact

Name Jaime Murillo
Agency City of Newport Beach
Phone (949) 644-3209 **Fax**
email
Address 3300 Newport Boulevard
City Newport Beach **State** CA **Zip** 92685-8915

Project Location

County Orange
City Newport Beach
Region
Lat / Long 33° 36' 36.9" N / 117° 52' 18" W
Cross Streets San Miguel Drive/MacArthur Boulevard
Parcel No. 442-014-24/25/26/27
Township **Range** **Section** **Base**

Proximity to:

Highways
Airports Orange County
Railways
Waterways Pacific Ocean
Schools
Land Use GPD: Public Facilities (PF) and Open Space (OS)/Z: Planned Community (PC) 27 - Newport Village

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Drainage/Absorption; Flood Plain/Flooding; Geologic/Seismic; Growth Inducing; Landuse; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wetland/Riparian; Water Supply

Reviewing Agencies Resources Agency; California Coastal Commission; Department of Conservation; Department of Fish and Game, Region 5; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 12; Department of Toxic Substances Control; Native American Heritage Commission; State Lands Commission; Regional Water Quality Control Board, Region 8

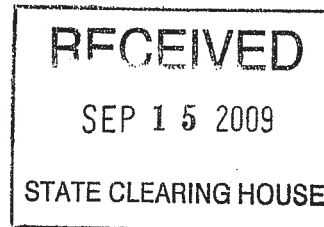
Date Received 09/01/2009 **Start of Review** 09/01/2009 **End of Review** 10/15/2009

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 653-6251
 Fax (916) 657-5390
 Web Site www.nahc.ca.gov
 e-mail: ds_nahc@pacbell.net



September 10, 2009



Mr. Jaime Murillo, Planner
CITY OF NEWPORT BEACH
 300 Newport Boulevard
 Newport Beach, CA 926258-8915

Clear
 10-15-09
 e

Re: SCH#2009041010; CEQA Notice of Completion: draft Environmental Impact Report (DEIR) for the Newport Beach City Hall and Park Development Plan Project; located in the City of Newport Beach; Orange County, California

Dear Mr. Murillo:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources. The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amended in 2009) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following.

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural resources were identified within one-half mile of the APE. Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the nearest tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental study.. Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation (OHP) Coordinator's office (at (916) 653-7278, for referral to the nearest OHP Information Center of which there are 11..

Consultation with tribes and interested Native American tribes and individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f])*et se*, and NAGPRA (25 U.S.C. 3001-3013), as appropriate. .

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a

project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance" may also be protected under Section 304 of the NHPA or at the Secretary of the Interior's discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C. 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

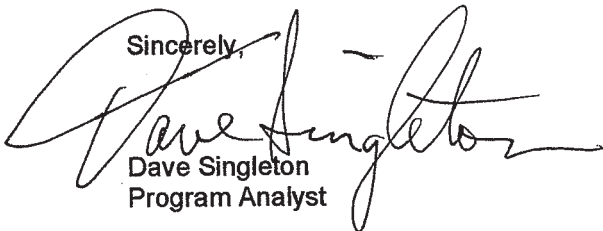
CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

**STATE OF CALIFORNIA, GOVERNOR'S OFFICE OF PLANNING AND
RESEARCH, STATE CLEARINGHOUSE**

LETTER CODE: S-1

DATE: October 19, 2009

RESPONSE S-1-1

The comment provides information regarding processing of the document by the State of California, Governor's Office of Planning and Research, State Clearinghouse, and acknowledges that the City has complied with State Clearinghouse review requirements for draft environmental documents pursuant to the California Environmental Quality Act (CEQA). Comment letter S-2 was attached to the Clearinghouse letter and was responded to separately.

The comment does not contain any substantive statements or questions about the Draft Environmental Impact Report (DEIR) or the analysis therein. Therefore, no further response is necessary.

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NATIVE AMERICAN HERITAGE COMMISSION

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(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



RECEIVED BY
PLANNING DEPARTMENT

September 10, 2009

SEP 16 2009

Mr. Jaime Murillo, Planner
CITY OF NEWPORT BEACH
300 Newport Boulevard
Newport Beach, CA 926258-8915

CITY OF NEWPORT BEACH

Re: SCH#2009041010; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Newport Beach City Hall and Park Development Plan Project; located in the City of Newport Beach; Orange County, California

Dear Mr. Murillo:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources. The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amended in 2009) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ...objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following.

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2

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4

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Consultation with tribes and interested Native American tribes and individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f]et se), and NAGPRA (25 U.S.C. 3001-3013), as appropriate. .

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Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a

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CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

10

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

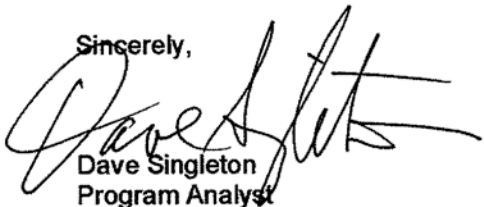
11

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

12

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

Native American Contact
Orange County
September 10, 2009

S-2

Ti'At Society
Cindi Alvitre
6515 E. Seaside Walk, #C
Long Beach , CA 90803
calvitre@yahoo.com
(714) 504-2468 Cell

Gabrielino

Juaneno Band of Mission Indians Acjachemen Nation
Anthony Rivera, Chairman
31411-A La Matanza Street
San Juan Capistrano , CA 92675-2674
arivera@juaneno.com
(949) 488-3484

(530) 354-5876 - cell

Juaneno Band of Mission Indians Acjachemen Nation
David Belardes, Chairperson
32161 Avenida Los Amigos
San Juan Capistrano , CA 92675
DavidBelardes@hotmail.com
(949) 293-8522

Juaneno

Gabrielino Tongva Indians of California Tribal Council
Robert Dorame, Tribal Chair/Cultural Resources
P.O. Box 490
Bellflower , CA 90707
gtongva@verizon.net
562-761-6417 - voice
562-925-7989 - fax

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.
tattnlaw@gmail.com
310-570-6567

Gabrielino Tongva

Juaneno Band of Mission Indians
Alfred Cruz, Cultural Resources Coordinator
P.O. Box 25628
Santa Ana , CA 92799
alfredgacruz@sbcglobal.net
714-998-0721
714-998-0721 - FAX
714-321-1944 - cell

Gabrieleno/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
PO Box 693
San Gabriel , CA 91778
(626) 286-1262 -FAX
(626) 286-1632
(626) 286-1758 - Home
(626) 286-1262 Fax

Gabrielino Tongva

Juaneño Band of Mission Indians
Sonia Johnston, Tribal Chairperson
P.O. Box 25628
Santa Ana , CA 92799
sonia.johnston@sbcglobal.net
(714) 323-8312

Gabrielino Tongva Nation
Sam Dunlap, Tribal Secretary
P.O. Box 86908
Los Angeles , CA 90086
samdunlap@earthlink.net

Gabrielino Tongva

Juaneno Band of Mission Indians
Anita Espinoza
1740 Concerto Drive
Anaheim , CA 92807
(714) 779-8832

(909) 262-9351 - cell

This list is current only as of the date of this document.
Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code, and federal NEPA (42 USC 4321-43351), NHPA Sections 106, 4(f) (16 USC 470(f) and NAGPRA (25 USC 3001-3013)

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009041010; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Newport Beach City Hall and Park Development Plan; located in the City of Newport Beach; Orange County, California.

Native American Contact
Orange County
September 10, 2009

S-2

Gabrielino-Tongva Tribe
Bernie Acuna
501 Santa Monica Blvd, # 500 Gabrielino
Santa Monica , CA 90401
(310) 587-2203
(310) 428-7720 - cell
(310) 587-2281

Juaneno Band of Mission Indians Acjachemen Nation
Joyce Perry
4955 Paseo Segovia Juaneno
Irvine , CA 92612
949-293-8522

This list is current only as of the date of this document.
Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code, and federal NEPA (42 USC 4321-43351), NHPA Sections 106, 4(f) (16 USC 470(f) and NAGPRA (25 USC 3001-3013)

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009041010; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Newport Beach City Hall and Park Development Plan; located in the City of Newport Beach; Orange County, California.

STATE OF CALIFORNIA NATIVE AMERICAN HERITAGE COMMISSION

LETTER CODE: S-2

DATE: September 10, 2009

RESPONSE S-2-1

The comment states that the Native American Heritage Commission (NAHC) is the State “trustee agency” pursuant to Public Resources Code Section 21070 for the protection and preservation of California’s Native American Cultural Resources. The comment also states that the California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of a historical resource, which includes archaeological resources, is a “significant effect” requiring the preparation of an Environmental Impact Report (EIR). An EIR has been prepared for the proposed project and was circulated for public review on September 1, 2009. The EIR found that the proposed project may cause a significant impact to archaeological resources and recommended appropriate mitigation, including avoidance, to reduce potential impacts to a less than significant level. Refer to Section 4.6 of the DEIR for additional information.

RESPONSE S-2-2

The comment states that the NAHC recommended a Sacred Lands File (SLF). The comment letter states that a SLF search was performed and that Native American Cultural Resources were identified within 0.5 mile of the area of potential effects (APE).

On February 4, 2009, the City of Newport Beach (City) requested an SLF search for the project area. The results of that request were sent to the City on February 9, 2009. That letter stated that the SLF for the project area was negative. The letter also provided a list of Tribes for consultation related to the project area. Based on a 1996 City project, the City was aware that sensitive resources were present within the project area. The City consulted with all tribal people identified by the NAHC in its letter of February 9, 2009. The NAHC letter of September 10, 2009, responds to the City’s Notice of Completion. The letter states that Native American Cultural Resources were identified in its SLF search at this time. In a subsequent telephone conversation with Dave Singleton (NAHC) on October 5, 2009, Mr. Singleton indicated that the new site listed on the SLF is the one that was identified by the City in consultation with the Tribes and was probably listed with the NAHC in response to the City consultation efforts.

RESPONSE S-2-3

The comment letter states that early consultation with Native American Tribes in the area of the project site is the best way to avoid unanticipated discoveries during construction; the letter includes a list of names of the nearest Tribes and interested Native American individuals that the NAHC recommends as “consulting parties.”

As detailed in Section 4.6 of the DEIR, Appendix E of the DEIR contains the Archaeological Assessment Report (McLean 2009: Appendix B) prepared for the proposed project in which Native

American consultation was conducted by the City, with assistance from LSA Associates, Inc. (LSA). On February 9, 2009, the NAHC provided a list of Native American Tribes and representatives that may have information regarding cultural resources that could be impacted by the project. In response to this recommendation, the City issued letters by certified mail on February 16, 2009, to all of the Tribal representatives on the NAHC list. Between March 2 and March 27, 2009, the City participated in several telephone conversations and email exchanges with the Tribal contacts. Responses received from the Tribes (Gabrielino/Tongva San Gabriel Band of Mission Indians, Gabrielino Tongva Nation, Juaneño Band of Mission Indians Acjachemen Nation, and Juaneño Band of Mission Indians) requested continued consultation and that all construction activities be monitored by a Tribally approved monitor. In addition, the City directed that the Initial Study/Notice of Preparation (IS/NOP) for the project be emailed to each entity on the NAHC list on April 1, 2009. A meeting was held on April 16, 2009, between the City and the Juaneño Band of Mission Indians Acjachemen Nation at the Tribe's request to discuss the project. Additional email consultation was provided throughout April 2009, and copies of the archaeological testing report produced by LSA (Strudwick et al. 1996) were distributed.

Subsequent to circulation of the NOP for the project EIR, the City received a second letter from the NAHC dated May 4, 2009. This letter addressed the City's responsibilities and the role of the NAHC in the environmental process. The letter also provided a different list of tribal representatives that the NAHC suggested be included in Native American consultation for the project. The new list included six additional parties. Despite the fact that the initial consultation with tribal people initiated after the NAHC's February 9, 2009, letter was concluded, the City issued letters by certified mail (and one email) on June 8, 2009, requesting their input with regard to cultural resources that might be impacted by the project. The IS/NOP was included in this mailing for review. In addition, the City also sent the IS/NOP to the Gabrielino-Tongva Tribe (Hon. Bernie Acuna), which was not on either list the NAHC issued but which has expressed interest in City projects in the past. As detailed in the EIR (page 4.6-1), the Tribe responded to the IS/NOP and recommended Native American monitoring. Consultation subsequent to these additional contacts continued until August 14, 2009. These consultation efforts are documented in the DEIR (page 4.6-3 and Appendix E) and in the Archaeological Assessment Report prepared for the project (McLean 2009: Appendix B).

The NAHC letter of September 10, 2009, responds to the City's Notice of Availability (NOA). The letter provides a third list of tribal people for consultation with two new names that were not included in the previous two lists. Because the project is so far advanced, Native American consultation for the project was not reopened at this time. It should be noted that neither CEQA nor SB 18 required that consultation be reopened.

RESPONSE S-2-4

The comment states that the NAHC recommends that a Native American monitor or person be present whenever a professional archaeologist is employed during the "initial study" or other phases of the environmental study. This letter from the NAHC was generated in response to the Notice of Completion for the DEIR for this project. The IS/NOP were previously prepared, and the NAHC was noticed on those studies (letter from NAHC to City on May 4, 2009). Native American monitors were not used during these (now-completed) studies because they were not required by any law or regulation and were not recommended by the NAHC prior to completion of the work. The City did require that professional archaeologists monitor all ground-disturbing activities on site, including

those conducted in order to prepare environmental studies for use in the DEIR (e.g., the Geotechnical Study). It should be noted that no grading or ground trenching associated with the proposed project has occurred on site.

As detailed in Section 4.6 of the DEIR, Mitigation Measure 4.6.1 requires the City to retain an archaeological monitor and a Native American monitor to be present at the pregrade conference to explain the mitigation measures and also to be present at the project site during all ground-disturbing activities until marine terrace deposits are encountered to minimize potential impacts to unknown or buried resources.

RESPONSE S-2-5

The comment states that the NAHC recommends that the City contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation (OHP) for referral to the nearest Information Center.

This letter from the NAHC was generated in response to the Notice of Completion for the DEIR for this project. During preparation of the DEIR (pages 4.6-2 and 4.6-3) and supporting technical report (McLean 2009:20), a records search was conducted for this project through the South Central Coastal Information Center of the CHRIS. The results of this search are reflected in the DEIR and technical report.

RESPONSE S-2-6

The comment states that consultation with Tribes and interested Native American Tribes and individuals, as consulting parties, on the NAHC list should be conducted in compliance with the requirements of federal National Environmental Policy Act (NEPA), Sections 106 and 4(f) of the National Historic Preservation Act, and the Native American Grave Protection and Repatriation Act (NAGPRA), as appropriate.

The project is not a federal undertaking as defined under Section 106 of the National Historic Preservation Act (NHPA) or 36 Code of Federal Regulations (CFR) Part 800 regulations implementing Section 106. The project does not use federal funds and will not require any federal permits. Therefore, the project does not fall under the regulatory oversight of Section 106. The project is not a federal transportation project, so it also does not fall under the jurisdiction of Section 4(f) of the Department of Transportation Act of 1966. Finally, since there is no federal involvement in the project, the requirements of NAGPRA do not apply.

The City did, however, conduct extensive consultation with Tribes and interested Native American individuals for the project. This consultation effort is detailed in the DEIR in Section 4.6 and Appendix E.

RESPONSE S-2-7

The comment states that Lead Agencies should consider avoidance when significant cultural resources could be affected by a project. As stated on page 4.6-17 of the DEIR, Mitigation Measure 4.6.3 requires that grading and excavation in the vicinity of CA-ORA-1461 be avoided. Mitigation Measure 4.6.3 also requires that CA-ORA-1461 be capped with culturally sterile soils to protect the site in place. Under Public Resources Code (PRC) Section 21083.2(b)(3 and 4), capping a site and constructing a park that incorporates the archaeological site is considered a way to avoid a significant impact and protect the site in place. With implementation of Mitigation Measure 4.6.3, which is consistent with the provisions of PRC Section 21083.2(b)(3 and 4), the potential impact of the proposed project on a unique archaeological resource or a significant historical resource as defined by CEQA would be reduced to below a level of significance.

RESPONSE S-2-8

The comment identifies State laws regarding the accidental discovery of human remains and suggests that discussion of these laws should be included in the environmental document, as appropriate. As stated on page 4.6-19 of the DEIR, Mitigation Measure 4.6.5 requires compliance with Health and Safety Code (HSC) 7050.5 in the unlikely event that human remains are encountered during project grading. Upon discovery of the remains, the County Coroner would be notified immediately, and no further disturbance would occur until the County Coroner makes a determination of origin and disposition pursuant to PRC Section 5097.98. If the remains are determined to be Native American, the County Coroner would notify the NAHC, which will determine and notify the most likely descendant (MLD). With permission from the City, the MLD would complete inspection within 48 hours of notification by the NAHC. Implementation of Mitigation Measure 4.6.4 reduces potential impacts related to the discovery of human remains on the proposed project site to a less than significant level, and no additional mitigation is required.

RESPONSE S-2-9

The comment states that the SLF record search is confidential and exempt from the California Public Records Act. The comment also states that Native Americans are not prohibited from identifying the nature of identified cultural resources/historic properties. The comment continues to call out federal regulations that also protect the confidentiality of sensitive cultural resource information.

The City acknowledges the sensitivity and confidentiality of the information contained in the SLF. Mitigation Measure 4.6.3 states that precise archaeological site information is protected from public disclosure by State law. The grading plan shall be clearly marked to indicate that any cultural resources information on those plans is not for public distribution.

In addition, because the project is not a federal undertaking, it is not regulated under Section 304 of the NHPA.

RESPONSE S-2-10

The comment states that State CEQA Guidelines, Section 15064.5(d) requires the Lead Agency to work with Native Americans identified by the NAHC if the Initial Study identifies the presence or likely presence of Native American human remains in the APE. The comment also emphasizes the appropriate and dignified treatment of human remains and any associated grave items.

This step was completed by the City throughout the process. Tribal consultation was initiated in March 2009 and continued into August 2009. Sensitive cultural resource sites on the project will be protected in place and capped to protect their integrity.

Related to treatment of human remains and associated grave goods, as stated in the DEIR (page 4.6-19), Mitigation Measure 4.6.5 requires compliance with HSC 4050.5 in the unlikely event that human remains are encountered during project grading. Upon discovery of the remains, the County Coroner would be notified immediately, and no further disturbance would occur until the County Coroner makes a determination of origin and disposition pursuant to PRC Section 5097.98. If the remains are determined to be Native American, the County Coroner would notify the NAHC, which will determine and notify the MLD. With permission from the City, the MLD would complete inspection within 48 hours of notification by the NAHC. Implementation of Mitigation Measure 4.6.4 reduces potential impacts related to the discovery of human remains on the proposed project site to a less than significant level, and no additional mitigation is required. Implementation of Mitigation Measure 4.6.4 complies with HSC Section 7050.5, PRC Section 5097.98, and Section 15064.5(d) of the State CEQA Guidelines.

RESPONSE S-2-11

The comment states that HSC Section 7050.5, PRC Section 5097.98, and Section 15064.5(d) of the State CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains. Please refer to Response to Comments S-2-8 and S-2-10.

RESPONSE S-2-12

The comment states that the Lead Agency should consider avoidance, as defined in Section 15370 of the State CEQA Guidelines, when significant cultural resources are discovered during project planning and implementation.

As discussed on page 4.6-17 of the DEIR, Mitigation Measure 4.6.2 requires the City to prepare a Monitoring Plan prior to commencement of any grading activities. In the event that historical, archaeological, or human remains are found during excavation or grading, Mitigation Measure 4.6.2 requires immediate implementation of those procedures developed as part of the Monitoring Plan including, but not limited to, the cessation of all work in the immediate vicinity of the resources until such time as the resources can be evaluated by an archaeologist or other appropriate individual. Mitigation Measure 4.6.3 requires that grading and excavation in the vicinity of CA-ORA-1461 be avoided. Mitigation Measure 4.6.3 also requires that CA-ORA-1461 be capped with culturally sterile soils to protect the site in place. Under PRC Section 21083.2(b)(3 and 4), capping a site and constructing a park that incorporates the archaeological site is considered a way to avoid a significant impact and protect the site in place. With implementation of Mitigation Measure 4.6.3, which is

consistent with the provisions of PRC Section 21083.2(b)(3 and 4), the potential impact of the proposed project on a unique archaeological resource or a significant historical resource as defined by CEQA would be reduced to below a level of significance.

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION

District 12
3337 Michelson Drive, Suite 38
Irvine, CA 92612-8894
Tel: (949) 724-2267
Fax: (949) 724-2592



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October 13, 2009

Post-It® Fax Note 7671
Date 10-14 # of pages 1
To J. Murillo From Damon Davis
Co./Dept. NewP/PLANNING Co. CALTRANS
Phone # 9) 644-3209 Phone # 9) 440-3487
Fax # 9) 644-3229 Fax # 9) 724-2592

Jaime Murillo
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92685-8915

File: IGR/CEQA
SCH#: 2009041010
Log #: 2250A
SR-1

Subject: Newport Beach City Hall and Park Development Plan

Dear Mr. Murillo,

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report for the Newport Beach City Hall and Park Development Plan. The proposed project is composed of three parcels that total approximately 20 acres. The project includes construction and operation of an 90,000 sf City Hall building, meeting hall, and Council Chambers; a 450-space parking structure; an approximately 20,000 sf expansion of the Newport Beach Central Library; and construction of a public park. The nearest State route to the project site is SR-1.

1

The California Department of Transportation (Department), District 12 is a commenting agency on this project and we have no comment at this time. However, in the event of any activity within the Department's right-of-way, an encroachment permit will be required.

2

Please continue to keep us informed of this project and any future developments, which could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Damon Davis at (949) 440-3487.

Sincerely,

Handwritten signature of Christopher Herre

Christopher Herre, Branch Chief
Local Development/Intergovernmental Review

C: Terry Roberts, Office of Planning and Research

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CALIFORNIA DEPARTMENT OF TRANSPORTATION

LETTER CODE: S-3

DATE: October 13, 2009

RESPONSE S-3-1

The comment is introductory and contains a brief description of the proposed project. The comment does not contain any substantive statements or questions about the Draft Environmental Impact Report (DEIR) or the analysis therein. Therefore, no further response is necessary.

RESPONSE S-3-2

The comment states that the California Department of Transportation (Caltrans) is a commenting agency on this proposed project and that Caltrans has no comments at this time. The comment further states that in the event of any activity within Caltrans right-of-way, an encroachment permit would be required.

The City acknowledges Caltrans role as a commenting agency and the need for an encroachment permit should any activity occur within Caltrans right-of-way; at this time no activity is proposed within Caltrans' right-of-way. The comment does not contain any substantive statements or questions about the DEIR or the analysis therein. Therefore, no further response is necessary.

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California Regional Water Quality Control Board Santa Ana Region



3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana

Linda S. Adams
Secretary for
Environmental Protection

Arnold Schwarzenegger
Governor

November 5, 2009

Jaime Murillo
City of Newport Beach Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658-8915

DRAFT ENVIRONMENTAL IMPACT REPORT, NEWPORT BEACH CITY HALL AND PARK DEVELOPMENT PLAN, CITY OF NEWPORT BEACH, SCH# 2009041010

Dear Mr. Murillo:

Staff of the Regional Water Quality Control Board, Santa Ana Region (Regional Board) have reviewed the Draft Environmental Impact Report (DEIR) for the proposed Newport Beach City Hall and public park areas, to be constructed north of the City's existing Library (Project). Regional Board staff commented on the Initial Study (IS) with an April 29, 2009 letter. We are aware that the DEIR comment period is closed, but request that the City consider one additional comment.

Pg. 4.5-20 (Figures 4.5.3 and 4.5.4) identifies two converging natural or naturalized drainages (Drainages A and B) located in the northern portion of the Project's central parcel (south of San Miguel Avenue). Drainages A and B receive intermittent dry-weather and stormwater runoff flows from urbanized areas higher in the watershed, and they convey these flows westerly across the Project site to an onsite standpipe that drains to the downstream stormdrain system. Figures 3.16 and 4.10.4 (Treatment BMPs) indicate these jurisdictional waters will be avoided and that runoff from the surrounding area that could reach them will first pass through vegetated filter strips; we definitely concur. Further, your consultant clarified for us that Drainages A and B will not become treatment BMPs, as will swales surrounding these drainages and swales in the parcel north of San Miguel Avenue. In consideration of the foregoing, we request that the City consider opportunities for the Project to treat the up-slope dry weather and first-flush flows tributary to Drainages A and B before they enter the Project site.

If you have any questions, please contact Glenn Robertson at (951) 782-3259, or (grobertson@waterboards.ca.gov), or contact me at (951) 782-3234, or (madelson@waterboards.ca.gov).

Sincerely,

Mark G. Adelson, Chief
Regional Planning Programs Section

cc: State Clearinghouse
U.S. Army Corps of Engineers, Los Angeles, Stephanie Hall

California Environmental Protection Agency

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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SANTA ANA REGION

LETTER CODE: S-4

DATE: November 5, 2009

RESPONSE S-4-1

The comment is introductory and does not contain any substantive comments on the DEIR or analysis therein. No further response is necessary.

RESPONSE S-4-2

The comment indicates the Regional Water Quality Control Board's (RWQCB) concurrence with the use of vegetated filter strips to avoid/prevent the use of the existing on-site drainages for water treatment. The comment is consistent with information in Sections 4.5 and 4.10 of the DEIR. The City is planning to avoid disturbance to United States Army Corps of Engineers (ACOE) jurisdictional areas. Mitigation Measure 4.5.3 is required to prevent any incidental or accidental discharge of fill into jurisdictional areas during construction activities by requiring the installation of orange snow fencing along the entire construction perimeter of the jurisdictional drainages. Also, project-related storm water would not be directed to the wetlands areas for treatment. Any water that would flow from the project site to the wetlands area would be pretreated.

RESPONSE S-4-3

The comment requests that the City consider opportunities for the project to treat upslope dry weather and first-flush flows to on-site Drainages A and B before they enter the project site.

As illustrated in Figure 3.16 of the EIR, vegetated swales and strips are proposed in areas surrounding Drainages A and B. These buffer strips are included as specific treatment devices within the watersheds that contribute sheet flow directly to the existing wetlands, including Drainages A and B. These vegetated buffer strips would form a treatment barrier surrounding the wetland such that any landscape drainage would cross the filter prior to sheet flowing to the wetland. Therefore, any water that would flow from the project site would be pretreated by vegetated swales and/or strips prior to entering the wetland.

As the RWQCB is aware, there is no requirement for the City to treat upslope dry weather or first-flush flows before they enter the proposed project site. The only off-site runoff that enters the site is from the residential community on the east side of MacArthur Boulevard. Although not required, off-site runoff from San Miguel Drive and Avocado Avenue would be treated by the on-site treatment Best Management Practices (BMPs). Although the City cannot commit to incorporating additional treatment for the remaining off-site runoff into the proposed project, in the future the City will consider additional upslope treatment within the context of its overall Newport Bay protection efforts.

RESPONSE S-4-4

The comment concludes the comment letter and does not contain any substantive comments on the DEIR or analysis therein. No further response is necessary.



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

October 14, 2009

Jaime Murillo, Associate Planner
City of Newport Beach Planning Department
3300 Newport Boulevard
Newport Beach, CA 92663

Subject: Newport Beach City Hall and Park Development Plan

Dear Mr. Murillo:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the proposed Newport Beach City Hall and Park Development Plan in the context of the Airport Land Use Commission's *Airport Environs Land Use Plan for John Wayne Airport (AELUP for JWA)*. The proposed project includes: (1) construction and operation of an approximately 98,000 square foot (sf) City Hall building, meeting hall and Council Chambers; (2) a 450 space parking structure; (3) an approximately 17,000 sf expansion of the Newport Beach Central Library; (4) a dedicated 4,800 sf Emergency Operations Center (EOC); (5) a Civic Green; (6) construction of a 14.3-acre public park that includes a dog park, wetlands area, bridges over the wetlands, lookouts, and a pedestrian overcrossing over San Miguel Drive; (7) widening of San Miguel Drive; and (8) reuse of the existing City Hall structures located at 3300 Newport Boulevard with public facility uses. As noted in the DEIR, project components 1-5 are collectively referred to as the Civic Center.

1

With respect to airport planning areas, a small portion of the proposed public park area is located within the Federal Aviation Regulation (FAR) Part 77 Notification Area for John Wayne Airport (JWA). Otherwise, the proposed project site is located outside of the 60 and 65 CNEL noise contours for JWA and outside of the FAR Part 77 Obstruction Imaginary Surfaces for JWA.

The DEIR does address the fact that a portion of the proposed site is located within the FAR Part 77 Notification Area for JWA by incorporating Mitigation Measure 4.9.4: Determination of No Hazards which states,

“The City of Newport Beach (City) shall file a Notice of Proposed Construction or Alteration (Form 7460-1) with the Federal Aviation Administration (FAA) in accordance with Federal Aviation Regulation (FAR) Part 77. The Director of Planning, or designer, shall verify that the City has received a Determination of No Hazard to Air Navigation prior to the issuance of building permits for the northern parcel.”

2

ALUC staff agrees with the above mitigation. Because of the high ground elevation in this area, we recommend that any new development proposed should be reviewed for penetration of the notification surface. This would include the improvements proposed for the park area such as the bridges over the wetlands, lookouts, and the proposed pedestrian overcrossing over San Miguel Drive. If Form 7460-1 is filed with the FAA, we request that ALUC receive a copy of the aeronautical study from the FAA for review and comment.

3

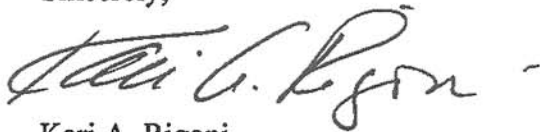
The DEIR states that no heliports are proposed as part of the City Hall and Park Development Plan. However, if the development of heliports is allowed within your jurisdiction, proposals to develop new heliports must be submitted through the city to the ALUC for review and action pursuant to Public Utilities Code Section 21661.5. Proposed heliport projects must comply fully with the state permit procedure provided by law and with all conditions of approval imposed or recommended by FAA, by the ALUC for Orange County and by Caltrans/Division of Aeronautics.

4

Thank you for the opportunity to comment on the proposed project. Please contact Lea Umnas at 949.252.5123 or via email lumnas@ocair.com if you require additional information.

5

Sincerely,



Kari A. Rigoni
Executive Officer

AIRPORT LAND USE COMMISSION FOR ORANGE COUNTY

LETTER CODE: L-1

DATE: October 14, 2009

RESPONSE L-1-1

The comment is introductory and contains a brief description of the proposed project. The comment also states that a small portion of the proposed project site is located within the Federal Aviation Regulation (FAR) Part 77 Notification Area for John Wayne Airport (JWA) but is otherwise located outside the 60 and 65 Community Noise Equivalent Level (CNEL) noise contours for JWA and outside the FAR Part 77 Obstruction Imaginary Surface for JWA. This information is consistent with information presented in the Draft Environmental Impact Report (DEIR), and no further response is necessary.

RESPONSE L-1-2

The comment states that the DEIR does address the fact that a portion of the proposed project site is located within the FAR Part 77 Notification Area by incorporating Mitigation Measure 4.9.4 and cites text found within Section 4.9 of the DEIR. This information is consistent with information presented in the DEIR, and no further response is necessary.

RESPONSE L-1-3

The comment states that Airport Land Use Commission (ALUC) staff agrees with Mitigation Measure 4.9.4 and further recommends that any new development proposed should be reviewed for penetration of the notification surface, including bridges over the wetlands, lookouts, and the proposed pedestrian overcrossing over San Miguel Drive. The comment also requests a copy of the aeronautical study that would be prepared when Form 7460-1 is filed with the Federal Aviation Administration (FAA). As noted in Section 4.9 of the DEIR (page 4.9-15 and 4.9-16), FAR Part 77 states that all applicants proposing any construction or alterations that may affect navigable airspace must file a Notice of Proposed Construction or Alteration (Form 7460-1) with the FAA. Therefore, the FAA will require FAR Part 77 review to consider trees or any other improvement that achieves some height. Because control of trees or other improvements can be enacted after the project is approved, but must be implemented prior to issuance of building permits, the FAR Part 77 review would be commenced after project approval in compliance with Mitigation Measure 4.9.4. The City of Newport Beach (City) would provide the ALUC with a copy of the aeronautical study that would be prepared if the FAA were to require preparation of such a study. It should be noted that the City does not anticipate that the FAA would determine that the proposed project would be an obstruction and Mitigation Measure 4.9.4 specifically requires the City to obtain a Determination of No Hazard to Air Navigation prior to commencing building construction. Refer to page 4.9-16 in the DEIR for additional information.

RESPONSE L-1-4

The comment states that proposals to develop new heliports must be submitted through the City for ALUC review and actions pursuant to Public Utilities Code Section 21661.5 and that proposed heliports must comply with state permit procedures provided by law and with all conditions of approval imposed or recommended by the FAA, ALUC, and by Caltrans/Division of Aeronautics. Although a heliport is not proposed as part of the proposed project, the City acknowledges that ALUC review is required if a heliport were proposed. The comment does not contain any substantive comments or questions about the analysis in the DEIR; no further response is required.

RESPONSE L-1-5

The comment concludes the comment letter and does not contain any substantive comments or questions on the DEIR. No further response is necessary.



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

RECEIVED BY
PLANNING DEPARTMENT

OCT 19 2009

October 14, 2009

Mr. Jaime Murillo
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658

CITY OF NEWPORT BEACH

Subject: Notice of Preparation for Draft EIR - City Hall and Park Development

Dear Mr. Murillo:

Thank you for the opportunity to provide comments on the Notice of Preparation of the Draft Environmental Impact Report (EIR) related to the new Newport Beach City Hall and Park development.

The City of Costa Mesa has no comments. We appreciate the opportunity to review and comment on the Draft EIR. Please include us on any additional information on this development and the upcoming public hearings.

Sincerely,

Kimberly Brandt, AICP
Acting Development Services Director

cc: Raja Sethuraman, Transportation Services Manager
Claire Flynn, Planning Administrator

1

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CITY OF COSTA MESA

LETTER CODE: L-2

DATE: October 14, 2009

RESPONSE L-2-1

The comment states that the City of Costa Mesa is thankful for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) and that the City of Costa Mesa has no comments at this time. The City of Costa Mesa does request that it be informed of future public hearings regarding the project. The City of Newport Beach will, of course, honor this request. The comment does not contain any substantive comments on the DEIR or analysis therein, therefore no further response is necessary.

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California Cultural Resource Preservation Alliance, Inc.

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

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

September 18, 2009

Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Dear Mr. Murillo:

Thank you for the opportunity to review the Draft Environmental Impact Report SCH No. 2009041010, City Hall and Park Development Plan, City of Newport Beach. As the proposed project site is considered to be sensitive for archaeological remains and was the site of a human burial that was removed and reburied off site, we support the proposed mitigation measures 4.6.1 through 4.6.5. Mitigation Measure 4.6.3 Archaeological Site Avoidance is especially important and steps should be taken to ensure that it is carried out as stated in the draft EIR. The City is to be commended for this commitment to the preservation of the nations' cultural heritage.

1
2

Sincerely,

Patricia Martz, Ph.D.
President

RECEIVED BY
PLANNING DEPARTMENT

SEP 21 2009

CITY OF NEWPORT BEACH

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CALIFORNIA CULTURAL RESOURCE PRESERVATION ALLIANCE

LETTER CODE: O-1

DATE: September 18, 2009

RESPONSE O-1-1

The comment is introductory and contains identification information regarding the State Clearinghouse Number assigned to the Draft Environmental Impact Report (DEIR) for the Newport Beach City Hall and Park Development Plan Project. The comment does not contain any substantive statements or questions about the DEIR or the analysis therein, and no further response is necessary.

RESPONSE O-1-2

The comment states that the California Cultural Resource Preservation Alliance, Inc. (CCRPA) supports implementation of proposed Mitigation Measures 4.6.1 through 4.6.5. The comment also states that Mitigation Measure 4.6.3 is of particular importance and that steps should be taken to ensure that it is executed as stated in the DEIR. The City Council will review the proposed mitigation and the significant impacts of the proposed project. If the City Council decides to certify the EIR and approve the proposed project with mitigation, the City Council will also adopt a mitigation monitoring and reporting program that will ensure that adopted mitigation is carried out as described. Chapter 7.0 of the DEIR contains the draft Mitigation Monitoring and Reporting Program for the proposed project.

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From: Johntommy Rosas [mailto:tattnlaw@gmail.com]
Sent: Wed 9/23/2009 1:05 PM
To: Terri Fulton
Subject: Re: CNB comments

HI THATS GOT IT COVERED AS YOU USUALLY DO-THANKS - A COUPLE OF POINTS-

WE HAVE 55 SITES DOCUMENTED WITHIN A 1/2 MILE DIAMETER OF THE PURPORTED NB CITY HALL PROJECT-

1

WHAT ARE THEIR STATUS- DOES NB KNOW THEY ASSISTED IN THEIR DESTRUCTION AND ARE DOING IT AGAIN-

WE HAVE LOST ALMOST ALL OF THEM AND SO WE ARE NOT ALLOWING THAT ILLEGAL NB BEHAVIOR TO CONTINUE-PERIOD-

ON THAT SITE WE NEED ALL INFO- AND DOCUMENTS , REPORTS THAT OCCURRED - AND ANY LSA AND IRVINE RANCH/CO- ACTIONS-

2

THATS HOW NB GOT THIS PROPERTY THEY CLAIM- SO WE NEED THE PAPER TRAIL- AND THE DETAILS-

THE BURIALS ARE THE MAIN ISSUE -- AND NAHC IS NOW CONCERNED- SO-

3

SO THIS IS A PROCESS - NB NEEDS TO PROCEED LEGALLY-IF THATS POSSIBLE AND NOT TO LATE--

THIS GOT SIDWAYS EARLY ON-- LIKE I ALREADY STATED WHEN THE SB 18 WAS NOT DONE WITH ME AND I WASNT NOTICED--

4

ALL THIS WOULD HAVE CAME OUT- ALSO AND AGAIN THAT ILLEGAL BALLOT MEASURE WAS FRAUD- NB COMMITTED FRAUD-

5

AND THE NB DEALS MADE WITH NON TONGVA INDIANS -THEIR GETTING SUED IN FED COURT WITH NB ALSO-IE BELARDES-ET AL:

6

AND IF THEY THINK I AM PLAYING AROUND-- THEY HAVE NO IDEA WHO THEY ARE MESSING WITH-

I WOULD JUST GIVE THEM THIS EM SO -YOU AND LSA ARENT IN HARMS WAY-- THANKS JOHNTOMMY

On Wed, Sep 23, 2009 at 12:48 PM, Terri Fulton <{ HYPERLINK "mailto:Terri.Fulton@lsa-assoc.com" \o "mailto:Terri.Fulton@lsa-assoc.com" }> wrote:

Hi John Tommy,

Sorry to be just getting back to you on this but I was in the field last week. We spoke on the phone on September 10 about the Newport Beach City Hall and Park Development Plan project. In our conversation, you asked me several questions that I could only answer generally. I want to run these by you before I submit them to LSA and the City to make sure I got them right. You specifically want to know:

- 1) What action was proposed on the site that required test excavations;
- 2) What happened on the site when the burial was found;
- 3) Who authorized the removal of the burial;
- 4) What happened to the burial.

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You also request more information from the City regarding what cultural resources it knows from its records are present in the vicinity of the project area.

| 11

Please feel free to add additional comments or requests when you respond to this email.

Thank you,

Terri

JOHN TOMMY ROSAS FOR THE TONGVA ANCESTRAL TERRITORIAL TRIBAL NATION

LETTER CODE: O-2

DATE: September 23, 2009

RESPONSE O-2-1

The comment states that the Tongva Ancestral Territorial Tribal Nation (TATTN) has 55 sites documented within 0.5 mile (mi) of the project area. It then requests a status update on those sites.

The City is unable to confirm 55 documented archaeological sites within 0.5 mi of the project area. As stated in the Draft Environmental Impact Report (DEIR) (page 4.6-3), on February 10, 2009, a records search was conducted at the South Central Coastal Information Center (SCCIC) located at California State University, Fullerton. It included a review of all recorded historic and prehistoric archaeological sites within a 1 mi radius of the project area as well as a review of cultural resource reports on file. In addition, the following inventories and maps were examined:

- National Register of Historic Places (National Register)
- California Register of Historic Places (California Register)
- California Historical Landmarks
- California Points of Historical Interest
- California State Historic Resources Inventory
- City of Newport Beach Historical Register
- *Santa Ana, California* 15-minute quadrangle (United States Geological Survey [USGS] 1896, 1901)

The records searches indicated that within the 1 mi radius, 28 archaeological sites have been recorded, 2 of which are identified as being within the project area (CA-ORA-167/1117 and CA-ORA-1461), and 1 that is adjacent to the project (CA-ORA-139). No sites are listed on the Archaeological Determination of Eligibility list (to be included on this list, the formal evaluation of a site for listing on either the California or National Registers must receive State Historic Preservation Officer [SHPO] concurrence). No isolates have been identified within the 1 mi radius of the project area (an "isolate" is defined as up to no more than two isolated artifacts within 50 ft of one another). Two historic cultural resources have been identified within the 1-mile radius. Neither is within the project area. The precise location of cultural resource sites is information that is protected from public disclosure by State law to protect the resources from illegal artifact collecting and vandalism.¹

¹ State regulations require that archaeological site location information (maps with plotted site locations, site records, reports, descriptions, etc.) be kept confidential and that this information not be included in copies of reports or plans provided to the general public. Further, cultural resources information is exempt from public disclosure under the Public Records Act, and more specifically, Senate Bill (SB) 922 (Government Code 6254 (r) and 6254.10).

CA-ORA-167/1117 was impacted and buried by the widening of MacArthur Boulevard in 1996–1998. CA-ORA-1461 was capped at that time and preserved in place. As discussed in the DEIR (page 4.6-17) and with implementation of Mitigation Measure 4.6.3 (DEIR page 4.6-21), no construction impacts will be allowed to the vicinity of CA-ORA-1461, the cap over the site will be increased, and open space will be designated for the site area.

While some sites within the project vicinity have been impacted by previous construction and/or development, this project will result in no direct impacts to archaeological resources; therefore, this project will not have a cumulative impact on cultural resources.

RESPONSE O-2-2

This comment appears to pertain to records and documents that are not relevant to the environmental review process and are well beyond the scope of this EIR. More specifically, the comment requests information and documents pertaining to any LSA Associates, Inc. cultural resources project, or projects of the Irvine Ranch or Irvine Company. All cultural resource reports, assessments, etc., for Orange County are housed at the SCCIC of the California Historical Resources Information System, housed at California State University, Fullerton. As a qualified individual, Mr. Rosas has access to this information through the Information Center. It is beyond the scope of this project to provide copies of all requested documentation to Mr. Rosas. The comment also appears to request information about the chain of title from the Irvine Company to the City for the City's properties at this project site. Again, this information is well beyond the scope of this EIR and is not pertinent to the environmental review process.

Information and documents pertaining to the California Environmental Quality Act (CEQA) process for the proposed project were available on the City of Newport Beach (City) website, at the City's Planning Counter, and at area libraries during the 45-day public review period. The City sent Mr. Rosas a copy of the Notice of Preparation (NOP) for the CEQA document and corresponded with him throughout the consultation process.

RESPONSE O-2-3

The comment states that the burials are the main issue of concern for the proposed project site.

The City acknowledges the sensitivity of the proposed project site. As stated in the DEIR (page 4.6-19), Mitigation Measure 4.6.5 requires compliance with Health and Safety Code (HSC) 4050.5 in the unlikely event that human remains are encountered during project grading. Upon discovery of the remains, the County Coroner would be notified immediately, and no further disturbance would occur until the County Coroner makes a determination of origin and disposition pursuant to Public Resource Code (PRC) Section 5097.98. If the remains are determined to be Native American, the County Coroner would notify the Native American Heritage Commission (NAHC), which will determine and notify the most likely descendant (MLD). With permission from the City, the MLD would complete inspection within 48 hours of notification by the NAHC. Implementation of Mitigation Measure 4.6.4 reduces potential impacts related to the discovery of human remains on the proposed project site to a less than significant level, and no additional mitigation is required. Implementation of Mitigation

Measure 4.6.4 complies with HSC Section 7050.5, PRC Section 5097.98, and Section 15064.5(d) of the State CEQA Guidelines.

RESPONSE O-2-4

The commentor states that the process is sideways and implies that Mr. Rosas should have been involved in Senate Bill 18 (SB 18) consultation for the project. As a point of clarification, Mr. Rosas was consulted for the purpose of preserving or mitigating impacts to cultural resources on the proposed project site. Mr. Rosas was not among the first persons consulted, however, for the reasons noted below. From February 4, 2009, through August 14, 2009, consultation was held with all Tribal entities identified by the NAHC. Native American consultation was conducted by the City, with assistance from LSA Associates, Inc. On February 4, 2009, a letter requesting a Sacred Lands File (SLF) search for the project area was sent to the NAHC. The NAHC responded on February 9, 2009, to state that the SLF was negative for the project area and to provide a list of Native American Tribes and representatives that may have information regarding cultural resources that could be impacted by the project. These contacts were:

- Juaneño Band of Mission Indians Acjachemen Nation, David Belardes
- Gabrielino/Tongva San Gabriel Band of Mission Indians, Anthony Morales
- Gabrielino Tongva Nation, Sam Dunlap
- Juaneño Band of Mission Indians Acjachemen Nation, Anthony Rivera
- Juaneño Band of Mission Indians, Sonia Johnston

In response to this recommendation, the City issued letters by certified mail on February 16, 2009, to all of the Tribal representatives on the NAHC list. The letters described the project and requested information regarding cultural resources that might be impacted. The letter specified that the City would like a reply within 90 days should the Tribes wish to consult.

Subsequent to circulation the NOP for the project EIR, the City received a second letter from the NAHC dated May 4, 2009. This letter addressed the City's responsibilities and the role of the NAHC in the environmental process. The letter also provided a different list of Tribal representatives that the NAHC suggested be included in Native American consultation for the project. The new list included six additional parties, including Mr. Rosas. Despite the fact that the initial consultation with Tribal people, initiated after the NAHC's February 9, 2009 letter, was concluded, the City issued letters by certified mail (and one email by specific request) on June 8, 2009, requesting input from these newly identified groups with regard to cultural resources that might be impacted by the project. The Initial Study (IS)/NOP was included in this mailing for review. In addition, the City also sent the IS/NOP to the Gabrielino-Tongva Tribe (Hon. Bernie Acuna), which was not on either list the NAHC issued but which has expressed interest in City projects in the past. Consultation subsequent to these additional contacts continued until August 14, 2009. These consultation efforts are documented in the DEIR (page 4.6-3 and Appendix E) which is the Archaeological Assessment Report (McLean 2009: Appendix B) prepared for the project.

For copies of the NAHC correspondence and letters to the Tribes, please refer to the Archaeological Assessment Report included in Appendix E of the DEIR. Please also refer to Response to Comment S-2.

RESPONSE O-2-5

The comment states that the City's ballot measure was illegal and fraudulent. The City assumes the commentor is referring to Measure B. Measure B was legally approved by 53 percent of the voters in a legitimate ballot initiative, which amended the City Charter requiring City Hall to be located on the proposed project site.

RESPONSE O-2-6

The comment states that the City made "deals" with non-Tongva Indians and both the City and the non-Tongva tribe are being sued in federal court. There are no pending federal court actions against the City, nor are there any federal lawsuits that have been filed against the City, pending or otherwise, involving Tribal or cultural resources. The City is unclear what "deals" the comment is referring to; the City has complied and continues to comply with all federal, State, and local laws pertaining to the protection and/or preservation of historical, archaeological, and paleontological resources. The City likewise has consulted with other Tribes that, according to the NAHC, may have knowledge of the religious or cultural significance of cultural or historical resources in the project area.

RESPONSE O-2-7

The comment asks what action was proposed on site that required test excavations. In 1996, the City widened MacArthur Boulevard. At that time, initial surveys of the project area identified two sites within the parcel currently planned for the Newport Beach City Hall and Park Development Project. These sites were tested using the current best professional practices for archaeological site testing. The sites were determined to not be important under CEQA criteria. Subsequent to the testing, during monitoring for the MacArthur Boulevard Widening Project, a Native American burial was discovered on the proposed project site. The body was reburied consistent with the wishes of the NAHC-designated MLD in an area outside of the Newport Beach City Hall and Park Development project site.

RESPONSE O-2-8

The comment asks what happened on the archaeological site when the burial was found. Consistent with State law, work in the vicinity of the discovery was halted until the burial could be investigated by the Orange County Coroner. The Coroner determined that the burial was prehistoric in nature. The NAHC representative for Southern California, Gail McNulty, was notified by the Coroner; and the NAHC designated Lillian Robles as the MLD. From the point of discovery on, all work with the burial was conducted in consultation with, and in keeping with the wishes of, the MLD.

RESPONSE O-2-9

The comment questions who authorized the removal of the burial. The burial was removed under the direction of the MLD, Lillian Robles.

RESPONSE O-2-10

The comment asks what happened to the burial.

The MLD worked with the City to determine an appropriate, nearby reburial area. At a time determined by the MLD, the body was reburied in that location and ceremonies were held by the MLD's tribe (the Juaneño group led by Sonia Johnston).

RESPONSE O-2-11

The comment requests additional information from the City regarding known cultural resources in the vicinity of the project site.

In Section 4.6 of the DEIR, the City disclosed the presence of 28 known archaeological sites within 1 mi of the proposed project site. For additional information, please refer to Section 4.6 or Appendix E of the DEIR. The precise location of cultural resource sites is information that is protected from public disclosure by State law to protect the resources from illegal artifact collecting and vandalism. Information on all prior projects, including copies of Assessment, Testing, and Data Recovery Reports is available through the SCCIC, located at California State University, Fullerton. The SCCIC maintains confidentiality of those records. Mr. Rosas needs to obtain this information through the SCCIC because the City cannot provide that information without violating the SCCIC Confidentiality Agreement.

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California Native Plant Society

ORANGE COUNTY CHAPTER

P.O. Box 54891
Irvine, CA 92619-4891
occnps.org

October 14, 2009

The California Native Plant Society is a non-profit organization dedicated to the understanding and appreciation of California's native plants and how to conserve them and their natural habitats through education, science, advocacy, horticulture and land stewardship.

OCCNPS focuses that dedication on the native plants and remaining areas of natural vegetation in Orange County and adjacent Southern California.

Jaime Murillo, Associate Planner
Newport Beach Planning Department
3300 Newport Boulevard
Newport Beach, CA 92658-8915

RE: DEIR, City Hall and Park Development Plan

Dear Mr. Murillo:

The Orange County Chapter of the California Native Plant Society (OCCNPS) has long been aware of the native habitat on the designated open space parcels located south of San Miguel, east of Avocado, and west of MacArthur Blvd., and has monitored that habitat and the site's populations of *Atriplex coulteri* (CNPS List 1.B.2), *Hordeum intercedens* (CNPS List 3) and *Microseris douglasii platycarpa* (CNPS List 4) for more than a decade.

1

OCCNPS has reviewed the development plan proposed for the open space parcels. This document provides our comments concerning this DEIR and potential impacts to natural resources found at this locality.

GENERAL COMMENTS

OCCNPS is concerned that potential impacts to biological resources, even considering the NCCP, were not fully described within the DEIR and that the proposed mitigation measures appear to be inadequate to address potentially significant impacts to biological resources. From our review it appears that, as per Figure 3-4, all of the biological resources will be removed by the proposed project except for the two drainages and their immediate area (i.e., presumably approximating the Area of Preservation in Figure 8, *Biological Assessment Report*, though the boundaries of the preserved area are not made clear in the DEIR text). However, this removal is not well described within the biological resources section. Furthermore, the proposed mitigation measures for the loss of special plant species are inadequate, since they do not provide an implantable procedure for transplanting the sensitive plants to be removed by this project.

2

3

OCCNPS is concerned that the project description provides only minimal details on the proposed park area landscaping. The use of native plants in the landscaping is mentioned in Section 3.5.6 and in PDF BIO-2, but the conceptual site plan provided in Figure 3-4 does not include a legend to indicate what its various colored and textured areas indicate. We suggest that landscaping throughout the site should consist primarily of native plants, a majority being those native to coastal Orange County. The landscaping of the entire northerly end of the Central parcel should consist of Coastal Sage Scrub species as the appropriate setting and buffer for the habitat preserved within the two drainages. An appropriate native plant palette, appropriately maintained, could reduce some of the impacts of removing the existing native habitat as well as fulfill the water-conservation goals of PDF BIO-2, PDF GHG-2, PDF PSU-4, et al.

4

OCCNPS considers the Alternatives analysis for this project to be inadequate and that it should be revised for the Final EIR. Specific concerns:

- The ballot initiative required the selection of the proposed site; such a process could be considered inconsistent with the CEQA guidelines.
- The information provided in Section 5 does not provide sufficient information to the reader on why the proposed preferred alternative was selected over other localities. For example, little information was provided on why the northern parcel was rejected from consideration.

5

6

SPECIFIC COMMENTS

3.0 PROJECT DESCRIPTION

Section 3.2 Project History, Page 3-9

This section should provide more details on the history of the parcel being considered for the project site. When was this land deeded to the City of Newport Beach? Was the parcel deeded to the City as a specific mitigation for loss of open space or natural habitat within the City?

7

The full text of Measure B should be provided in this section, especially any restrictions on considering alternative sites or analysis of impacts of the proposed facilities.

8

Section 3.4.2, 2nd Paragraph

The statements on the existing vegetation are somewhat misleading and should be corrected. The text notes that "... on site vegetation is *highly disturbed and consists of coastal sage scrub, ruderal grassland...*" and provides a incorrect assessment of the existing conditions of the plant communities on the project site. Although the southern portion of the Center parcel could be considered to be disturbed, its mid and northern areas actually contain a regionally significant plant community: coastal sage scrub that is in very good condition and that should not be characterized as "disturbed habitat". It should also be noted that portions of the areas mapped as ruderal grassland should be considered as an eroded coastal terrace, which provides important habitat for several sensitive plant species on this parcel. It is recommended that the text be revised to better reflect the sensitive nature of the coastal sage scrub community and other habitats, such as the riparian area, found on the project site.

9

10

Figure 3-4 Conceptual Site Plan

The Biological Assessment notes that 1.56 acres of native coastal sage scrub would be retained following the development of the Civic Center and Park on the two subject parcels. However, the conceptual site plan does not indicate where the 1.56 acres are located. The location of any preserved native vegetation on the project site should be clearly identified on this figure, and in other sections of the project description.

11

OCCNPS is also concerned about the site's two riparian areas, to be encompassed by the park. The DEIR appears to have omitted any detailed studies on potential increased erosion problems in these drainages due to increased flows from adjacent project facilities. It is unclear if regrading or other disturbances, such as the placement of drop structures, might be required in these drainages to alleviate potential head cutting problems within the two existing stream channels. These issues should be addressed in both the biological resources and hydrology sections of the report and reflected in the proposed conceptual site plan.

12

Section 3.5.6 PARK, Page 3-43

Page 3-49, Paragraph 4th Paragraph

There is brief mention in the text on using drought tolerant and/or native plant species in the proposed park and facility landscaping. However, other than the retained riparian areas, there is no mention of retaining any of the existing coastal sage scrub vegetation within the proposed park site. Furthermore, Figure 3-4, illustrating the conceptual design, lacks a legend that would clarify which landscape areas are to be native, non-native, and/or turf.

13

October 14, 2009

OCCNPS highly recommends that more consideration be given to landscaping the entire site with drought tolerant native plant species. Preservation of existing stands of coastal sage scrub should also be a consideration within the proposed park design.

↑ 13

Section 4.5 BIOLOGICAL RESOURCES

The Biological Resources section of the DEIR generally provides an adequate description of the plant communities and sensitive resources found on the project site. The following paragraphs discuss some areas where biological issues may not have been fully addressed.

14

Section 4.5.3 Existing Environmental Setting

Plant Communities, Page 4.5-9

The text appears to lack a section on sensitive plant communities. Such a section should be added, noting that coastal sage scrub, riparian habitats and ephemeral wetlands (including non-jurisdictional wetlands) are considered sensitive communities within the County. The importance of remaining coastal sage scrub habitats, even in isolated stands, should be discussed in the Biological Resources section of this DEIR.

15

The two ephemeral wetlands found on the project site should be included on the plant community map and described in this section.

16

The southern portion of the Central parcel was mapped as a ruderal plant community. However, this classification fails to recognize the importance of this habitat to sensitive plants known to occur on the project site. It is recommended that portions of this area be considered as an “eroded coastal terrace” within the analysis of special interest species on the project site.

17

Special Interest Plant Species, Page 4.5-16

This section is incomplete and should be revised to consider all of the special interest plant species found on the project site. Three special interest plant species are known to occur on this parcel: *Atriplex coulteri* (Coulter’s saltbush), *Hordeum intercedens* (vernal barley) and *Microseris douglasii* ssp. *platycarpa* (small-flowered microseris). The currently known localities for the Coulter’s saltbush have been correctly identified and surveyed for this project. However, the original collection for this species, along with the other two special status plant species, was located approximately 100 ft. west of the currently known Coulter’s saltbush populations.

18
19

The population of *Atriplex coulteri* on the site is far more important than may be understood from the DEIR. These 18 plants constitute one of only five populations, all small, of this species in Orange County. Elsewhere, this plant is currently known from only a few sites in Los Angeles and San Diego Counties and on the Channel Islands. Thus *A. coulteri* is truly a rare plant, and the loss of 18 individual plants would be proportionately a great loss to the species.

20

It is recommended that much of the area noted as *ruderal grassland* be considered as an “eroded coastal terrace” and potential habitat for the above-named three sensitive plant species. The total acreage of this habitat should be determined and addressed as a potentially significant impact of this project.

21

This section should note that Coulter’s saltbush is not a covered species within the Central-Coastal subregion of the NCCP.

22

Shallow topographic depressions, Page 4.5-23

OCCNPS disagrees with the conclusions presented on page 4.5-28. The presence of obligate wetland species and mottled soils appears to provide a strong indication for the presence of ponding in wet years in these two depressions and calls for the classification of these features as non-jurisdictional ephemeral wetlands. Furthermore, OCCNPS considers these depressions as potentially significant habitats that should be analyzed in more detail within the DEIR.

23

October 14, 2009

Psilocarphus brevissimus (woolly marbles) is a species that is uncommonly found in Orange County and the significance of the population found on the Central parcel should also be addressed within the DEIR. | 24

Section 4.5.4 Impact Threshold Criteria

NCCP, Page 4.5-29

This section is overly long and confusing. It is recommended that this section be placed in the Biological Analysis Report and replaced with shortened, clarified impact analysis. The section describing the NCCP should be made more pertinent to the natural habitats found within the City of Newport Beach and on the project site. | 25

Special interest plant species, Page 4.5-31

The analysis of potential impacts to special interest plant species is incomplete and should be revised. The presence of the special status plant species *Hordeum intercedens* and *Microseris douglasii platycarpha* has been formally documented and should be recognized as occurring on the project site. In addition, the *Atriplex coulteri* has been found outside of the boundaries of the current population, as documented in the voucher specimen from this locality. | 26

It is recommended that this DEIR recognize and evaluate for significance a much larger area of potential habitat--eroded coastal terrace--for these species. Overall, the potential "transplantation (reseeding) site" should be a similar acreage to the total area of potential habitat lost by the development of this project. | 27

Threshold 4.5.2, Page 4.5-33

It is recommend that the first paragraphs more clearly note the loss of plant communities on the project site, especially coastal sage scrub. The text should be clarified on how the NCCP provides the mitigation for the losses of habitat on the project site. | 28

The preservation of approximately 1.5 acre of coastal sage scrub does not appear to be reflected in the conceptual site plan or project description. The project description and site plan should be revised to note the preservation of these habitats on the project site. | 29

The impact analysis is incomplete in not addressing impacts to sensitive plant communities, including coastal sage scrub. A separate analysis of the potential losses to sensitive plant communities, including coastal sage scrub and ephemeral wetlands, should be prepared to note the significance of these losses to the local region. The text could then note that the NCCP addresses these losses for the subregion. | 30

4th Paragraph, Page 4.5-33

The text notes that the property was transferred to the City in 2007 and 2008, but it was our understanding that the deed was transferred in the mid 1990s as part of a required open space mitigation. The history of ownership of this parcel and potential transference to the City as mitigation should be discussed in this section of the text. | 31

Threshold 4.5.3, Page 4.5-35

OCCNPS disagrees with the assessment that the topographic features are not ephemeral wetlands (non-jurisdictional) thus are not considered a sensitive and significant resource on the project site. Rather than a delineation, these features should assessed as potential wetlands using the classification systems used by the California Coastal Commission (1981 Statewide Interpretive Guidelines), USFWS (Cowardin et al. 1979), and EPA (Ferren et al. 1995, *Wetlands of the central and southern California coast and coastal watersheds: A methodology for their classification and description*). | 32

Wetlands, Page 4.5-35

The analysis of potential impacts to the riparian areas is incomplete and should be revised. This section and the chapter on hydrology fail to address the potential impacts of possible increased erosive flows on the existing channels and if potential remediation from increased erosion and head cutting would potentially be required in these channels. The potential installation of rip-rap or drop structures could disturb existing riparian vegetation and require permits from the Corps of Engineers and CDFG. Further analysis on the effects of these potential impacts should be provided.

34

Threshold 4.5.5, Page 4.5-37

It would appear that the project may conflict with Policy NR 10.4 and 10.5. The project description is currently not consistent with statements in Section 4.5 that approximately one acre of coastal sage scrub, a sensitive plant community, would be conserved on the project site. To meet this policy, OCCNPS recommends further changes in the landscape design of the proposed park to require landscaping with native plant species that could create some native "habitat" zones within the park.

35

The ephemeral wetland should be recognized as a sensitive resource and mitigated within the proposed park site.

36

Policy 10.6, Page 4.5-38

It does not appear that sufficient buffer around the riparian areas has been considered in this analysis, thus is potentially inconsistent with this policy. Transitional native plant landscaping around the riparian areas should be proposed to provide additional buffering of these sensitive habitats.

37

Section 4.5.8 Design Features and Mitigation Measures

Currently the proposed mitigation measures do not meet the CEQA standards of being feasible and implementable and should be revised.

For example PDF 1 states that exotic plants should be removed and native plants planted. This should be revised to state that an exotic removal plan and riparian planting plan must be prepared and approved before site grading can be initiated. The plan should note all of the invasive species to be removed and the procedures for their elimination on the project site.

38

Mitigation Measure 4.51. Translocation of the Coulter's saltbush population.

The proposed mitigation measure is incomplete and should be revised. The first step will be to find a suitable transplant site, and the study for and selection of the site should be required to be completed before approval of the grading plan. Seeding of this species into the transplant site may be the most successful method, however the onsite population is currently too small to provide sufficient seed. Therefore a translocation plan, including procedures for bulking up the existing seed resource--likely from plants grown at a nursery--and procedures for restoration of the transplant site must be completed before the start of grading. It is recommended that the other two special status plant species, *Hordeum intercedens* and *Microseris douglasii platycarpha*, be included in the transplant site restoration since all occur in a similar habitat.

39

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The translocation plan should require:

- Development of a seeding or planting palette for the translocation site.
- The means of obtaining sufficient seed for each species.
- Procedures for site preparation and seeding and transplanting into the transplant area.
- Preparation for and methods of removing the existing *Atriplex* population within foot-deep blocks of the soil in which they are growing, and transportation and replanting at the transplant site with minimal breakup of the soil blocks.
- Maintenance and monitoring provisions to assist and document success of the translocation effort for a five year period.
- Measures to be implemented if the translocation plan was unsuccessful.

41

October 14, 2009

Mitigation Measure 4.5.3

This mitigation measure should include:

- Plans for weed removal and planting of additional riparian plant species.
- A proposal for developing an ephemeral wetland on the project.

42

Measure 4.5.4

Additional language needs to be added to this measure to require a biologist’s review of the proposed landscape plan for the park site. To insure the continued viability of the preserved coastal sage scrub, compatible drought tolerant plantings should be developed along the margins of the extant sage scrub habitat. A requirement for the review of the irrigation plan should also be contained in this mitigation measure, to insure that proposed supplemental watering measures would be compatible with this habitat.

43

This measure should also require that the proposed plant palette be reviewed by a biologist to insure compatibility with this and other mitigation measures.

44

Thank you for the opportunity to comment on the subject DEIR.

45

Respectfully,

Celia Kutcher
Conservation Chair

cc:
CNPS Conservation Team
California Dept. of Fish and Game
Sea and Sage Audubon
US Fish and Wildlife Service

ORANGE COUNTY CHAPTER OF THE CALIFORNIA NATIVE PLANT SOCIETY

LETTER CODE: O-3

DATE: October 14, 2009

RESPONSE O-3-1

The comment is introductory and states that the Orange County Chapter of the California Native Plant Society (OCCNPS) has monitored the proposed project site's habitat and populations of *Atriplex coulteri*, *Hordeum intercedens*, and *Microseris douglasii* for more than a decade. The comment does not contain any substantive comments or questions about the Draft Environmental Impact Report (DEIR) or the analysis therein. No further response is required.

RESPONSE O-3-2

The comment states that OCCNPS is concerned that potential impacts to biological resources were not fully described in the DEIR and the proposed mitigation measures appear to be inadequate to address potentially significant impacts. The comment also requests clarification regarding the boundaries of the areas to be preserved. Figure RTC-1 provides an illustration of the areas of preservation and existing habitat within the preservation area. Section 4.5 of the DEIR fully describes the potentially significant impacts of the proposed project and recommends a mitigation measure to reduce or avoid identified impacts. In the judgment of the City, the DEIR provides sufficient mitigation measures and project design features to reduce potential impacts to on-site biological resources to a less than significant level. Opinions regarding the analysis in the DEIR will be made available to decision makers for their consideration.

RESPONSE O-3-3

The comment erroneously states that the proposed mitigation measure for the loss of special plant species are inadequate because they do not provide an implementable procedure for transplanting the sensitive plants. As identified on page 4.5-16 of the DEIR, LSA biologists observed only one special-interest plant species (i.e., Coulter's saltbush [*Atriplex coulteri*]) on site during the numerous site visits conducted by LSA in 2009. The mitigation measure concerning the translocation of the Coulter's saltbush population (Mitigation Measure 4.5.1) was developed by an LSA botanist who is experienced in implementing similar translocation efforts. Although the City is not aware of previous translocations of this particular plant species, several other populations of special-interest plant species, including intermediate mariposa lily (*Calochortus weedii* var. *intermedius*) and many-stemmed dudleya (*Dudleya multicaulis*) have been successfully translocated. The implementation procedures can be adapted from these efforts to meet the needs of the project. Also, see Response to Comment P-3-28 in this document.

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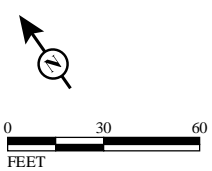


LSA

- Area of Preservation* (1.8 ac)
- Habitat Types
- 2.3.6 - Sagebrush Scrub
- 2.3.6.1 - Sagebrush-Mulefat Complex
- 2.9 - Scrub-Eucalyptus Planting
- 4.6 - Ruderal Grassland

- 6.4 - Freshwater Marsh
- 7.2 - Willow Riparian Scrub
- 7.3 - Mulefat Scrub
- 15.5 - Ornamental Landscaping
- 16.1 - Disturbed

FIGURE RTC 1



SOURCE: City of Newport Beach (2/06, 1/09)

* All areas of the Northern Parcel and areas outside of the preservation area of the Central Parcel will be impacted.

I:\CNB0901\GIS\HabitatInAreaofAvoidance.mxd (11/5/2009)

Newport Beach City Hall
and Park Development Plan Project
Area of Preservation

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The specific details for implementing the translocation of the Coulter's saltbush population (e.g., selection of suitable translocation site[s]) will be provided in the comprehensive translocation plan referred to in Mitigation Measure 4.5.1 of the DEIR. This plan will be submitted to both U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG) personnel for review and approval before implementation of the translocation. However, the City anticipates the translocation to include the careful and methodical excavation of each individual Coulter's saltbush that will be transplanted into one or two suitable receptor site(s), which will be subject to USFWS and CDFG approval. Also, in an effort to preserve other Coulter's saltbush individuals and seed in the topsoil, the City will propose the salvaging of the associated topsoil for placement in the receptor site(s) described above. It is envisioned that the translocation effort will include the transfer of entire blocks of soil, containing the seed bank, to the suitable receptor site(s). The mitigation measure has been expanded to include this approach. The City also anticipates a 5 year monitoring and reporting period following the translocation. The proposed mitigation measure (i.e., translocation of the identified population of Coulter's saltbush, as described in Mitigation Measure 4.5.1 of the DEIR) concerning impacts to this special-interest plant species contains adequate provisions to ensure translocation success. Therefore, the mitigation measure is complete and adequate.

RESPONSE O-3-4

The comment expresses concern that the DEIR Project Description only provides minimal details regarding proposed park area landscaping. The comment opines that the landscaping of the entire northerly end of the central parcel should consist of coastal sage scrub (CSS). The DEIR provides analysis of the project as proposed, which includes substantial grading and a park design that incorporates a variety of plant species. PDF BIO-2 requires the use of native plant species in addition to drought-tolerant, ornamental, and turf species. Opinions regarding the components of the plant palette will be made available to decision makers for their consideration. Because the issue of how to landscape the park area is a policy or site planning issue and does not address environmental impacts of the project, further analysis is not required in the DEIR. As a site plan preference, the comment does not contain any substantive comments or questions about the analysis in the DEIR, and no further response is necessary.

RESPONSE O-3-5

The commenter has suggested that the EIR should have evaluated in detail an off-site alternative and further suggests that Measure B is contrary to the State CEQA Guidelines.

The comment that Measure B is contrary to the State CEQA Guidelines is vague and unclear. Measure B was a citizen-sponsored initiative to amend the City Charter to require that any new city hall be located in the project site. Newport Beach voters approved Measure B in February 2008. That initiative process is protected and guaranteed by the California Constitution and the City's Charter (*Mervynne v. Acker* (1961); 189 Cal. App. 2d 558, 563 (discussing long-established rule of according extraordinarily broad deference to the electorate's power to enact laws by initiative; the state constitutional right of initiative or referendum is "one of the most precious rights of our democratic process."); *Rossi v. Brown* (1995) 9 Cal. 4th 688, 695, 711 ("These powers are reserved to the people, not granted to them. Thus, it is our duty to ... jealously guard ... these powers and construe the relevant constitutional provisions liberally in favor of the people's right to exercise the powers of

initiative and referendum.”; An initiative measure “must be upheld unless [its] unconstitutionality clearly, positively, and unmistakably appears.”.) In a specific challenge to Measure B, the Court of Appeal held that “Where to locate the Newport Beach city hall is purely a local matter, and the voters are entitled to weigh in on the subject” (see *Beek v. City of Newport Beach* (2009) 2009 Cal. App. Unpub. LEXIS 5001, 9–10). Citizen-sponsored initiatives such as Measure B, in contrast to agency-sponsored initiatives, are not subject to CEQA (see State CEQA Guidelines, § 15378, subd. (b)(3); *Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165, 186-191).

The comment also suggests that the EIR must consider, as an alternative to the project, development of a new city hall at other locations, despite the directive of the voters in Measure B to build a new city hall at the City’s property on Avocado Avenue. With regard to this comment, see Responses to Comments P-1-28 and P-1-30.

RESPONSE O-3-6

The comment opines that the DEIR Alternatives analysis is inadequate because the information does not provide sufficient information regarding why the preferred alternative was selected over other localities. It is unclear from the comment what specific information is missing from the discussion of the preferred alternative. Refer to Table 5.B for information pertaining to why the northern parcel was originally rejected by the City Hall Site Review Committee. Please also refer to Response to Comment O-4-62. Because there is no specific new information provided in the comment, no further response is required.

RESPONSE O-3-7

The comment states that the DEIR should provide more details on the history of the parcel being considered for the proposed project, including (1) when the land was deeded to the City; and (2) whether the parcel was deeded to the City as mitigation for the loss of open space or natural habitat. As described in the Project Description in the DEIR, the project site actually consists of three parcels referred to in the DEIR as the northern parcel, the central parcel, and the southern parcel. The central parcel is the subject of the commenter’s question.

The central parcel was deeded to the City as a result of the Circulation Improvement and Open Space Agreement (CIOSA), which is a development agreement entered into by and between the City and the Irvine Company in 1993. In connection with the City’s approval of entitlement for the Irvine Company to develop several parcels, the Irvine Company agreed to assist with the financing of circulation improvements and to dedicate nearly 150 acres (ac) of open space. The open space dedication was not mitigation for loss of open space or natural habitat, but rather was provided as an added public benefit. The amount of open space land dedication was substantially more (69.5 ac) than what would have been required under the City’s Park Dedication Ordinance.

The parcel was originally offered for dedication in 1999; however, due to administrative oversight, the offer was never recorded, and the fee title to the property was never conveyed to the City. In order to comply with the requirements of CIOSA and to correct the error, the property was finally conveyed to the City and the Grant Deed was recorded on November 28, 2007. Because no new environmental issues were raised in the comment, no further response is required.

RESPONSE O-3-8

The comment states that the full text of Measure B should be provided in Section 3.2 of the DEIR. A footnote was included on page 3-9 that includes the language of Measure B. Measure B provided as follows: *Shall the City of Newport Beach Charter be amended to require City Hall, city administrative offices and related parking to be located on City property which is bounded by Avocado Avenue on the west, San Miguel Drive on the north, and MacArthur Boulevard on the east, and Newport Beach Central Library on the south?*

RESPONSE O-3-9

The comment states that statements in the DEIR are somewhat misleading and should be corrected. The City acknowledges that assessments of habitat quality are typically subjective. However, it is the professional opinion of LSA Biologists, who the City contracted to evaluate the potential impacts of the proposed project, that the assessment of habitat quality for each plant community on site, as described in the Biological Resources Assessment (BRA) (Appendix D of the DEIR) and in the Biological Resources section of the DEIR, is accurate. The quality of the coastal sage scrub (identified as Sagebrush Scrub in the DEIR) on site is described as “moderate” to “good” in the BRA and in the Biological Resources section of the DEIR, but the DEIR also notes visible current and past disturbances associated with the coastal sage scrub habitat on site. It is the position of the City of Newport Beach that the statements in the DEIR are accurate and thorough, and are not misleading as alleged by the commenter.

RESPONSE O-3-10

The comment erroneously states that areas mapped as ruderal grassland should be considered eroded coastal terrace, which provides important habitat for several sensitive plant species. While “eroded coastal terrace” can be used to describe a geological condition, it is not a designated habitat type in any commonly used vegetation classification system and, therefore, it is not considered appropriate to replace the ruderal grassland habitat type designation identified on site. Therefore, the habitat types existing on site have been accurately identified in the DEIR and have been adequately described with respect to their respective quality and importance.

RESPONSE O-3-11

The comment states that the conceptual plan provided in the DEIR does not provide the location of the proposed preservation area. Figure RTC-1 provides an illustration of the areas of preservation and existing habitat within the preservation area.

RESPONSE O-3-12

The comment requests clarification regarding the potential for increased erosion in the riparian areas. The Drainage Report (Appendix H of the DEIR) specifically included analysis of peak flows entering the wetland areas between existing and proposed conditions. There was one location, at the south west of the wetland where flow from Avocado and San Miguel would enter the wetland, where the

peak flow had the potential to increase. The project was therefore designed to include check dams leading to the swale adjacent to Avocado in order to reduce the peak flow discharge so that the increase was less than 0.5 percent. In addition, at one location under a proposed bridge, runoff would be entering the wetland at a new point so a level spreader and flow dissipation device would be installed upstream of the wetland to ensure that erosion does not occur and that runoff flows evenly across a vegetated surface before entering the wetland. No structures would be placed in the wetland or stream channel.

Therefore, the proposed project would not substantially alter existing drainage patterns on the project site in areas directly adjacent to the wetlands and would not result in increased potential for erosion in the wetlands area.

RESPONSE O-3-13

The comment states that the DEIR does not distinguish between native, nonnative, and turf on the conceptual plan and that the OCCNPS highly recommends that more consideration be given to landscaping the entire site with drought-tolerant native plant species. Please refer to Response to Comment O-3-4. Opinions regarding the design of the proposed project and on-site landscaping will be made available to decision makers for their consideration.

RESPONSE O-3-14

The comment states that Section 4.5, Biological Resources, generally provides an adequate description of plant communities and sensitive resources on the project site. The comment does not contain any substantive comments or questions about the DEIR or the analysis therein; no further response is necessary.

RESPONSE O-3-15

The comment states that the DEIR appears to lack a section on sensitive plant communities and should discuss the importance of remaining coastal sage scrub habitats.

The City believes that the plant communities identified in Section 4.5, Biological Resources, and Appendix D of the DEIR are accurately classified and mapped. While both coastal sage scrub and riparian plant communities are identified as present on site, no ephemeral wetlands were identified by LSA during extensive study of the site (for further discussion concerning ephemeral wetlands, see Response to Comment O-3-16 below).

The BRA (Appendix D of the DEIR) and Section 4.5 describe the individual plant communities and identify the relevant habitat quality of each plant community. The City acknowledges the value and importance of the coastal sage scrub and wetland/riparian plant communities identified on site, however, the relative significance of these plant communities is somewhat diminished by: (1) the previous and ongoing disturbances evident on site; (2) the fragmentation and isolation of these habitats from larger contiguous open space areas; and (3) the lack of federally and/or State-listed species (e.g., coastal California gnatcatcher) associated with these plant communities. Moreover, the DEIR identified impacts to coastal sage scrub as less than significant with mitigation, i.e., being in

compliance with the terms and conditions of the NCCP (see Threshold 4.5.1 of the DEIR). Also, the project will not result in the loss of riparian habitat, which will be avoided and preserved in place. In fact, implementation of project design feature PDF BIO-1 (page 4.5-41 of the DEIR) would result in an improvement of the riparian habitat quality.

RESPONSE O-3-16

The comment erroneously states that the two ephemeral wetlands found on the project site should be included on the plant community map. The two “ephemeral wetlands” identified by the commenter were thoroughly described in Section 4.5, Biological Resources (pages 4.5-23 to 4.5-28), and Appendix D (pages 19 to 24) of the DEIR. From the extensive data collected, LSA concluded that these two areas are not wetlands but rather merely shallow topographic depressions within upland habitat. The associated vegetation in these two areas was consistent with the surrounding vegetation and, therefore, does not warrant a distinct habitat type designation.

RESPONSE O-3-17

The comment states that the classification of the central parcel as a ruderal plant community does not recognize the importance of the habitat. See Response O-3-10 above. Opinions regarding the analysis and conclusions in the DEIR will be made available to decision makers for their consideration.

RESPONSE O-3-18

The comment erroneously states that the DEIR should be revised to include additional special-interest plant species. As discussed in the Section 4.5 of the DEIR, LSA biologists conducted numerous surveys of the project area from February 2009 to June 2009. As identified in the DEIR, Coulter’s saltbush was observed on site, the number of individuals was quantified, and the limits of the population were mapped. Neither vernal barley (*Hordeum intercedens*) nor small-flowered microseris (*Microseris douglasii* ssp. *platycarpha*) were found to occur on site during any of the LSA surveys conducted during the appropriate time of year to detect these species. While it is possible that vernal barley, small-flowered microseris, and even additional occurrences of Coulter’s saltbush were present on site in the past, there is no current evidence to support a conclusion that viable populations of these species continue to persist on the site, particularly in light of previous and ongoing disturbances of the site. Please also refer to Responses to Comment O-3-15.

RESPONSE O-3-19

The comment states that the currently known localities for Coulter’s Saltbush have been correctly identified, although the original collection for this species was approximately 100 feet west of the currently known populations. See Response to Comment O-3-18 above.

RESPONSE O-3-20

The comment states that the population of Coulter’s Saltbush is far more important than may be understood from the DEIR. The DEIR (page 4.5-32) did identify the project as having a potentially

significant impact on this population of Coulter's saltbush. Mitigation Measure 4.5.1 requires that the Coulter's saltbush be translocated to preserve this population of special-interest plant species and thus prevent the loss of this population.

RESPONSE O-3-21

The comment states that areas identified as ruderal grassland should be considered eroded coastal terrace and potential habitat for sensitive plant species. See Response to Comment O-3-10 above. Opinions regarding the analysis and conclusions in the DEIR will be made available to decision makers for their consideration.

RESPONSE O-3-22

The comment states that the DEIR should note that Coulter's saltbush is not a covered species in the Central-Coastal Natural Communities Conservation Plan (NCCP). Coulter's saltbush is identified as not being a covered species in the Orange County Central and Coastal Subregion NCCP/Habitat Conservation Plan (HCP) on page 4.5-32 of the DEIR. This information was used in the DEIR as part of the impact analysis pertaining to this particular species.

RESPONSE O-3-23

The comment states that the OCCNPS disagrees with the conclusions in the DEIR regarding the shallow topographic depressions and requests that these areas be classified as nonjurisdictional ephemeral wetlands. The classification of these depressions were discussed at length in Section 4.5 of the DEIR. As described thoroughly in the DEIR, these two areas were dominated by upland plant species, not obligate wetland plants. Also, as described in the DEIR, the presence of mottles in the soil in and of itself does not support a conclusion of wetlands. See also Response to Comment O-3-16 above.

RESPONSE O-3-24

The comment states that the DEIR should address the significance of the population of woolly marbles (*Psilocarphus brevissimus* var. *brevissimus*) on the project site because it is uncommonly found in Orange County. The commenter provides no evidence to support the stated opinion. Furthermore, woolly marbles (*Psilocarphus brevissimus* var. *brevissimus*) is not a federal or State-listed species nor is this species included on any of the CNPS Lists. Impacts to the small quantity of woolly marbles on site would not constitute a significant impact and would not warrant further discussion in the DEIR.

RESPONSE O-3-25

The comment states that the NCCP discussion is overly long and confusing. The comment does not contain any substantive comments or questions about the DEIR or the analysis therein. Opinions regarding the DEIR analysis and format will be made available to the decision makers for their consideration.

RESPONSE O-3-26

The comment states that the analysis is incomplete and should recognize special-status plant species previously recognized as occurring on the proposed project site. Please refer to Response to Comment O-3-18 above.

It is also important to note that neither vernal barley nor small-flowered microseris is federally or State-listed, and neither are considered rare, threatened, or endangered by the CNPS; vernal barley is currently on the CNPS List 3 (a review list), and small-flowered microseris is currently on the CNPS List 4 (a watch list). The City's expert biological consultant, LSA, continues to conclude that the proposed project will not result in a significant impact to any other special-interest plant species other than the Coulter's saltbush addressed in the DEIR.

RESPONSE O-3-27

The comment states that Coulter's saltbush has been found outside the boundaries of the current population. Please refer to Response to Comment O-3-18 above.

RESPONSE O-3-28

The comment recommends that the DEIR recognize and evaluate the significance of a much larger area of potential habitat for Coulter's saltbush. Please refer to Response to Comment O-3-26 above. It would be speculative to identify impacts to "potential habitat," particularly after a very thorough survey effort was undertaken to identify and locate all of the plant species that are currently on the project site. Furthermore, it is not feasible to transplant or "reseed" the receptor site(s) with any more plant material than can be currently located. While the commenter suggests propagation of seed in a nursery setting, prior to translocation, it has been LSA's experience that such efforts add an additional step and impose additional risk of failure/loss of the original plant material. However, the receptor site(s) will be large enough to accommodate a larger population of Coulter's saltbush than currently occurs on the site to allow for expansion of the population. Please refer to Response to Comments O-3-39.

RESPONSE O-3-29

The comment states that the DEIR should more clearly note the loss of plant communities on the project site and should clarify how the NCCP provides mitigation for the loss of habitat on site.

A detailed breakdown of impacts to each habitat type on site is provided in Table 4.5.B on page 4.5-34 of the DEIR.

During preparation of the Orange County Central and Coastal Subregion NCCP/HCP, this particular project site was not designated for preservation as part of the reserve system but was designated for potential development. Therefore, as indicated on page 4.5-34 of the DEIR, "Compliance with the terms and conditions of the NCCP Implementation Agreement and construction minimization measures identified in the NCCP Environmental Impact Report/Environmental Impact Statement

(EIR/EIS) serve as suitable mitigation for project-specific and cumulative impacts to native habitat and associated general wildlife on site.”

Please also refer to Responses to Comments P-2-2 and P-3-30 in this document for additional details.

RESPONSE O-3-30

The comment erroneously states that the areas of preservation do not appear to be shown on the conceptual site plan for the proposed project. Figure 3.4, Conceptual Site Plan, reflects the areas of preservation which are shown as “wetland” on the plan. As shown on Table 4.5.B of the DEIR, the total area of preservation is 1.8 ac of which 0.99 ac is coastal sage scrub. The attached exhibit (Figure RTC-1) is provided to better illustrate the habitat to be preserved on site.

RESPONSE O-3-31

The comment erroneously states that the impact analysis in the DEIR is incomplete because it does not address impacts to sensitive plant communities, including coastal sage scrub. Please refer to Response to Comment O-3-15 above, and to O-3-26, above.

RESPONSE O-3-32

The comment erroneously states that the history of the ownership of the central parcel and potential transference to the City as open space mitigation should be discussed in Section 4.5 of the DEIR. Please refer to Response to Comment O-3-7.

RESPONSE O-3-33

The commenter disagrees with the assessment of the shallow topographic depressions in the DEIR and requests that these areas be assessed as potential wetlands using the classification systems used by the California Coastal Commission (Coastal Commission), United States Fish and Wildlife Service (USFWS), and the U.S. Environmental Protection Agency (EPA) criteria. Opinions regarding the analysis in the DEIR will be made available to the decision makers for their consideration.

With regard to the DEIR’s assessment of the two shallow topographic depressions, see Response O-3-16 above. Also, the DEIR provided an evaluation of these areas using the methods and parameters described in the U.S. Army Corps of Engineers (ACOE) Wetlands Delineation Manual (1987), considered the most widely accepted method for identifying and delineating wetlands. The USFWS and the U.S. EPA employ the same method as the ACOE.

The California Coastal Commission employs the methods and indicators for each of the ACOE’s three wetland parameters (i.e., hydrology, soils, and vegetation), but in exercising its unique statutory charge under the Coastal Act, the Coastal Commission does not necessarily require all three parameters be present for an area to be considered a wetland. The Coastal Commission will, for instance, infer the presence of wetland hydrology if either a prevalence of hydrophytes or hydric soils exist, unless sufficient contrary evidence supports a different conclusion. That said, the methodology employed by ACOE and used by the expert consultants in preparing this EIR is the more widely used

and accepted method for identifying and delineating wetlands. Using that method, and based on the extensive analysis of the two shallow depressions on site and the hydrologic comparison with Fairview Park, as described in the Biological Resources section of the DEIR (4.5), no physical evidence was found to support a positive indication of wetland hydrology. This analysis and conclusions in the DEIR are supported by substantial evidence, and the City finds them to be convincing. It should also be noted that the California Coastal Act is not applicable to the proposed project site.

RESPONSE O-3-34

The comment requests clarification regarding the potential for increased erosion in the riparian areas. Please refer to Response to Comment O-3-12.

RESPONSE O-3-35

The comment states that the project may not be consistent with City of Newport Beach General Plan policy NR 10.4 and NR 10.5. Please refer to Response to Comment P-2-1.

RESPONSE O-3-36

The comment erroneously states that the ephemeral wetland should be recognized as a sensitive resource and mitigated within the proposed park. Please refer to Response to Comment O-3-16 above. As explained previously, these two areas were studied extensively, and it was determined that these areas are shallow topographic depressions within upland habitat. These areas are not considered distinct sensitive habitat, and project-related impacts to these areas would not warrant further mitigation.

RESPONSE O-3-37

The comment states that the project may not be consistent with City of Newport Beach General Plan policy NR 10.6. Please refer to Response to Comment P-2-1.

RESPONSE O-3-38

The comment states that the proposed mitigation measure (PDF-1) does not meet the CEQA standards for feasibility and implementation. The City respectfully disagrees with the opinion of the OCCNPS. The proposed project design features and mitigation measures are feasible and can be implemented by the City.

With regard to PDF 1 (i.e., PDF BIO-1), this is a project design feature that differs from a mitigation measure in that it is assumed to be part of the project as it is analyzed. The City has proposed to improve, or enhance, the quality of the wetland/riparian habitat by removing existing exotic plant species associated with the wetland and riparian habitat and then planting native riparian plants in place of the exotic plants, as identified on page 4.5-41 of the DEIR. The wetland/riparian habitat will be preserved in place. The City is not subject to any obligation to have an exotic plant removal plan

or a riparian planting plan prepared and approved prior to grading activities. However, the City is committed to removing the exotic plants from the wetland/riparian habitats in a manner that will be responsible and sensitive to the preservation of the native habitat. Removal of the exotic plant species and installation of native riparian plants will be implemented in such a way as to minimize the impacts to surrounding native vegetation, and a qualified biologist will be present to monitor this work to ensure impacts are avoided or minimized.

RESPONSE O-3-39

The comment states that Mitigation Measure 4.5.1 is incomplete and should be revised. The mitigation measure has been revised to include suggested timing and to identify specific elements to be included in the translocation plan. The proposed project design features and mitigation measures are both feasible and can be implemented by the City. Please refer to Response to Comment O-3-3 above for more details.

RESPONSE O-3-40

The comment states the two additional special-status plant species – not identified as occurring on the project site – should be included in the translocation plan required by Mitigation Measure 4.5.1. Please refer to Responses to Comments O-3-18, O-3-26, and O-3-31, above.

RESPONSE O-3-41

The comment provides six recommendations for Mitigation Measure 4.5.1. These recommendations have been incorporated into the revised mitigation measure as appropriate to address the actual project impacts. The development of a seeding or planting palette for the receptor site(s) will not be incorporated into the translocation plan, since the addition of other vegetation in the receptor site(s) would increase competition with the Coulter's saltbush, which currently occur in a rather sparsely vegetated area on site. The translocation plan will focus primarily on the salvage and translocation of individual Coulter's saltbush plants along with the associated topsoil. Please refer to Responses to Comments O-3-28 and O-3-39 regarding other recommendations that were not included.

RESPONSE O-3-42

The comment provides two recommendations for Mitigation Measure 4.5.3. Please refer to Response to Comment O-3-38 above with regard to the commenter's first bullet item. Please refer to Response to Comment O-3-16 above with regard to the commenter's second bullet item.

RESPONSE O-3-43

The comment suggests that the City should include language in Mitigation Measure 4.5.4 requiring review of the proposed landscaping plan by a qualified biologist. The City will have a qualified biologist review the final landscape plans (including the proposed planting palette) and the irrigation plans to verify that the native habitat in the preserved area will not be adversely affected by the surrounding landscaping and irrigation activities.

RESPONSE O-3-44

The comment states that Mitigation Measure 4.5.4 should also require that a biologist review the plant palette to ensure compatibility with this and other mitigation measures. Please refer to Response to Comment O-3-43 above.

RESPONSE O-3-45

The comment concludes the comment letter. The comment does not contain any substantive comments or questions about the DEIR or the analysis therein. No further response is required.

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October 20, 2

TO: Jaime Murillo, Associate Planner
Planning Department
City of Newport Beach

FROM: Environmental Quality Affairs Citizens Advisory Committee (EQAC)

SUBJECT: Comments on DEIR SCH No. 2009041010, "City Hall and Park
Development Plan", dated September 2009

EQAC is pleased to submit the following comments and questions for your consideration related to the subject DEIR. We understand that this project is of major significance to the City of Newport Beach and its citizens and we hope that our inputs will help to make this project a source of civic pride for all concerned. Our inputs are presented in order of appearance in the DEIR with appropriate section/page citations to facilitate your review.

1

4.1 LAND USE

Historical Element: The DEIR states that there are two known prehistoric archaeological sites within the proposed project site, and that the site is considered to be sensitive for subsurface archaeological and paleontological resources (DEIR, p. 4.1-13). Although these resources may be discussed in a different section, the discussion in the Land Use section of the DEIR needs to at least summarize how these archaeological and paleontological resources are being addressed or considered.

2

Arts and Cultural Element: The DEIR briefly summarizes the Arts and Cultural Element of the General Plan (DEIR, p. 4.1-14) but needs to contain an analysis of how the proposed project is consistent with that element and will further the goal of providing "improved and expanded arts and cultural facilities and programs to the community."

3

Airport Land Use Plan: The DEIR states "the project site is located within the John Wayne Airport Planning Area, and is subject to the restrictions contained in the applicable AELUP" (DEIR, p. 4.1-21). The DEIR needs to explain what those restrictions are and how they apply to the proposed project.

4

SCAG Regional Comprehensive Plan and Guide: The DEIR mentions SCAG's Regional Comprehensive Plan ("RCP) and states that the SCAG RCPG "includes a package of policies related to growth and development that seeks to coordinate infrastructure with projected population and housing growth" (DEIR, p. 4.1-21). However, the DEIR does not contain any specific analysis of how the Project will further these SCAG policies. The DEIR merely includes a conclusory statement stating "the proposed project would be consistent with SCAG policies encouraging job growth near transportation modes and promoting the use of alternative transportation" (DEIR, p. 4.1-34). There needs to be more analysis, other than just relying on the fact that the proposed project will be located near the OCTA Newport Transportation Center.

5

General Plan Consistency: Table 4.1.B in the DEIR is a General Plan Land Use Policy Consistency Analysis. Page 4.1-26 of the DEIR lists Policy LU 5.2.1 "Architecture and Site Design" yet the related analysis has nothing to do with architecture and site design, rather focusing on access to natural habitat areas and

6

viewpoints. The analysis needs to discuss whether the proposed project will “exhibit a high level of architectural and site design” consistent with the points specified in the General Plan. Likewise, Policy LU 5.4.2 is called “Development Form and Architecture” and requires that “new development ... be designed to convey a unified and high quality character in consideration of the following principles” including architectural design, signage, and building facades (DEIR, p. 4.1-28). Again, the analysis in the DEIR addresses natural habitat, open space and viewpoints. The DEIR needs to specifically address consistency with Policy LU 5.4.2. Finally, General Plan Policy LU 6.1.3. requires “architecture and planning that complements adjoining uses” (DEIR, p. 4.1-30). The DEIR states “The proposed project was designed to be consistent with the mass and scale of surrounding buildings.” The DEIR needs to elaborate on how the proposed project will be consistent with adjoining uses instead of just making a conclusory statement.

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Exemptions from Zoning Regulations: The DEIR states that “a city or county may exempt itself from the provisions of its own zoning regulations, or it may amend its Zoning Code to include a provision that the regulations shall not apply to capital improvement projects” (DEIR, p. 4.1-33). The DEIR needs to provide some authority supporting this conclusion.

9

Zoning Inconsistency: The DEIR states that the proposed Civic Center would not be consistent with the Open Space land uses assigned to that area of the Project site under Planned Community Zoning District PC-27 (DEIR, p. 4.1-33). The DEIR states that “the City proposes to take action to either exempt itself from the provisions of its own Zoning Code and the Newport Village Planned Community Development Plan (PC-27) or amend PC-27 to assign Government and Institutional uses to the area of the Central Parcel proposed for development as the Civic Center.” The DEIR should state which action the City will be taking; and if this is not yet known, how the City will determine a plan of action and on what grounds.

10

Sight Plane: The elevator at the southern end of the parking structure will extend into the Sight Plane (DEIR, p. 4.1-34). The DEIR states “this height extension would be approximately 4 ft 9 inches and 5 ft 2 inches on the north and south sides of the elevator, respectively. The overall scale of this exceedance relative to the Sight Plane is minimal and would not significantly impact public views.” The DEIR needs to substantiate this conclusion by explaining why this exceedance is minimal and would not impact public views.

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Traffic: The DEIR states that one intersection (Newport Boulevard southbound ramps/West Coast Highway) is projected to operate at an unacceptable level of service (DEIR, p. 4.1-38). It is not clear why this intersection is relevant to the Project, other than its location to the north of the existing City Hall site. The DEIR should discuss traffic issues near the proposed Civic Center site, including along MacArthur, San Miguel and Avocado.

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Cumulative Impacts. The DEIR concludes that “the conversion of the proposed project site from vacant land to a passive park and Civic Center complex would not result in a potential inconsistency with the City General Plan or other land planning documents...” (DEIR, p. 4.1-38). This statement is not accurate because the DEIR itself stated that the proposed Civic Center would not be consistent with the Open Space zoning designation assigned under the PC-27 Zoning District (p. 4.1-33).

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4.2 TRAFFIC AND CIRCULATION

San Miguel Drive Geometric Improvements Analysis, pp 4.2-39,40, states that “ This section analyzes the effects of proposed improvements to San Miguel Drive. The project includes..... following geometric improvements..... as part of the proposed project:

- A third eastbound left-turn lane from San Miguel Drive onto MacArthur Boulevard
- A third eastbound through lane at San Miguel Drive/Avocado Avenue
- A defacto eastbound right-turn lane from San Miguel Drive onto MacArthur Boulevard
- A defacto westbound right-turn lane from San Miguel Drive onto Avocado Avenue”

As shown in Table 4.2.D, all of the study intersections currently operate at an acceptable LOS D.

While the study intersections are calculated to operate at an acceptable LOS, it should be noted that the MacArthur Boulevard/San Miguel Drive and Avocado Avenue/San Miguel Drive intersections have experienced operational issues in the past due to the combination of the short spacing between the intersections and heavy turning movements.

No Data was provided that indicates the widening of San Miguel in this short of distance will be effective in improving the congestion in this impacted intersection. Please provide data of a specific intersection where this mitigation concept of adding lanes was successful in short a short area of roadway.

On p. 4.2-39, the DEIR asserts that “Sight distances at the project entrance at Avocado Avenue and Farallon Drive will need to be confirmed as adequate relative to the vertical grade of Farallon Drive. Therefore, a detailed sight distance analysis must be prepared for the proposed project entrances, especially the main entrance at Avocado Avenue and Farallon Drive, to ensure that safe access and egress are provided (Mitigation Measure 4.2.3(sic)). The sight distance analysis..... indicate limited use areas (i.e., low-height landscaping) and on-street parking restrictions (i.e., red curb), if necessary. These modifications would be undertaken to provide adequate sight distance”..

Sight distances for the project entrance are “assumed” to be adequate, although a detailed sight distance analysis has not been done for the proposed location. If the distances do not meet the guidelines of the city, will this cause all traffic criteria to be revised? What other options are available?

On p. 4.2-29, the DEIR states that “Mitigation Measure 4.2.1 requires restriping of the northbound Bayside Drive approach to the East Coast Highway intersection..... With the restriping, a.m. and p.m peak-hour v/c..... would be 0.89 and 0.86, respectively. This intersection would operate at LOS D in the a.m. and p.m. peak hours. Therefore, with implementation of Mitigation Measure 4.2.1, the cumulative traffic impacts at Bayside Drive/East Coast Highway would be reduced to less than significant during the a.m. peak hour for forecast General Plan build out with project traffic”.

. Does this Mitigation take into account the proposed Bayside Dr. roadway re-striping per the city’s website under General Service’s improvement projects?

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The proposed Civic Center project is providing 475 parking spaces using traffic studies only based on the number of projected employees [295] or the ULI 361 parking space criteria? Referencing Table 4.2U, City parking requirements, the current number of city vehicles is 37. With the increase in proposed number of employees, will the number of city vehicles increase as well? Analysis was only done with today's actual count of vehicles and actual visitor counts based on current employee headcount. Shouldn't parking demand be increased based on realistic escalations of these two factors (city vehicles and future visitors)?

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4.3 AESTHETICS

Visual Character- The visual character of the project site will be altered from scrub landscape to regulated park paths and buildings. Further open space in the City will be eliminated.

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Scenic Vistas- The view corridors from various points on surrounding streets appear to be intact. It does not appear that views from the northern portion will be affected. Presently, a grove of pine and palm trees cuts into a portion of the scenic vista. Is the grove to remain?

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There is an open culvert running through the northern portion of the property. It is unsightly, as well as being a potential hazard for park visitors. Will the culvert be covered or otherwise isolated from the public?

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The central portion of the property will have substantial alteration to its character. A building will block the vista afforded from the plateau on the property. An elevator shaft will extend 5 feet into the sight plane of adjacent neighbors. Is it necessary for the elevator to extend into the sight plane?

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Although there are no "designated scenic resources" at this site, the two arroyos are verdant and offer an inviting vista of shade. The native plants used to replace the present growth need to be similarly appealing.

23

Within the wetland area, there is a very large open drainpipe. It appears to be a dangerous hazard. Is there a plan to cover it in some manner?

24

Onsite Views- In the northern portion, a dog park is planned on 1/2 acre. This seems too small an area for this purpose. The area will soon be stripped of all vegetation. What criteria were used to determine the size of the dog park?

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Also in the northern portion, the San Miguel Overpass Bridge will limit the vista because of its height. If the plan is to build the bridge 20 feet to the bottom of the bridge, it will project at least 4 or 5 feet above that height when complete.

26

New Sources of Light and Glare- Exterior lighting is dark sky compliant. The park portion of the properties will have no nighttime lighting. Has the potential for impacts to neighborhood security been analyzed?

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24 foot light poles in the Civic Center and Parking Structure would cast light and glare onto the adjacent neighborhood. Is the height of the lights dictated by safety or code issues? Do the lights need to be this tall?

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4.4 AIR QUALITY

The DEIR adequately covers key issues related to air quality during the construction and operational phases of the project. However, it is not clear from the DEIR whether there will be visible plumes of exhaust from project sources during the operational phase. Are any such visible effects expected from this project and, if so, what mitigation has been employed to minimize them?

29

Have provisions been considered for flexible facilities to accommodate a variety of alternative energy vehicles?

30

Where will the Library Drop off boxes be located? Has the impact been measured of people driving into the site/Parking Garage and parking to reach a drop off box? The current options require either entering and circling the parking lot which generates more emissions and congestion, or exiting one's car on Avocado, which is a safety concern. Has a 'mailbox' drop off been considered?

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4.5 BIOLOGICAL RESOURCES

Park Design Guidelines- The Civic Center Plan Design Guidelines, item f. call for a 'Natural park, i.e. one that is reflective of the region's natural habitats, and not significantly manicured nor oriented towards turfgrass'. The Civic Center Plan/EIR calls for removal of 11 acres of native habitat, with 1+ acre retained. Some of this is in the area foreseen for the City Hall, Parking Garage and entrance areas. Some of this, however, is in the 5.6 acre Park section, where the highest quality, intact Coastal Sage Scrub (CSS) plant communities currently exist. The areas currently marked for preservation are highlighted in Appendix D: Biological Assessment Report, Page 30 - Figure 8, Page 31 - Plant Communities, Table B.

The areas in Appendix D: Biological Assessment Report, Page 30, Figure 8, show that the Wetlands habitat would be preserved. However, immediately adjacent, the Civic Center site supports extensive Coastal Sage Scrub habitat, from a range of plant communities. The Park plan as proposed would remove significant, well established natural Coastal Sage Scrub habitat. For example, in the northeastern section, adjacent to the wetlands, supports a stand of Prickly Pear Cactus, (Coastal Prickly Pear (*Opuntia littoralis*), a signature CSS species.

32

Please clarify the need for the removal of the natural plant communities. Do options exist to support the planned amenities (i.e. trails, bird blind) while maintaining the natural plant communities? What grading is required to install the amenities, and what is optional?

Landscaping Plan- A comprehensive landscaping plan, which is consistent with Design Guideline F and identifies plant communities and species to be established,

33

should be completed prior to project approval to determine the potential impact of the landscaping on wildlife, current and future. This plan should include mitigation measures for loss of native habitat.

33

Soils (section 3.11, p.3-65)- Soils would be removed ... and would be 'amended to make it suitable for plantings'. The existing site proposed for the Park area supports CSS communities. What is the basis for the determination that the existing soil will not support plantings, and that the soil must be 'amended to make it suitable for plantings'? How can this determination be made without a landscaping plan in place?

34

The park design calls for plantings reflective of the region's natural habitat and plant communities. Pages 4.5-8-15 discuss the condition of the existing plant communities. The majority of the plant communities received a rating of good; (Sagebrush-Mulefat 2.3.6.1), Sagebrush-Grassland Ecotone/Sere (2.8.1), Southern Cactus Scrub (2.4), Deerweed (2.8.6), Freshwater Marsh (6.4), Willow Riparian Scrub (7.2) or Moderate; Coyote Brush Scrub (2.3.9), Mixed Scrub (2.3.10), Mulefat Scrub (7.3). The Plan calls for replanting of species, e.g. Mulefat in areas of the Park which would be graded. Is it possible to adjust the grading plan to accommodate the planned paths/amenities and maintain the soils for these species?

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Grading and removal of existing topsoil for new landscaping would eliminate existing viable soil and increase costs. Has a cost/benefit analysis been completed including;

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-Grading for specific amenities with maintenance of existing plant communities where possible.

-Grading and replanting of all vegetation, in accordance with Design Guidelines?

37

Newport Beach General Plan, Natural Resources Element 10.3, Siting of New Development states, ' Require that development be located on the most suitable portion of the site and designed to ensure the protection and preservation of natural and sensitive site resources that provide important water quality benefits. (Policy HB 8.16) (Imp 2.1, 6.1). Complete replacement of the existing natural plant communities with new landscaping would require extensive watering and maintenance to establish native plantings in the areas outside of the perimeter identified in Page 30, Figure 8. Though irrigation will be required with any project, replacement of existing viable habitat would increase the amount of potential water runoff next to the wetlands areas marked for preservation, which must be managed, as well as the cost.

38

The Civic Green (section 3.5.5, p. 3-43)- The DEIR states that the Civic Green will be 'landscaped with turf, ornamental species and areas of paving'. Please clarify which ornamental species are envisioned. What is meant by "Ornamental Species"? Is the intent to use Native Plantings in an ornamental setting and to achieve desired aesthetic objectives.

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Separately, the use of subtropical species is identified for the Civic Green. Please explain:

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1) which subtropical species are under consideration for use and where

2) how this is consistent with the natural character of the site and 'reflective of region' (Design Guidelines)

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3) why they would be used rather than local species

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4) cost of managing subtropicals on this site: water/ maintenance compared to other options. | 43

Vernal Pools - The conclusion that the site does not contain Vernal or ephemeral pools, based on comparison with Fairview Park in Costa Mesa, seems a broad generalization. The soil and site conditions may be similar, but are not the same. The analysis for the Civic Center site should be conducted over a period of time. Studies which were conducted in the past may also provide information about the existence of vernal pools on the site. | 44

Dog Park
Please analyze the impact of dogs in the main park section, and proposed management plans. What policies will be established for dog activity in the public areas and public buildings? | 45

4.7 GEOLOGY AND SOILS

4.7.8. Mitigation Measures (p. 4.7-15)
The DEIR references the Geotechnical Study prepared by Leighton Consulting Inc. The language used under Mitigation Measure 4.7.1. subheading “Subsurface Drainage”, page 4.7-16 does not reflect the conclusions and recommendations in Leighton’s report. | 46

“Subterranean Slab Floor Design” - Page 21, Section 5.7.
The DEIR states, “in the unlikely event ground water is encountered during constructions and is at a depth that would impact project structures (post construction) ... “ This should be amended to reflect the language in the Geotechnical Study “The subterranean floor slabs planned for the proposed development will be in close proximity to at least the groundwater table encountered and may be periodically submerged.” | 47

Note: Leighton’s report identifies a possible obstacle to obtaining Storm Water design credits under the LEED-NC Silver Certification. Under 3.3, “Percolation Characteristics”, the percolation test performed indicates that the bedrock at the tested depth has a percolation rate of less than 0.02 gallon per day, per square foot (gal/day/sq. ft.). Therefore, an on-site infiltration system may not be feasible. | 48

4.8 GLOBAL CLIMATE CHANGE (GCC) AND GREENHOUSE GAS(GHG) EMISSION

Does the "more than 6,000 metric tons of CO2e per year" estimate also include all 8 elements of the project described on page 1-2? If so, it would be instructive to break out the existing Library site's GHG contributions and weigh these with the additional (if any) contributions that will be made by the rebuilt Library portion of the project. | 49

4.10 HYDROLOGY AND WATER QUALITY

Will there be any significant storage of excavated material on site during excavation of the project? If so, how extensive will that storage be and what provisions are included to prevent contaminated run-off?

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5.0 ALTERNATIVES

INTRODUCTION (5.1.1)

1. Page 5-2; numbered bullet #1 in this section: **Project Objectives** – Since approval of Measure B in February 2008 calling for the development of the City Hall and Park at the proposed site, no alternative would seem possible. Why is it even necessary for there to be an analysis of alternative sites? Is this section of the DEIR specifically required under the CEQA guidelines?
2. Page 5-5; Table 5.A: **Geographically Unsuitable Sites** – The DEIR states that possible sites numbers; 6, 7, 8 and 13 are unsuitable because they are too far removed from most of the city’s population and therefore eliminated them from further consideration. However no standards or criteria for this analysis are provided in the DEIR. Please provide the basis for these findings.
3. Page 5-5; Table 5.B: **Technically or Practically Infeasible Sites** – The DEIR states that possible site number 11 (Camelback Building) is infeasible due to “Problematic assess issues.” The basis for this determination is not clarified within the DEIR and is not as self evident or clear-cut as some of the other reasons provided for rejection of the other sites. Please provide further explanation for this finding.
4. Page 5-7; Footnote ¹: **Recommendations of the City Hall Site Committee** – The DEIR states in a footnote that the proposed City Hall and Park site, was not one of the Committee’s two final site recommendations to the City Council, but rather that the combination of the “north” and “central” parcels into one large site was made subsequently. The DEIR does not elaborate on how this recommendation came about or why the City Hall Site Committee failed to recommend this option initially. Please provide further background information on circumstances that lead to the proposal that was eventually accepted.

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EXISTING ZONING ALTERNATIVE (5.4.2)

Page 5-16; second to last and last paragraphs: **Traffic Circulation** – Part A –The DEIR states that if San Miguel Drive was used as part of the construction route there would be potentially significant impact, therefore mitigation would be necessary to be sure that construction material were not delivered by this route. The DEIR does not clarify the alternative route. Please provide details regarding the route planned to mitigate the significant impact.

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Part B – The DEIR states that the Existing Zoning Alternative would result in far fewer trips per day and therefore NOT require the restriping of the intersection of

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1. Bayside Drive & East Coast Highway. This intersection is almost 2 miles from the proposed City Hall & Park site. The DEIR does not explain why restriping in this location is necessary. ↑ 56

2. Page 5-24; second full paragraph: **Public Services, Utilities and Service Systems** – The DEIR states that the Existing Zoning Alternative’s use of water would be greater than that of the proposed project. This conclusion is not supported by data within the DEIR nor does it appear to make common sense. The proposed project would include the large Civic Green and landscaping around the various new buildings plus essentially the same passive park. How could all these improvements use less water than the passive park alone? Please explain this conclusion. 57

CORPORATE PLAZA ALTERNATIVE (5.4.3)

3. Page 5-42; first complete paragraph: **Public Services, Utilities and Service Systems** – The DEIR once again states that the Existing Zoning Alternative’s use of water would be greater than that of the proposed project. This conclusion is not supported by data within the DEIR nor does it appear to make common sense. The proposed project would include the large Civic Green and landscaping around the various new buildings plus essentially the same passive park. How could this improvements use less water than the passive park alone? Please explain this conclusion. 58

4. Page 5-43; first complete paragraph: **Recreation** – While noting that this alternative would not realize the recreation goals associated with the Civic Green and Library expansion, the DEIR never-the-less concludes that the Corporate Plaza West Alternative and the proposed project would have different but comparable impacts related to recreation. This conclusion appears wrong on its face. The Civic Green and library expansion produce many new recreation options absent in the Corporate Plaza Alternative. Please provide further explanation of how this conclusion was reached. 59

5. Page 5-43; third paragraph, third sentence: **Recreation** – The DEIR states the Corporate Plaza Alternative site “...would not accommodate the Fire Station.” When was incorporation of a fire station ever a part of this alternative’s or the planned project’s goals? Please explain this statement. 60

MODIFIED CONSTRUCTION SCHEDULE ALTERNATIVE (5.4.5)

6. Page 5-65; last complete paragraph on page: **Global Climate Change** – The DEIR states “...that the proposed project would result in a significant unavoidable cumulative impact related to activities that may impede achievement of the State’s goal for reducing GHG emissions to 1990 levels by 2020.” The alternative would only spread out the emissions but not mitigate them. The analysis seems to end there i.e.: nothing can be done, therefore, ignore the matter further. The DEIR offers no further comment; is this acceptable? Is this avoidance OK because of the report’s conclusion that the No Growth/No Development Alternative is the best option for mitigating potentially significant environmental impact? 61

IDENTIFICATION OF ENVIRONMENTALLY SUPERIOR ALTERNATIVE (5.5)

Page 5-70 & 71; **Conclusions** – The DEIR states that since the No Project/No Development Alternative is the most favorable to mitigate against potentially significant ↓ 62

environmental impact of the proposed project, CEQA guidelines require that it suggest the environmentally superior alternative among the remaining alternatives. The DEIR goes on to consider some of the alternatives and appears to conclude that the Existing Zoning Alternative is the next best alternative. Absent however from the DEIR’S discussion is any mention of either the Reduced Project or Modified Construction Schedule Alternatives. Why are these two alternatives not mentioned in this all-important concluding section?

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6.0 LONG-TERM IMPLICATIONS OF THE PROJECT

Section 6.2.4, Precedent-Setting Action, page 6-4, states that “the proposed project does not propose any precedent-setting actions..... encourage other projects ...”. However, the proposed project is being built on land that was once designated as “Open Space” and has been changed to allow this project. This should be recognized as precedent-setting in the EIR since future land use designation change requests could refer back to this project for justification.

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7.0 MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure 4.2, PDF-TRA-1, page 7-3: What is the justification for a pedestrian over-crossing? Expense and sight line interference are negative impacts? What are the benefits of this bridge? Has a pedestrian traffic analysis been done, anticipating the pedestrian bridge traffic flow and need?

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Mitigation Measure 4.4.5, page 7-8: In the last sentence of this paragraph, the “overall length of the construction period” is unclear as to intent. Does this lengthen the construction day (already 7AM to 6:00 PM, M-F per page 7-34) or the total proposed project construction period in weeks and/or months?

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EQAC appreciates the opportunity to participate in the review and evaluation of this landmark project for the City of Newport Beach.

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ENVIRONMENTAL QUALITY AFFAIRS CITIZENS COMMITTEE

LETTER CODE: O-4

DATE: October 20, 2009

RESPONSE O-4-1

The comment is introductory and does not contain any substantive comments or questions about the Draft Environmental Impact Report (DEIR) or the analysis therein. No further response is required.

RESPONSE O-4-2

The comment states that the Land Use section of the DEIR should summarize how the potential for subsurface archaeological and paleontological resources on the proposed project site is being addressed or considered in subsequent Environmental Impact Report (EIR) sections.

Analysis of potential impacts to archaeological and paleontological resources is contained in Section 4.6, Cultural Resources, of the DEIR and, as shown in Table 4.1.A, further discussion of the City's General Plan can be found in that DEIR section. The DEIR states that "regulations and polices from the City's General Plan are also discussed in applicable topical sections of the EIR, where policies related to physical effects are addressed." The text on page 4.1-13 provides a summary of the City's Historical Resources Element. The California Environmental Quality Act (CEQA) does not require that all subsequent DEIR sections and the analysis therein be summarized in the Land Use analysis.

Further, the State CEQA Guidelines require that an EIR discuss potential *inconsistencies* with applicable plans. The proposed project is consistent with applicable General Plan goals and policies related to historical, cultural, and archaeological sites and structures. The City has recognized and the DEIR has proposed mitigation to address potentially significant impacts to known and unknown archaeological and paleontological resources. The City has also notified cultural organizations, including Native American groups, of the proposed development.

RESPONSE O-4-3

The comment states that the DEIR needs to contain an analysis of how the proposed project is consistent with the Arts and Cultural Element and will further the goal of providing improved and expanded arts and cultural facilities and programs to the community.

Section 15125(d) of the State CEQA Guidelines requires that an EIR discuss potential *inconsistencies* with applicable plans. The focus of the EIR should, as well, be on inconsistencies that have the potential to result in physical impacts on the environment. For example, see CEQA Guidelines Section 15131 (social and economic effects are not significant effects unless they result in physical changes in the environment) and Section 15204 (comments on EIRs should focus on possible impacts on the environment and mitigation for same). The City's Arts and Cultural Element encourages the incorporation of public art into major public projects. As stated in Chapter 3.0, Project Description, of the DEIR, the proposed park would include areas for the placement of public art. In addition, the

events and activities held in the City Hall Community Room may include, but are not limited to, children's story hour, puppet shows, book discussion groups, film screenings, receptions for events and authors, evening dinner events, and Arts Commission events such as plays and art shows. Therefore, the proposed project would be consistent with the City's General Plan goal of providing "improved and expanded arts and cultural facilities and programs to the community."

RESPONSE O-4-4

The comment states that the DEIR should explain restrictions pertaining to the project site's proximity to John Wayne Airport and how the restrictions apply to the proposed project. Information pertaining to restrictions contained in the John Wayne Airport Environs Land Use Plan (AELUP) and how those restrictions apply to the proposed project site is provided in Section 4.9 of the DEIR.

RESPONSE O-4-5

The comment states that the DEIR needs to include more analysis of the Southern California Association of Governments' (SCAG) Regional Comprehensive Plan (RCP). The RCP is an advisory plan prepared by SCAG that addresses important regional issues like housing, traffic/transportation, water, and air quality. The RCP serves as an advisory document to local agencies in Southern California for their information and voluntary use for preparing local plans and handling local issues of regional significance. The goal of the RCP is to successfully integrate land and transportation planning and to achieve land use and housing sustainability by implementing Compass Blueprint 2% Strategies by:

- Focusing growth in existing and emerging centers and along major transportation corridors;
- Creating significant areas of mixed-use development and walkable, "people-scaled" communities;
- Providing new housing opportunities, with building types and locations that respond to the region's changing demographics;
- Targeting growth in housing, employment, and commercial development within walking distance of existing and planned transit stations;
- Injecting new life into underused areas by creating vibrant new business districts, redeveloping old buildings, and building new businesses and housing on vacant lots;
- Preserving existing, stable, single-family neighborhoods; and
- Protecting important open space, environmentally sensitive areas, and agricultural lands from development.

Information pertaining to SCAG's RCP is found on pages 4.1-21 and 4.1-34 of the DEIR. It is important to note that Section 15126(d) of the State CEQA Guidelines requires that an EIR discuss potential *inconsistencies* with applicable plans.

The DEIR states that the City of Newport Beach is identified in the RCP as an opportunity area for priority residential infill areas. The DEIR also states that not all RCP policies apply to every project because the scope of the RCP is a regional plan covering six counties. The DEIR goes on to discuss SCAG policies that encourage the balance of job growth and housing opportunities near transit

opportunities. The DEIR specifically states that the City encourages the use of alternative transportation, including public transportation and bicycles, and would continue to do so at the proposed City Hall. The DEIR also points to specific project design features (PDF GHG-2) that commit the City to seeking new opportunities to promote commuter carpooling and transit use. Therefore, the proposed project would further SCAG’s goal of integrating land and transportation planning. Although not required by CEQA, Table A provides a consistency analysis with each of the RCP goals listed above. The ultimate determination of whether the proposed project is consistent with these policies must be made by the City Council. As stated in the DEIR, however, the proposed project can reasonably be found to be consistent with SCAG’s RCP goals and policies as follows:

Table A: SCAG RCP Land Use Goals Consistency Analysis

Land Use Goal	Consistency Analysis
Focusing growth in existing and emerging centers and along major transportation corridors.	Potentially Consistent. As stated in the DEIR, the proposed project site is located adjacent to the Newport Transportation Center and near Fashion Island and Newport Center, both of which are existing employment centers.
Creating significant areas of mixed-use development and walkable, “people-scaled” communities.	Potentially Consistent. As stated in the DEIR, the proposed project includes trails, new sidewalks, and a pedestrian bridge to link the northern and central portions of the project site.
Providing new housing opportunities, with building types and locations that respond to the region’s changing demographics.	Neutral. The proposed project is not a housing development and is not located in an area zoned or planned for residential development.
Targeting growth in housing, employment, and commercial development within walking distance of existing and planned transit stations.	Potentially Consistent. As stated in the DEIR, the proposed project site is located adjacent to the Newport Transportation Center and near Fashion Island and Newport Center, which both have substantial transit connections. The Newport Transportation Center is a regional transit destination and park-and-ride center.
Injecting new life into underused areas by creating vibrant new business districts, redeveloping old buildings, and building new businesses and housing on vacant lots.	Neutral. As stated in the DEIR, the proposed project site is located near Fashion Island and Newport Center, which are already vibrant business districts.
Preserving existing, stable, single-family neighborhoods.	Neutral. The proposed project is not located in a residential neighborhood and will not disrupt or divide any existing residential neighborhood.
Protecting important open space, environmentally sensitive areas, and agricultural lands from development.	Potentially Consistent. As stated in the DEIR, the proposed project includes a 14.3-acre park and preserves on-site wetlands. There are no agricultural lands on the project site.

DEIR = Draft Environmental Impact Report

RESPONSE O-4-6

The comment states that the consistency analysis for Policy LU 5.2.1, Architecture and Site Design, does not pertain to architecture and site design. Again, the ultimate determination of whether the

proposed project is consistent with this policy must be made by the City Council. The focus in the EIR is on whether the project is inconsistent with goals and policies in the General Plan and if that inconsistency would result in physical environmental impacts. As stated in the DEIR, however, the proposed project can reasonably be found to be consistent with Policy LU 5.2.1. The consistency analysis for Policy LU 5.2.1 in the DEIR points to several examples of the “high level of architecture and site design” aspects of the project, including: (1) the integration of the existing Library with the proposed structures; (2) preservation of on-site wetlands; (3) proposed walkability of the site; and (4) architectural design and construction that conserves energy and water such that the proposed structures would qualify for LEED-New Construction (NC) Silver certification. The discussion of the access to natural habitat areas was included to explain why walkability and the preservation of the wetlands is indicative of high-level site design. In addition, the proposed Civic Center includes architectural features to enhance the visual quality of the site, including the Council Chamber sail and the broad wave-form roof over the City Hall administration building and community room.

RESPONSE O-4-7

The comment states that the DEIR should more clearly address Policy LU 5.4.2, which pertains to development form and architecture. As noted above, the ultimate determination of whether the proposed project is consistent with this policy must be made by the City Council. The focus in the EIR is on whether the project is inconsistent with goals and policies in the General Plan and that inconsistency would result in physical environmental impacts. As stated in the DEIR, however, the proposed project can reasonably be found to be consistent with Policy LU 5.4.2. The proposed project is being designed to function as an integrated Civic Center. As such, the proposed project structures would convey a unified and high-quality character as evidenced by the proposed building materials, landscaping surrounding the proposed parking structure, integration of and connection between on-site uses, and orientation of buildings around the proposed Civic Green. In addition, the proposed Civic Center includes architectural features to enhance the visual quality of the site, including the Council Chamber sail and the broad wave-form roof over the City Hall administration building and community room.

RESPONSE O-4-8

The comment requests elaboration regarding how the proposed structures would be consistent with the mass and scale of surrounding buildings. Again, the ultimate determination of whether the proposed project is consistent with LU Policy 6.1.3 must be made by the City Council. The focus in the EIR is on whether the project is inconsistent with goals and policies in the General Plan and that inconsistency would result in physical environmental impacts. As stated in the DEIR, however, the proposed project can reasonably be found to be consistent with this policy. The proposed project is being designed to function as an integrated civic center. As such, the proposed City Hall is proposed to be integrated with and to complement the existing Library uses and the proposed park uses. Refer to Response to Comment O-4-7. Further, the City Hall administration building and Council Chamber have been designed at the same scale and mass as the existing Library and would be consistent with the surrounding commercial office structures west of Avocado Avenue that are currently two or more stories in height. Therefore, the proposed project would be consistent with adjoining uses.

RESPONSE O-4-9

The comment requests supporting information for the idea that a City may exempt itself from the provisions of its own Zoning Code. The City of Newport Beach, like all cities and counties, is exempt from its own zoning laws (*Sunny Slope Water Company v. City of Pasadena* [1934] 1 Cal.2d 87, 98). The City may also amend its zoning laws at any time to exclude certain projects, such as a capital improvement project (California Constitution Article 11, Section 7). Therefore, the City may choose to exempt itself from the existing zoning laws or may amend the existing zoning laws to exclude capital improvement projects. Moreover, it is important to remember that the voters of the City of Newport Beach approved Measure B, which amended the Charter to include Section 425: "City Hall, and the administrative offices of the City of Newport Beach, and related parking, shall be located on and within the 12.82 acres of real property owned by the City of Newport Beach described as Parcel 3 of Parcel Map No. 90-361 in the City of Newport Beach, which is bounded by Avocado Ave. on the west, San Miguel Dr. on the north, and MacArthur Blvd. on the east, and the Newport Beach Central Library on the south." As the Court of Appeal recognized in a specific challenge to Measure B, "as a charter amendment, Measure B supersedes any conflicting provisions of the general plan or the municipal code." (See *Beek v. City of Newport Beach* (2009) 2009 Cal. App. Unpub. LEXIS 5001, * 14.) After the voters adopted Measure B, the City amended the General Plan to be consistent with the Charter.

RESPONSE O-4-10

The comment states that the DEIR should state whether the City will exempt itself from the provisions of its own Zoning Code or amend PC-27. While the Newport Beach Municipal Code does not currently include a provision to exempt capital improvement projects such as the new Civic Center and Park project, the proposed Zoning Code Update, currently in preparation, does include such a provision for capital improvement projects undertaken in compliance with the City Charter. Rather than prepare an amendment in advance of the Zoning Code Update or prepare a Planned Community Development Plan amendment to regulate these civic facilities within the Newport Village Planned Community Development Plan, staff will recommend that the City Council find this project exempt from the Zoning Code and Planned Community Development Plan. Staff will make this recommendation to the City Council when they review and take action to approve the final plans for the project (tentatively scheduled for the November 24, 2009, City Council meeting).

RESPONSE O-4-11

The comment states that the DEIR should provide additional substantiation for the conclusion that the exceedance of the sight plane (for the two elevator shafts on the proposed parking structure) would be minimal and would not impact public views. This comment generally implicates two areas of concern: land use consistency and aesthetics.

With regard to the former, as noted elsewhere, the ultimate determination of whether the proposed project is consistent with LU Policy 1.6 must be made by the City Council. As explained in the DEIR, the proposed project can reasonably be found to be consistent with this policy.

The statement that the overall scale of this exceedance relative to the Sight Plane is less than significant is based on the following facts:

- The overall Newport Center Sight Plane, as illustrated on Figure 4.3.13 of the DEIR, measures approximately 2,853,407 square feet (sf) in area.
- The portion of the Sight Plane applicable to the project site measures approximately 896,541 sf in area.
- The area of the elevator that exceeds the Sight Plane is approximately 101 sf (11 feet [ft], 4 inches by 8 ft, 11 inches). This area equates to 0.0035 percent of the overall Newport Center Sight Plane, or 0.012 percent of the Sight Plane area applicable to the project site.
- This projection into the Sight Plane is consistent with an existing exception to the portion of the Sight Plane applicable to the Corporate Plaza West Planned Community (Ordinance No. 1371), which includes a provision for minor penetrations into the Sight Plane, including elevator penthouses. The projection of the elevator above the Sight Plane is also generally consistent with the exception to the height limits that exists in the City's Zoning Code (Section 20.65.070.B), which permits elevator shafts to exceed the height limit by 5 ft.

The statement that the elevator projection would not impact public views is based on the discussion and analysis in Section 4.3, Aesthetics, of the DEIR. As stated in Section 4.3, view simulations were prepared illustrating the views from public vantage points in order to study and communicate the potential visual changes associated with the project. As illustrated in the view simulations prepared for the project, the elevator shaft is a minor projection into the overall view corridor and does not preclude, substantially impair, or inhibit the existing ocean or harbor views.

RESPONSE O-4-12

The comment states that it is unclear why the Newport Boulevard ramps/West Coast Highway intersection is relevant to the proposed project. The discussion of the Newport Boulevard southbound ramps/West Coast Highway intersection occurs under the discussion of land use compatibility and is intended to provide a summary of the project's trip generation and results of the traffic impact analysis that was prepared for the proposed project. This intersection is mentioned because it is the only intersection projected to operate at an unacceptable level of service in the "with project" traffic conditions for forecast year 2013. Refer to Section 4.2, Traffic and Circulation, for additional information regarding potential project impacts related to traffic.

RESPONSE O-4-13

The comment states that the DEIR should discuss traffic issues near the proposed project site, including along MacArthur Boulevard, San Miguel Drive, and Avocado Avenue. The relevant analysis is included in the DEIR. Refer to Section 4.2, Traffic and Circulation, for additional information regarding potential project impacts related to traffic and a discussion regarding traffic and circulation on MacArthur Boulevard, San Miguel Drive, and Avocado Avenue.

RESPONSE O-4-14

The comment requests clarification of a statement in the Cumulative Impacts discussion of Section 4.1, Land Use. The discussion will be clarified in the Final EIR. The City proposes to either exempt

itself from the provisions of its own Zoning Code or amend PC-27. Upon implementation, the proposed project would not result in an inconsistency with the City's Zoning Code or other land planning documents. As noted above, moreover, it is important to remember that the voters of the City of Newport Beach approved Measure B, which amended the Charter to include Section 425: "City Hall, and the administrative offices of the City of Newport Beach, and related parking, shall be located on and within the 12.82 acres of real property owned by the City of Newport Beach described as Parcel 3 of Parcel Map No. 90-361 in the City of Newport Beach, which is bounded by Avocado Ave. on the west, San Miguel Dr. on the north, and MacArthur Blvd. on the east, and the Newport Beach Central Library on the south." As the Court of Appeal recognized in a specific challenge to Measure B, "as a charter amendment, Measure B supersedes any conflicting provisions of the general plan or the municipal code." (See *Beek v. City of Newport Beach* (2009) 2009 Cal. App. Unpub. LEXIS 5001, * 14.) After the voters adopted Measure B, the City amended the General Plan to be consistent with the Charter. An amendment or exception to the Zoning Code would eliminate the existing inconsistency between Measure B and the Zoning Code rather than create a new inconsistency.

RESPONSE O-4-15

The comment erroneously states that no data is provided in the DEIR to indicate that the widening of San Miguel would be effective in improving congestion at the intersections of MacArthur Boulevard/San Miguel Drive and Avocado Avenue/San Miguel Drive. It is important to recognize that these changes are not needed to remedy project impacts. Rather, they are part of the project and are designed to remedy existing operational conditions. Moreover, there is evidence in the DEIR showing that these improvements will remedy the operational conditions. The provision of an additional eastbound left-turn lane from San Miguel Drive onto MacArthur Boulevard, an additional eastbound through lane at the San Miguel Drive/Avocado Avenue intersection, and de-facto right-turn lanes on San Miguel Drive would increase the storage capacity of critical movements at the San Miguel intersections, particularly in regard to the eastbound left-turn lane from San Miguel Drive onto MacArthur Boulevard. The additional storage capacity at this location would help to prevent queue spillback through the San Miguel Drive/Avocado Avenue intersection. As shown in Table 4.2.T of the DEIR, the LOS analysis indicates that a capacity enhancement is achieved in both the a.m. and p.m. peak hours, with the more substantial improvement occurring during the p.m. peak hour. The proposed geometric improvements would result in enhanced roadway capacity.

RESPONSE O-4-16

The comment questions what would happen if the proposed project entrances do not meet City criteria for sight distance and whether this would cause all traffic criteria to be revised. As stated in the DEIR, if the project site entrances do not meet City criteria for sight distances, the sight distance analysis will identify limited use areas (e.g., low-height landscaping) and on-street parking restrictions (e.g., red curb) as necessary. These restrictions are undertaken to provide adequate sight distance, and no modification of traffic criteria would be necessary. Please refer to DEIR page 4.2-39. The comment does accurately note that Mitigation Measure 4.2.3 is inaccurately referenced as 4.2.2 at this page in the EIR. This reference is corrected in the Final EIR so that the reference is to Mitigation Measure 4.2.3.

RESPONSE O-4-17

The comment asks whether Mitigation Measure 4.2.1 takes into account the proposed Bayside Drive roadway restriping listed on the City's website under General Services improvement projects. The Bayside Drive project listed in the Capital Improvement Program does not affect the subject intersection.

RESPONSE O-4-18

The commenter questions the parking counts used in the EIR. The parking count methodology is detailed in the EIR on pages 4.2-41 to 4.2-43. The comment also asks whether the number of City vehicles will increase as a result of an increase in City employment and whether parking demand should be calculated based on projected increases in the number of City vehicles and future visitors. It is not anticipated that the number of City vehicles would increase with the build-out of the proposed project; however, the parking demand calculations for the proposed project did take into account possible increases in City vehicles and future visitors.

The DEIR employed two distinct methodologies to calculate parking demand, a code-based methodology and a demand-based methodology, both detailed in the DEIR on pages 4.2-41 to 4.2-43. The parking demands associated with future City vehicles and visitors are assumed within both methodologies used to calculate parking demand.

Using the code-based methodology, the projected peak parking demand for the City Hall component of the project was calculated using a parking ratio for Governmental Offices (1 space/300 sf), which accounts for employee, City vehicles, and customer parking demands.

Using the demand-based methodology, actual observed parking demands of the existing City Hall were used to establish a peak parking demand ratio (1.11 spaces per employee), which accounts for employee, City vehicle, and customer parking demands.

In addition, although parking for City vehicles are accounted for in both of the methodologies, the existing 37 City vehicles were added to the total projected parking demand to provide a more conservative estimate of future total parking demand. Therefore, based on both the City-Municipal-Code-based parking assessment and the demand-based parking assessment of parking demand for the current City Hall, the amount of parking proposed for the overall project is sufficient to meet anticipated future demand.

RESPONSE O-4-19

The comment states that the proposed project site would be altered from scrub landscape to park paths and buildings, and that further open space in the City would be eliminated. The comment does not contain any comments or questions regarding the analysis in the DEIR, and no further response is required.

RESPONSE O-4-20

The comment asks whether the existing palm trees at the southwest and northwest corners of the intersection of San Miguel Drive/MacArthur Boulevard would remain after project implementation. The existing landscaping at the southwest and northwest corners of the intersection would remain after project implementation. This landscaping is located on an easement owned by the Irvine Company.

RESPONSE O-4-21

The comment asks whether the existing culvert will be covered or otherwise isolated from public view. The existing culvert would be removed to allow for grading and implementation of the storm water management plan.

RESPONSE O-4-22

The comment erroneously states that buildings will block the vista afforded by the existing plateau on the site and asks whether it is necessary for the elevator shaft to extend into the Sight Plane.

Proposed buildings would not block the vistas afford by the on-site plateau. Please refer to Figures 4.3.12a–d in the DEIR. Due to slight increases in the height of planned view areas on the project site (refer to Figure 3.4 in the DEIR for locations), there are several additional areas of the City and harbor that would be visible from on-site vantage points following project implementation.

Due to the design of the project, the elevator shafts cannot be entirely constructed below the view plane. However, as discussed in the DEIR, impacts to views resulting from these exceedances would be less than significant because the area of intrusion is very small compared to the overall view area. Refer also to Response to Comment O-4-11.

RESPONSE O-4-23

The comment states that the native plants used to replace vegetation in the wetlands area should be similarly appealing. The project proposes to remove invasive exotic species and install mulefat, willow cuttings, and other appropriate species. No other changes to the wetlands area are proposed. Opinions regarding the appearance of the wetlands will be made available to decision makers for their consideration.

RESPONSE O-4-24

The comment asks whether the existing drainpipe in the wetlands area will be removed or covered as part of the project. The project proposes to remove invasive exotic species and install mulefat, willow cuttings, and other appropriate species. No other changes to the wetlands area are proposed. The drainpipe will not be removed or covered.

RESPONSE O-4-25

The comment opines that the dog park is too small and that the dog park area will be “stripped of all vegetation.” The comment also asks what criteria were used to determine the size of the dog park.

There is no vegetation planned within the dog park other than trees. The park will be surfaced with a combination of bark mulch and artificial turf. Numerous dog parks were researched to determine the appropriateness of this program (i.e., the size and design of the dog park), and the size was maximized within the constraints of the site topography. A very successful dog park of similar size exists in Laguna Woods at the intersection of Ridge and Moulton, and smaller dog parks are common in large cities. Opinions regarding the size of the dog park will be forwarded to decision makers for their consideration.

RESPONSE O-4-26

The comment states that the proposed pedestrian bridge will limit the vista because of its height. The proposed height of the bridge is illustrated in Figure 4.3.4 in the DEIR. The bridge would be below the height of some of the existing trees along Avocado Avenue; therefore, it is unlikely that the bridge would limit views across the site or from the project site. Refer also to Figure 4.3.12c, which illustrates postproject views from the northern vantage point on the project site. Due to slight increases in height in the open space area, there are several additional areas of the City and harbor that would be visible from on-site vantage points following project implementation.

RESPONSE O-4-27

The comment asks whether potential impacts to neighborhood security have been analyzed. The Newport Beach Police Department has reviewed the proposed project and has concluded that the proposed project would not substantially increase response times or create a substantial increase in demand for staff, facilities, equipment, or police services. It is unclear from the comment how neighborhood security would be affected by the location of the proposed park, which is outside of any residential neighborhood. Without any evidence of there being a security problem or further description of a potential problem, any further response would be speculative and is not required under CEQA. Refer to Section 4.13 of the DEIR for additional information.

RESPONSE O-4-28

The comment states that the 24 ft light poles in the proposed Civic Center and parking structure would cast light on the adjacent neighborhood and asks whether the height of the lights is necessary and/or if the height of the lights is dictated by safety requirements or the City’s Municipal Code. It should be noted that the light poles are required to be 24 ft high or less under Mitigation Measure 4.3.1. Thus, 24 ft is the maximum height permissible and is not necessarily the proposed design height. Mitigation Measure 4.3.1 further provides that lighting shall be shielded and confined within site boundaries and that no direct rays or glare are permitted to shine onto public streets or adjacent sites. Mitigation Measure 4.3.2 provides that a photometric study shall be prepared to demonstrate that lighting values in the lighting plan are 1 footcandle or less at all property lines. These measures ensure that light and glare impacts are less than significant.

RESPONSE O-4-29

The comment states that it is unclear in the DEIR whether there would be visible plumes of exhaust from project sources during operation of the proposed Civic Center. There would not be visible plumes of exhaust from project sources during operation of the proposed Civic Center.

RESPONSE O-4-30

The comment asks whether a variety of alternative energy vehicles will be accommodated on site. The proposed parking structure has been designed to be flexible and can facilitate special conditions and installations needed for some types of alternative energy vehicles.

RESPONSE O-4-31

The comment asks whether the Library book return boxes will be relocated as a result of project implementation. The comment also asks whether a mailbox drop-off has been considered. No changes to the existing Library drop-off boxes are proposed. The location and use of the boxes would remain the same if the proposed project were implemented.

RESPONSE O-4-32

The comment asks for clarification regarding the removal of natural plant communities on site and whether options exist (e.g., less grading) to allow some of the existing plant communities to remain on site particularly in the park area.

Since neither MacArthur Boulevard nor Avocado Avenue provides an Americans with Disabilities Act (ADA) compliant sidewalk (both are too steep), the driving force for the proposed grading in the park, given the existing topography, is the need for extensive grading to construct a trail that does not have steep grades in order to comply with ADA requirements. Moreover, all grading must occur within site constraints, including the property boundaries, jurisdictional wetland boundaries, designated boundaries for the cultural resources, design parameters for hillside grading, and requirements for storm water management on site. Grading has been minimized within the above constraints and the programmatic requirements for the park. See also Response to Comment P-2-1.

RESPONSE O-4-33

The comment states that a comprehensive landscape plan should be completed prior to project approval and that the plan should include mitigation measures for the loss of native habitat.

The DEIR states on page 3-70 that the City's discretionary actions include consideration of the project schematic design plans. The schematic design plans include a comprehensive landscape plan. The landscaping plan will comply with the following project design features:

- **PDF BIO -1: Removal of Invasive Exotic Plants.** Invasive exotic plant species (e.g., myoporum, castor bean, pampas grass) associated with the wetland/riparian habitat shall be removed and mulefat, willow cuttings, and other appropriate species shall be installed
- **PDF BIO -2: Native Plants.** The landscaping palette to be used on site shall include the use of native plant species in addition to drought-tolerant, ornamental, and turf species. The landscaping palette shall also prohibit the use of invasive exotic plants (i.e., those plant species rated as “High” or “Moderate” in the California Invasive Plant Council’s [Cal-IPC] Invasive Plant Inventory).
- **PDF GHG-2: Energy Efficiency.** ... The City will landscape the proposed project site with native, drought-tolerant, and ornamental plants (refer to PDF BIO 2).

As explained in Section 4.5 of the DEIR, project impacts related to the loss of on-site habitat are less than significant with mitigation, and no mitigation is required. Mitigation Measure 4.5.1 requires translocation of the Coulter’s saltbush located on site. Mitigation Measure 4.5.2 mandates compliance with the Migratory Bird Treaty Act. Mitigation Measure 4.5.3 provides actions to enhance the wetlands preserved on site. Mitigation 4.5.4 mandates compliance with the terms and conditions of the Natural Communities Conservation Plan (NCCP). These measures would bind the project in all respects. It is, therefore, not necessary to incorporate the EIR mitigation into the language of the plan prior to certification of the DEIR because the landscaping plan, as it is developed, would comply with all required measures.

RESPONSE O-4-34

The comment asks why the on-site soil must be amended to make it suitable for planting when it supports coastal sage scrub in the existing condition. Existing soil on the project site is primarily from an old reef. For this reason, it is high in salts that are not good for plant growth. The top 2 ft of soil has been leached by rain over many years and is of better quality than the other site soils, since its salt content is reduced. The project proposes to remove the top 2 ft of soil in areas where grading occurs and to stockpile them for later planting. This soil would be amended with organic and other nutrients to provide a higher-quality growing medium under the direction of a local soils consultant and with the involvement of a local horticulturalist.

RESPONSE O-4-35

The comment questions whether it would be possible to amend the grading plan to accommodate the planned path/amenities and to maintain the soils for existing on-site plant species. Please refer to Responses to Comments O-4-32 and O-4-34.

RESPONSE O-4-36

The comment asks whether a cost-benefit analysis has been performed for grading for specific amenities with maintenance of existing plant communities where possible. This comment is based in part upon the assumption that existing topsoil will be removed and replaced. This is not the case. Please refer to Response to Comment O-4-34. With regard to the feasibility of maintaining existing plant communities, please refer to Responses to Comments O-4-32

and O-4-34. Finally, the proposal for a cost-benefit analysis per se is beyond the scope of CEQA and is not required for any of the DEIR environmental analysis.

RESPONSE O-4-37

The comment asks whether a cost-benefit analysis has been performed for grading and replanting all vegetation in accordance with the Design Guidelines. Please refer to Responses to Comments O-4-32, O-4-34, and O-4-36. Moreover, as noted in Response to Comment O-4-33, the landscaping plan will focus on native plant species, although where appropriate, drought-tolerant, ornamental, and turf species will be utilized.

RESPONSE O-4-38

The comment states that replacement of viable habitat would increase the amount of potential water runoff next to the wetlands areas marked for preservation, which must be managed, as well as the related cost. The potential hydrology impacts of the project, including impacts to the wetlands, are evaluated in Section 4.10. As noted in that section, hydrology and water quality impacts would be less than significant with compliance with existing plans, programs, and policies and implementation of project design features. The comment does not contain any substantive comments or questions regarding the DEIR or analysis therein, and no further response is required. Please also refer to Responses to Comments O-4-32 to O-4-36. Opinions expressed regarding the design of the proposed project will be made available to decision makers for their consideration.

RESPONSE O-4-39

The comment requests clarification as to what is meant by “ornamental species” and whether the project would use native plantings in an ornamental setting in the Civic Green. The Civic Green would incorporate the use of turf, ficus hedges, wisteria, and subtropical plants interplanted (by zoned water areas) with native species and other drought-tolerant plants.

RESPONSE O-4-40

The comment requests a list of the subtropical species under consideration for use on the Civic Green. Subtropical species under consideration for use on or near the Civic Green include giant dionos, Kentia palms, Mediterranean fan palms, windmill palms, and sago palms.

RESPONSE O-4-41

The comment asks for clarification as to how the use of subtropical plants is consistent with the natural character of the site and how it is reflecting of the region. Plants and people have a long history of interaction. Planting design on the proposed project site will emphasize water-appropriate plants and include native plants, endemic plants, and plants from similar Mediterranean climates. A few plants that do not meet these guidelines are proposed for the purpose of providing a link between the proposed Civic Center and the existing City Hall.

RESPONSE O-4-42

The comment asks why subtropical species would be used instead of native plant species. Please refer to Response to Comment O-4-41.

RESPONSE O-4-43

The comment asks for clarification regarding the management of subtropical plant species on site and water use compared to other options. As explained in Section 4.13, several aspects of the project are designed to reduce water demand. In landscaping in particular, a high percentage of the landscaped areas will include drought-tolerant, native species. Additionally, to some degree, nonpotable water will be used to supply some or all irrigation through the use of gray water, on-site reuse of rainwater, and/or capture of dry flows as they exit the site. Therefore, sufficient water supplies are available to serve the project, and project impacts associated with water demand are less than significant. That said, the City acknowledges that the maintenance and water use of subtropical plant species would be greater than that of native plant species to the extent they would be used in landscaping, or drought-tolerant plant species.

RESPONSE O-4-44

The comment states that the comparison between Fairview Park in Costa Mesa and the proposed project site is a broad generalization and that past studies may provide information about the existence of vernal pools on the project site.

As discussed in Section 4.5 and Appendix D of the DEIR, the hydrologic comparison between the two shallow topographic depressions on site and the vernal pools at Fairview Park was conducted to determine whether the two shallow depressions on site exhibit the same ponding characteristics associated with actual vernal pools, such as those at Fairview Park. The conclusion was that when subjected to the same frequency and duration of rainfall in the rainy season, the shallow depressions remained dry while the actual vernal pools at Fairview Park became inundated and remained so for an extended period of time. Differences in the conditions, such as soils and hydrology, would in fact support the conclusion that the shallow depressions are not vernal pools. As indicated on page 4.5-23 of the DEIR, the Hamilton (1998) report refers to these two depressions on site as “seasonal ponds,” and the MBA (2004) report refers to them as “ephemeral ponds.” LSA conducted a much more extensive analysis of the two areas in question and concluded that neither area was a vernal pool.

RESPONSE O-4-45

The comment requests analysis of the impact of dogs on the proposed passive park and an explanation of the City policies related to dogs in public areas and public buildings. Dog activity within any public place, including the proposed park, is regulated pursuant to Chapter 7.04 of the Municipal Code. Section 7.04.020 of the Municipal Code requires dogs to be securely restrained by a leash not exceeding 6 ft in length and controlled by a person competent to restrain the dog. Also, Section 7.20.020 of the Municipal Code requires owners to clean up any animal feces in public places and requires owners to possess a device capable of removing any feces deposited by the animal.

Because dogs will be required to be restrained by a leash outside the dog park facility, wildlife (e.g., birds) within the passive park area would not be endangered by dogs running.

With regard to policies for dog activity within public buildings, the existing Library currently maintains a policy that no animals are permitted within the building except guide dogs/service animals. A sign notifying Library users of this policy is posted at the front entrance of the building. This existing policy will be maintained for the Library expansion and will likely be adopted for all new Civic Center buildings. Therefore, dogs will be required to be leashed and to remain on public paths with their owners outside the dog park facility.

RESPONSE O-4-46

The comment erroneously states that the language of the fourth bullet point in Mitigation Measure 4.7.1 does not reflect the language of the Geotechnical Report prepared for the proposed project.

The Geotechnical Report states that “Groundwater is not expected to be encountered during grading. However, perched water or seepage may be encountered. Groundwater may be encountered during excavation of EOC and the subterranean portion of the parking structure. If groundwater is encountered at a depth that would impact proposed grading then groundwater sampling is recommended to determine possible disposal methods during and post-construction as necessary.”

This information is consistent with the information presented in the DEIR; however, the DEIR, as required by CEQA, incorporates specific measures that reduce or avoid impacts related to groundwater.

RESPONSE O-4-47

The comment erroneously states that the DEIR should be amended to reflect language in the Geotechnical Study that states that “the subterranean floor slabs planned for the proposed development . . . may be periodically submerged.”

The quote provided in the comment is incomplete. The Geotechnical Study states that “the subterranean floor slabs planned for the proposed development . . . may be periodically submerged. *The design of these subterranean slabs should, therefore, be designed to resist hydrostatic uplift or a permanent subfloor drainage system should be included in the design of the slab.*” The DEIR states that “the subterranean slabs shall be designed to resist hydrostatic uplift, or a permanent subfloor drainage system shall be included in the design of the slab.” If groundwater were encountered, the Mitigation Measure (i.e., designed to resist hydrostatic uplift or installation of the permanent subfloor drainage system) would prevent the floor from being periodically submerged. Therefore, the DEIR is consistent with the Geotechnical Study prepared for the proposed project.

RESPONSE O-4-48

The comment cites percolation data provided in the Geotechnical Study as a possible obstacle to obtaining Storm Water Design Credits under the LEED-NC Silver certification.

The percolation characteristics of on-site soils were taken into account during the design of the Water Quality Management Plan for the proposed project. The swale and basin Best Management Practices (BMPs) have been designed to infiltrate the storm water quality design volume through an engineered soil profile consisting of at least 2 ft of planting soil and 1 ft of sand. Because it is not feasible to infiltrate beyond this into the native soil, the infiltrated water is then collected in a subdrain system and discharged to the storm drain. A portion of the storm water quality design volume would be stored permanently in the soil layer due to the water-holding capacity of the soil.

Infiltration into and storage in the planting soil within the open space area would reduce the runoff volume from those areas. In this case, again, infiltration beyond the engineered soil layer is not feasible due to the impermeability of the native soil. Therefore, subdrains are used throughout the landscape to relieve saturated conditions and promote healthy vegetation.

There are two LEED credits that pertain to storm water design; one relates to quantity, the other quality. The City believes that the project as designed will qualify for both credits.

RESPONSE O-4-49

The comment asks whether the “more than 6,000 metric tons of CO₂e per year” estimate also includes all eight elements of the project as described on page 1-2 of the DEIR. The analysis of project impacts includes analysis of all project components, consistent with State CEQA Guidelines. The existing Library was not included in the project analysis because it is part of the existing setting; only the 17,000 sf Library addition was included in the analysis of project impacts.

RESPONSE O-4-50

The comment asks whether there would be significant storage of excavated materials on site during excavation and, if so, what provisions are included to prevent contaminated runoff.

The project proposes to remove the top 2 ft of soil in areas where grading occurs and stockpile these materials for later planting. This soil may be stockpiled on site. As stated in Section 4.10, Hydrology and Water Quality, of the DEIR, the City is required to comply with the State General Construction Activity National Pollutant Discharge Elimination System (NPDES) Permit, which requires the City to develop and implement a Storm Water Pollution Prevention Program (SWPPP) (refer to PDF-WQ-1). The SWPPP requires the City to identify, implement, and maintain BMPs to reduce or eliminate pollutants associated with the construction site, including those associated with the storage of on-site soil.

RESPONSE O-4-51

The comment asks why it was necessary for the DEIR to include analysis of alternative sites given the approval of Measure B. CEQA requires that the discussion of alternatives focus on alternatives to the project *or its location* that are capable of avoiding or substantially lessening any significant impacts of the project. The use of an alternative site as a project alternative is a choice that is typically characteristic of public agencies considering the siting of new public facilities such as transportation systems, post offices, fire stations, public parking structures, storage yards, or government buildings.

For these types of projects, the need for and development of the facility itself is the primary consideration, and the precise location, within certain parameters, is the secondary consideration.

Also factored into the decision to consider alternative sites is a proposal to change a site's land use designation. Although the proposed project would be consistent with the General Plan land use designation for the site, the project would require the City to exempt itself from the provisions of its own Zoning Code or amend PC-27. Therefore, in developing the alternatives discussion and determining which alternatives would be analyzed in the DEIR, the City determined that consideration of alternative sites was relevant and allowed for full consideration of the planning options. That said, as noted in Responses to Comments O-3-5 and P-1-30, the DEIR ultimately determined that off-site alternatives were infeasible, and that determination was permissible and supported by substantial evidence.

RESPONSE O-4-52

The comment requests clarification regarding the standards or criteria used to determine that the sites listed in Table 5.A were too far removed from most of the City's population. As explained in State CEQA Guidelines Section 15126.6(c), an EIR should briefly explain why an alternative was initially considered but rejected from detailed consideration. As stated on page 5-4 of the DEIR, Tables 5.A through 5.C and the corresponding discussion of previously considered sites are based on the City Hall Site Committee notes (May 26, 2006). Because of this determination that the sites were too far removed from the City's population, these sites were not reanalyzed or considered in detail in the DEIR analysis. Please also refer to Responses to Comments O-4-51, O-3-5, and P-1-30.

RESPONSE O-4-53

The comment states the DEIR did not provide specific information as to why the Camelback Building is infeasible due to problematic access issues. As explained in State CEQA Guidelines Section 15126.6(c), an EIR should briefly explain why an alternative was initially considered but rejected from detailed consideration. As stated on page 5-4 of the DEIR, Tables 5.A through 5.C and the corresponding discussion of previously considered sites are based on the City Hall Site Committee notes (May 26, 2006). Because of the problematic access issues, this site was not reanalyzed or considered in detail in the DEIR analysis. The Camelback Building has problematic access because the property is visible from Jamboree Road, but the access is located off Camelback, which would make it difficult for the public to find.

RESPONSE O-4-54

The comment requests clarification as to when the proposed project site was recommended and why it was not initially considered by the City Hall Site Committee. According to the Committee Report (May 26, 2006), the Site Committee solicited community input to receive suggestions regarding the potential City Hall locations. In addition, all members of City committees and commissions were asked to suggest sites. The City Hall Site Committee received 76 comments relating to site suggestions. From these comments, 22 different sites were suggested. These sites are listed on page 5-4 of the DEIR. During this process, only the northern parcel of the proposed project site was

suggested for use for the City Hall, and the Site Committee rejected the site for reasons relating to traffic congestion and site design constraints.

The central portion of the project site was initially suggested to the City in 2007 and gained support among some City residents. These residents persisted and eventually placed Measure B before the City for a vote. The passage of Measure B amended the City Charter to require City Hall, City administrative offices, and related parking facilities to be located on City property, which is bounded by Avocado Avenue on the west, San Miguel Drive on the north, MacArthur Boulevard on the east, and Newport Beach Central Library on the south.

The combined (northern and central parcels) project site was developed in 2008 and 2009 as part of the preliminary planning process for the proposed City Hall and Park.

RESPONSE O-4-55

The comment requests details regarding the planned construction route. The proposed construction route is illustrated on Figure 3.17 in the DEIR. The proposed construction route avoids San Miguel Avenue, consistent with Mitigation Measure 4.2.2.

RESPONSE O-4-56

The comment states that the DEIR does not explain why restriping of Bayside Drive and East Coast Highway is necessary. The discussion of potential impacts to the intersection of Bayside Drive/East Coast Highway can be found on page 4.2-29 of the DEIR. The DEIR states that, based on the City's threshold of significance, the addition of project-generated trips at this location is forecast to result in a significant cumulative impact at the Bayside Drive/East Coast Highway intersection. Mitigation Measure 4.2.1 requires restriping of the northbound Bayside Drive approach to the East Coast Highway intersection from two left-turn lanes and a shared left/through right lane to two left-turn lanes, a shared left/through lane, and a right-turn lane. With implementation of Mitigation Measure 4.2.1, the project's contribution to the cumulative impact at the intersection of Bayside Drive/East Coast Highway would be reduced to a less than significant level.

RESPONSE O-4-57

The commenter disagrees with a conclusion in the DEIR related to water use for the Existing Zoning Alternative. Specifically, the commenter does not agree that the Existing Zoning Alternative could use more water than the proposed project because the proposed project would include a large Civic Green and landscaping around various proposed buildings.

Section 5.4 of the DEIR states that water demand under the Existing Zoning Alternative would be greater than with the proposed project because park uses generally demand more water than development. The Existing Zoning Alternative considered the development of a 16-acre passive park. Passive parks generally include areas of turf as well as landscaping that require irrigation. The irrigation of landscaped areas requires more water than the proposed project would require. It should be noted that the DEIR concluded that even with the development of the 16-acre park, water demand on the project site would be less than significant.

RESPONSE O-4-58

The commenter disagrees with a conclusion in the DEIR related to water use if a 16-acre park were to be developed on the proposed project site. Please refer to Response to Comment O-4-57.

RESPONSE O-4-59

The comment asks for clarification regarding the “different but comparable” recreation impacts of the Corporate Plaza West Alternative. As stated in the DEIR, the Corporate Plaza West Alternative would allow for development of a 16-acre passive park (compared to the proposed project’s 14.3-acre passive park) but would not include development of the Civic Green or expanded Library. Therefore, the DEIR concluded that the additional 1.7 acres of passive park land was on balance with the recreation enhancement that would be provided by the Civic Green and Library expansion. Neither the proposed project nor the Corporate Plaza West Alternative would result in a significant impact related to recreation.

RESPONSE O-4-60

The comment asks for clarification regarding a statement in the DEIR related to project objectives. The statement is a typographical error and will be corrected in the Final EIR. This correction does not change the conclusions in the DEIR.

RESPONSE O-4-61

The comment quotes a brief discussion of project impacts that was included in the alternatives analysis for comparison purposes and criticizes the brevity of the discussions. For complete analysis of the proposed project’s impacts related to greenhouse gases and global climate change, please refer to Section 4.8, Global Climate Change and Greenhouse Gas Emissions, in the DEIR. It should be noted that the DEIR included two project design features and recommended 18 mitigation measures related to greenhouse gas emissions. Therefore, the DEIR did not avoid or ignore the topic of greenhouse gas emissions.

RESPONSE O-4-62

The comment asks why the Existing Zoning Alternative was considered the Environmentally Superior Alternative over the Reduced Project Alternative or the Modified Construction Schedule Alternative. In response, neither the Reduced Project Alternative nor the Modified Construction Schedule Alternative reduced a significant unavoidable impact of the proposed project to a less than significant level. The Modified Construction Schedule Alternative would result in greater potential land use compatibility impacts than the proposed project and was therefore not considered the Environmentally Superior Alternative. The Reduced Project Alternative would reduce potential impacts related to air quality and global climate change, but not to a less than significant level (i.e., the alternative would still result in significant unavoidable adverse impacts related to air quality and

global climate change). In comparison, the Existing Zoning Alternative would reduce both significant unavoidable impacts to a less than significant level.

RESPONSE O-4-63

The comment states that the DEIR should recognize that the redesignation of land from “open space” to another land use could be a precedent-setting action. As noted elsewhere, it is important to keep in mind that the essential decision to construct the project at this site was made some time ago by the voters when they approved Measure B. That decision, and the subsequent changes to the General Plan as mandated by Measure B, have been made. The proposed project is consistent with the City’s General Plan. Moreover, the Court of Appeal stated, in rejecting a challenge to Measure B, that “ as a charter amendment, Measure B supersedes any conflicting provisions of the general plan or the municipal code.” (See *Beek v. City of Newport Beach* (2009) 2009 Cal. App. Unpub. LEXIS 5001, * 14.)

As stated in the DEIR, the City may choose to amend PC-27 or may exempt itself from the provisions of its own Zoning Code. The proposed project is a unique, one-of-a-kind capital improvement project. As stated in the DEIR, the existing City Hall was built in 1945, and it is unlikely that the City would undertake the design and construction of another City Hall within the next 50 to 75 years. Moreover, this project site was selected through the initiative process, which is not a common or easily replicated process. The commitment of land for use as a City Hall is acknowledged in the DEIR; however, due to the unique nature of the project and the history of the site (i.e., Measure B), the project cannot be viewed as a precedent-setting action. Because the comment does not pertain to environmental topics addressed in the DEIR, no further response is necessary.

RESPONSE O-4-64

The comment pertains to the pedestrian overcrossing proposed to span San Miguel Drive. Specifically, the comment asks: (1) what is the justification for the pedestrian overcrossing; (2) whether related expense and sight line interference are negative impacts; (3) what are the benefits of the bridge; (4) whether a pedestrian traffic analysis has been conducted to determine the pedestrian bridge traffic flow and need.

The pedestrian bridge is proposed to connect the northern and central portions of the project site. The pedestrian overcrossing is intended to provide a pedestrian linkage and to make the park function more cohesively than it might otherwise with San Miguel Drive dividing the two sections of the park. Although the City decision makers may consider expense in their deliberations regarding the project, expense is not a required CEQA topic. The effect of the bridge on the line of sight of drivers on San Miguel Drive would be a less than significant impact with implementation of PDF TRA-1, which requires the pedestrian overcrossing to be a minimum of 19.5 ft above the ground surface of San Miguel Drive.

RESPONSE O-4-65

The comment asks for clarification regarding the last sentence in Mitigation Measure 4.4.5, which states, “During smog season (May through October), the overall length of the construction period will

be extended to minimize the occurrence of vehicles and equipment operating at the same time and thereby decrease the size of the area prepared each day.” The phrase, “the overall length of the construction period will be extended...” means that the number of hours of grading/construction per day would be reduced and the overall number of weeks of construction would be extended to reduce the daily emissions.

RESPONSE O-4-66

The comment concludes the comment letter. The comment does not contain any substantive comments or questions regarding the DEIR or analysis therein and no further response is required.

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J. Murillo
October 14, 2009
Page 1 of 7

Debbie and Ed Stevens
1120 Sea Lane
Corona Del Mar, CA 92625

October 14, 2009

Mr. Jaime Murillo
Associated Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Dear Mr. Murillo.

The following are our comments on the Draft Environmental Impact Report (EIR) for the proposed City Hall and Park Development Plan (proposed project).

1. Project Description

- One of the project objectives states the following: “Implement the February 2008, voters’ approval of Measure B for **a new City Hall, including the City Hall administration building, Community Room, Council Chambers, and a parking structure** on City-owned property located between MacArthur Boulevard and Avocado Avenue.” This misrepresents what was in Measure B. Measure B only asked if City Hall in the park should be built on the site and made no reference to a Community Room, Council Chambers and a parking structure. Similar statements are made throughout the EIR including the alternatives section. 1

- On the Project Design Features identified in Section 3.9 indicates that, “The City will require contractors to use zero- or low-emission vehicles and equipment when possible. The same measure should apply to City equipment as well as contractors equipment.” 2

- Extensive detail is provided for the proposed new City Hall site. However, the EIR indicates that the actions evaluated in the EIR include the reuse of the existing City Hall site. In the project description, the discussion of the existing City Hall Site is 3 sentences (page 3-50) and does not include a map showing the location of the existing City Hall. The discussion of the existing city Hall site in the EIR appears to be an afterthought. More discussion and description of the existing City Hall site and potential impacts needs to be included. 3

2. Land Use

- Extensive discussion of the existing and proposed land uses around the proposed new City Hall site is provided. A map showing the land uses surrounding the existing city hall site should also be included. | 4
- The list of cumulative projects is incomplete (pages 4.1-39 and 4.1-40) does not include any of the cumulative projects currently proposed and under construction in Fashion Island (e.g., Dean & DeLuca, Nordstroms, etc.). | 5
- Mitigation Measure 4.1.1 indicates that a construction relations officer will act as a community liaison thus reducing potentially significant land use compatibility impacts related to air quality and noise during construction to less than significant. Hiring a community liaison person is nice for public relations but does nothing to reduce air quality emissions or noise during construction activities. Having a contact person may allow the community to vent any concern but without further mitigation it would not reduce air quality emissions or noise to less than significant. Unless there a physical changes, the hiring of the community relations officer will not reduce these impacts to less than significant. | 6

3. Traffic

- Peak traffic impacts were not identified in the EIR. Traffic counts were completed during February, March, April and May 2009. No traffic counts were taken during the summer months when traffic conditions are much higher, due to the influx of summer traffic, especially during hot weather periods and on the weekends (see Appendix B). This is especially important for all the intersections along Pacific Coast Highway. | 7
- Mitigation Measure 4.2.2 should be revised to include the requirement that soil haul trucks avoid peak traffic conditions. An additional 40 trucks per hour (about one truck every 1.5 minutes) on MacArthur during peak hours would result in much more congestion than currently exists. | 8
- Traffic associated with special events was not addressed in the EIR. | 9
- Traffic associated with modifications to the existing City Hall site were not addressed in the EIR and need to be addressed. | 10

4. Aesthetics

- The type of plant materials that will be used to landscape the City Hall and park must be considered. Some of the proposed views show extensive landscaping of the park/city hall site with trees that are potentially very tall, e.g., Palm trees in | 11

Figure 4.3.6 are higher than the buildings and could potentially grow into view plane, creating impacts that were not addressed in the EIR.

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- It is encouraging to see all structures are below the Sight Plane with the exception of the elevator shaft on the parking structure.

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- No baseline light and glare pictures are provided to establish the existing baseline.

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- We suggest an additional mitigation measure be imposed that would block off the top of the parking structure during nighttime, except when needed for specified events. This would minimize light and glare impacts associated with the parking structure, specifically car headlights shining directly into homes.

| 14

- The proposed views in Figure 4.3.15 are difficult to put into context without pictures showing existing light and glare. Please note that existing light and glare from the library is much greater than shown in any of these views. Attached is a picture taken from Sea Lane at night of the light from the existing library structure. Note that it is much more intense than depicted in any of the pictures in Figure 4.3.15.

| 15

- Page 4.3-59 (1st paragraph) indicates that “The proposed project would not alter the existing conditions (light & glare) at the Library in any event.” Yet the EIR indicated that automated internal shades are proposed for the Library expansion (page 3-54, 1st paragraph). At the September 30, 2009 meeting of the city Hall Design Committee the architects indicated that existing lighting at the library would be reduced. Pictures that accurately showed the existing light and glare from the library versus the proposed project are needed to determine the impact of the proposed project. The light and glare impacts shown in Figure 4.3.15 are not accurate. For example, the light and glare from the existing library, Corona Del Mar Plaza, lights along PCH, and the Balboa Pavillion are not shown.

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- The automated internal shades for both the library and City Hall need to be included as mitigation measures so their installation is assured so they are not eliminated due to budget concerns.

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4. Air Quality

- Page 4.4-19 (2nd paragraph) indicates that PM2.5 and PM10 emissions from grading operations during a peak construction day were less than significant and no mitigation is required. Please note that mitigation measures were assumed in the URBEMIS calculations and should be imposed so they will be enforceable.

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- Operational emissions should include the emergency generator testing. SCAQMD permit conditions typically limit the use of emergency generators to

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less than 200 hours per year. As a source of diesel particulate emissions, the emissions from the generator should be included in the analysis, assuming 199 hours of operation.

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- As requested in our comments on the NOP/IS, emissions from non-routine activities also must be included. At the September 30, 2009 meeting of the City Hall Design Committee the architects from Bohlin Cwinski indicated that events of up to 1,600 people could be accommodated in the Civic Green. Emissions from non-routine events need to be included as they could actually represent the peak day emissions. If no such use of City Hall is expected, then an enforceable mitigation measure should be adopted curtailing such events.

21

- As requested in our comments on the NOP/IS, the health impacts associated with exposure to diesel particulate emissions must be evaluated, including both the construction activities (construction equipment plus 200 trucks per day) and long-term operational activities (e.g., truck deliveries and operation of the emergency generator).

22

- There is no discussion regarding the reuse of the existing City Hall site for other purposes. It is unrealistic to assume that there would be no construction activities associated with reuse of the existing City Hall site considering the age of the buildings, lack of parking, and other problems at the site discussed throughout the EIR.

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5. Existing City Hall

- The EIR indicates that the actions evaluated in the EIR include the reuse of the existing City Hall site. The discussion of the existing City Hall site in the EIR appears to be an afterthought. The impacts of the reuse of the site for other purposes should be more completely addressed in the EIR. For example, there is no discussion of the existing City Hall site under aesthetics, cultural resources, air quality, geology, hazardous/hazardous materials, or noise.

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6. Noise

- Construction noise impacts are significant and no mitigation measures are provided that would reduce noise impacts to less than significant. Lmax noise levels of 91 dBA were identified due to construction activities at the site. These noise levels will generate estimated noise levels of about 80 dBA in the residential areas east of the proposed project site. As stated in the City of Newport Beach noise standards, it is unlawful for any person at any location within the incorporated area of the City to create any noise or to allow the creation of any noise on property which causes the noise level when measure on any other property to exceed a maximum instantaneous noise level equal to the

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value of the noise standard plus 20 dBA for any period of time. The exterior allowable noise level in residential areas from 7 am to 10 pm is 55 dBA, therefore, the maximum allowable instantaneous noise level would be 75 dBA. The maximum estimated noise levels associated with the proposed project are estimated to be about 80 dBA, which exceeds the City of Newport Beach noise standards. Therefore, construction noise impacts are significant. None of the measures imposed in Mitigation Measure 4.11.1 would reduce the Lmax level below noise ordinance levels and these impacts would remain significant following mitigation.

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- As requested in our comments on the NOP/IS, noise from non-routine activities also must be included. At the September 31 meeting of the City Hall Design Committee the architects from Bohlin Cwinski indicated that events of up to 1,600 people could be accommodated in the Civic Green. If no such use of City Hall is expected, then an enforceable mitigation measure should be adopted curtailing such events.

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7. Alternatives

- A figure showing the locations of all alternatives should be provided to eliminate any confusion.

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- We requested that the 500 Block of Newport Center Drive be included in the alternative analysis. The alternatives analysis did not consider the 500 or 600 block of Newport Center Drive which the City was considering as locations for City Hall up until the Measure B vote. It was only the results of Measure B that stopped the City from moving forward on evaluating the 500 block of Newport Center Drive as a possible location for City Hall. Both of these sites are feasible alternatives and must be evaluated in the EIR.

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- The project objectives have been narrowly defined in what appears to be an effort to make sure that alternatives do not meet the project objectives. A number of the objectives could be met with several of the alternatives. For example, a park can be built (Objective 4), the northern parcel could be integrated with the southern parcel (Objective 5), on-site parking can be provided (Objective 6), the wetlands can be preserved and enhanced (Objective 8), the public view can be enhance and protected (Objective 9), public infrastructure can be improved (Objective 10), sustainable features could be incorporated into the project (Objective 10), a dedicated emergency operations center (EOC) could be constructed (Objective 12), and the central library could be expanded (Objective 13) as part of other alternatives.

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- It is stated that “Measure B was approved by the voters and specifically identifies the proposed project site for the new City Hall and related improvements.

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Although none of the contemplated alternative sites are consistent with Measure B, two alternative sites are potentially feasible for other reasons . . .” This may be true but an election to approve other alternatives, if found to be more attractive, would be feasible (as shown through the approval of Measure B by voters).

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- The conclusions in Table 5.D – Summary of Project Alternatives and the related discussion are incorrect. Alternative 1 and 2 would be consistent with most of the project objectives, except Objective 1 and 3. Under both Alternative 1 and 2, most of Objective 2 could be accomplished as the library could be expanded, a dedicated EOC could be built somewhere within the City and a park with a pedestrian overcrossing could link the northern and southern parcels. A passive park could be implemented in Objective 4. Objective 5 of integrating the northern parcel into the park could be implemented. Additional on-site parking could be provided for the existing library as well as the existing City Hall. It is likely that costs could be minimized on other sites easier than the proposed project site as the extensive grading would not be required (Objective 7). The on-site wetlands could still be preserved and enhanced (Objective 8) under Alternatives 1 and 2. Public views could be protected and enhanced (Objective 9) through the development of a park under Alternatives 1 and 2. Public infrastructure could still be improved as needed (Objective 10), for example the existing City Hall site could still be improved. Sustainable features could be designed into the existing City Hall and the park site (Objective 11). An EOC could be constructed somewhere within the City (Objective 12), and the existing Central Library could still be expanded, if desired (Objective 13). Therefore, Alternatives 1 and 2 would achieved most of the proposed project objectives.
- Under both Alternatives 1 and 2, the significant air quality and GHG emissions impacts, as well as the significant noise impacts from construction activities would be reduced or eliminated (CEQA Guidelines §15126.6).

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Thank you for your consideration.

Sincerely,

Debra Bright Stevens

Debra. Bright Stevens



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DEBBIE AND ED STEVENS

LETTER CODE: P-1

DATE: October 14, 2009

RESPONSE P-1-1

The comment states that the Project Objectives misrepresent what was in Measure B. A footnote was included on page 3-9 that includes the language of Measure B. Measure B provided as follows: *Shall the City of Newport Beach Charter be amended to require City Hall, city administrative offices and related parking to be located on City property which is bounded by Avocado Avenue on the west, San Miguel Drive on the north, and MacArthur Boulevard on the east, and Newport Beach Central Library on the south?* A city hall is the chief administration building of a city. The Council Chambers are an integral function of any city hall and is a function that exists at the existing City Hall site today. Also, a typical city hall traditionally includes a hall, or large community meeting facility. The language in Measure B also clearly states that related parking should be included. Therefore, the project objective does not misrepresent the language or intent of Measure B.

RESPONSE P-1-2

The comment states that the EIR should include a project design feature requiring the City of Newport Beach (City) to use zero-or-low emission vehicles and equipment when possible. The project considered the relocation of existing City vehicles and equipment from the existing City Hall site to the proposed project site only. The City is not proposing to replace existing City vehicles or equipment as part of the proposed project. Therefore, the replacement of existing City vehicles or equipment is not a project design feature of the proposed project.

RESPONSE P-1-3

The comment states that Chapter 3.0, Project Description, of the Draft Environmental Impact Report (DEIR) does not contain a map showing the location of the existing City Hall and that more description pertaining to the reuse of the existing City Hall site should have been included in the Project Description. The location of the existing City Hall site is shown on Figure 3.1, Project Overview Location Map. A description of the existing City Hall site is included on page 3-11 and a description of the proposed use of the existing City Hall site is found on page 3-50 of the DEIR. As stated in the EIR, it is the City's intention to reuse the site for other Public Facilities uses. No changes to the architecture or infrastructure of the existing City Hall site are proposed. The reuse of the site is anticipated to be of a similar nature and intensity, although a lesser intensity is more likely. As such, the impacts of the reuse of the existing City Hall site are part of the existing environmental baseline. No additional impacts are anticipated.

RESPONSE P-1-4

The comment states that a map showing the land uses surrounding the existing City Hall should have been included in the DEIR. Although not illustrated with a map, the land uses surrounding the existing City Hall are described on page 4.1-5 of the DEIR.

RESPONSE P-1-5

The comment states that the list of cumulative projects is incomplete because it does not include any of the cumulative projects currently proposed and under construction in Fashion Island. Projects currently committed/under construction in Fashion Island were included in the project analysis. The Cumulative Project list in Table 4.1.C includes *proposed* cumulative projects. Table 4.2.G lists *committed* (approved; may be under construction) cumulative projects. As shown in Table 4.2.G, ultimate buildout of the Fashion Island Expansion was included in the project analysis. Projects on this list were included in the cumulative analysis for the proposed project.

RESPONSE P-1-6

The comment states that Mitigation Measure 4.1.1 would not reduce air quality emissions or noise to less than significant levels. The purpose of Mitigation Measure 4.1.1 is to address potential short term land use compatibility impacts, not to reduce construction air quality emissions or noise levels. For example, dust generated by construction work may be an irritant to some residents. Coordination between the Community Liaison required by Mitigation Measure 4.1.1 may lead to more regular watering of dirt to reduce dust or decreased activity on windy days.

Mitigation Measure Measures 4.4.1 through 4.4.8 would be required to reduce construction air quality emissions (specifically NO_x, ROC, and PM₁₀ emissions); however, even with implementation of all available mitigation measures, project impacts related to construction emissions would remain a significant and unavoidable air quality impact. Compliance with the City's Municipal Code and Mitigation Measure 4.11.1, Construction Noise, would reduce construction on-site impacts from excavation, grading, and erection of buildings to a less than significant level.

RESPONSE P-1-7

The comment states that peak traffic impacts were not identified in the DEIR because no traffic counts were taken during the summer months, when traffic conditions are much higher. The traffic analysis prepared for the proposed project assessed conditions for the morning and evening peak-hour conditions for existing conditions, short-range conditions (2013), and long-range conditions (the projected buildout of the City and surrounding area) for typical weekdays. In accordance with the City's adopted policy, as stated in the Circulation Element of the General Plan and its Transportation Phasing Ordinance, the assessment "continues longstanding Newport Beach policies of using the shoulder season for transportation planning, sizing the circulation system to meet the needs of City residents and businesses, and maintaining the character of the community." It should be noted that the "shoulder season" referenced reflects the spring/fall period and specifically excludes the summer period. The City's Traffic Phasing Ordinance (TPO) (Chapter 15.40 of the Municipal Code) specifically requires traffic counts to be taken between February 1 and May 1 (TPO Appendix A 3.d.i).

RESPONSE P-1-8

The comment states that Mitigation Measure 4.2.2 should be revised to include the requirement that soil haul route trucks avoid peak traffic conditions. Construction traffic is analyzed on pages 4.2-29 and 4.2-32 of the DEIR. Peak hours for construction traffic are typically different than regular traffic peak hours (i.e., 7:00 to 9:00 a.m. and 4:00 to 6:00 p.m.). Trips generated by construction-related traffic, including trucks, during the peak hours are forecast to be lower than the projected peak-hour trip generation for operation of the proposed project. Since the proposed project is not forecast to cause any significant impacts on MacArthur Boulevard for either the existing plus project conditions (Table 4.2.F) or the forecast year plus project condition (Table 4.2.I), the lower number of trips generated by construction-related traffic results in a conclusion of no significant impacts on MacArthur Boulevard. Therefore, revising the mitigation measure is not required to reduce any significant impact.

RESPONSE P-1-9

The comment states that traffic associated with special events was not addressed in the DEIR. As stated on page 4.2-18 of the DEIR, traffic modeling focuses on typical daily operations and does not account for occasional events that occur for short, discrete time frames during the year. The special events associated with the proposed project would occur relatively infrequently and outside of the weekday a.m. or p.m. peak period, when traffic on the adjacent streets would be less than during the peak periods. Therefore, significant traffic impacts are unlikely to occur from the hosting of these periodic events. Furthermore, traffic impacts, as well as noise, safety, and security impacts associated with special events are reviewed on a per-event basis through the City's Special Events Permit process.

RESPONSE P-1-10

The comment states that traffic associated with modifications to the existing City Hall site were not addressed in the EIR and need to be addressed. No architectural or infrastructure modifications to the existing City Hall are proposed. As stated on page 3-50 of the DEIR, it is the City's intention to reuse the site for other Public Facilities uses. No changes to the architecture or infrastructure of the existing City Hall site are proposed. As noted above, reuse of the site is anticipated to be of a similar nature and intensity, although a lesser intensity is more likely. As such, the impacts of the reuse of the existing City Hall site are part of the existing environmental baseline. No additional impacts are anticipated.

Although the project proposes to move City Hall functions from the existing City Hall site to the proposed project site, the traffic impact analysis does not take credit for the existing trips generated by the existing City Hall. Rather, project trips are added to the proposed project site, and the existing City Hall site is assumed to continue to generate the same number of trips. Therefore, there would be no change in the existing traffic setting for the existing City Hall site and no potentially significant impacts.

RESPONSE P-1-11

The comment states that project landscaping could potentially grow into the view plane, creating impacts that were not addressed in the DEIR. All proposed plant material has been selected with the height limitations of the sight plane in mind. If the proposed project is constructed, the City will be responsible for continued maintenance of plant materials, including trees, and will also be responsible for ensuring that landscaping does not exceed sight plane limits.

RESPONSE P-1-12

The comment states that it is encouraging that all structures are below the sight plane with the exception of the elevator shaft on the parking structure. As evidenced by the design of the proposed project, the City is committed to maintaining the integrity of the sight plane. There are no substantive comments on the DEIR or analysis therein; therefore, no further response is required.

RESPONSE P-1-13

The comment states that no baseline light and glare pictures are provided to establish the existing baseline. With the exception of the existing Library, the proposed project site is currently undeveloped and does not produce light or glare. Therefore, photographs of nighttime conditions would not provide additional information related to baseline light and glare.

RESPONSE P-1-14

The comment suggests an additional mitigation measure be imposed that would block off the top of the parking structure at night, except when needed for specified events in order to minimize light and glare impacts associated with the parking structure (specifically car headlights shining directly into residences).

The nearest residential use is located 166 feet (ft) from the project site, across MacArthur Boulevard, so car headlights on the top level of the proposed parking structure would not shine directly into any residential use. In addition, the parking structure would be shielded from adjacent views by dense landscaping. Mitigation Measures 4.3.1 through 4.3.3 require the City to prepare a lighting plan, a photometric study, and to conduct an inspection prior to occupancy so as to confirm there are no unintended effects. With implementation of these mitigation measures, potential impacts related to new on-site light sources would be reduced to a less than significant level. It should be noted that Mitigation Measure 4.1.1 states that the lighting plan may include additional measures, including the measure recommended in this comment, in order to prevent unacceptable negative impacts on surrounding land uses. Therefore, the recommended mitigation measure to limit activities on top of the proposed parking structure will be forwarded to decision makers for their consideration.

RESPONSE P-1-15

The comment states that proposed views from Figure 4.3.15 are difficult to put into context without also showing surrounding sources of light and glare. The commentor attached a nighttime photograph of the existing Library taken from Sea Lane.

As stated in the DEIR, Figure 4.3.15 does not show other existing light and glare sources during nighttime conditions; Figure 4.3.15 only illustrates light that would emanate from the proposed project. The DEIR acknowledges that the proposed project could result in a substantial amount of new nighttime lighting and recommends mitigation measures to reduce project impacts to a less than significant level.

The DEIR also acknowledges that local residents have expressed concerns regarding the existing Library's contribution to light and glare in the viewshed. The existing Library currently closes at 5:00 p.m. on Saturdays; 9:00 p.m. Monday through Thursday; and 6:00 p.m. on Sundays. The interior Library lights are turned off at closing but turned on again during janitorial service (approximately 2:00–3:00 a.m.). The proposed project would not alter these hours of operations. Automated internal shades would be installed in the Library expansion to reduce nighttime spill light. Automated internal shades are not proposed for the existing Library.

RESPONSE P-1-16

The comment states that on September 20, 2009, the City Hall Design Commission stated that existing lighting at the Library would be reduced. Automated internal shades would be installed in the Library expansion to reduce nighttime spill light. Automated internal shades are not proposed for the existing Library.

RESPONSE P-1-17

The comment states that Figure 4.3.15 is not accurate because it does not show light and glare from the existing Library, Corona Del Mar Plaza, lights along Coast Highway, or the Balboa Pavilion. The comment goes on to request a comparison of existing light and glare from the Library to the proposed project. The analysis in the EIR states that the proposed project could result in a potentially significant impact related to nighttime lighting and recommends mitigation measures to reduce these impacts to a less than significant level. A comparison between the existing Library and the proposed project is not necessary to establish the potential significance of these impacts. The proposed project site is currently vacant and would be developed with a variety of new light sources that would change views from adjacent areas. Mitigation focuses on minimizing impacts of new light sources, limiting nighttime lighting, and shielding lighting so as to reduce impacts to residential areas. Please also refer to response to comment P-1-15.

RESPONSE P-1-18

The comment states that installation of automated shades for both the library and the City Hall should be included as a mitigation measure so that their installation is assured and installation is not eliminated due to budget concerns.

The DEIR (page 3-53) states that the proposed project includes (1) automated internal shades set to close at specific times in the City Hall administration building to form part of the glare control strategy, as well as to assist in the reduction of nighttime light pollution to neighboring sites; (2) exterior lighting that will be controlled by a Lighting Control Panel with an exterior photo-control and time clock; (3) internal lighting systems that would auto-dim after standard work hours, leaving

small task lighting for janitorial activities and to light areas where staff may be working late; and (4) exterior light fixtures that would be the cutoff type and dark sky compliant. Similar automated shades are proposed for the Library expansion.

State CEQA Guidelines Section 15126.4(a)(1)(A) states that “The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed...which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project.” The DEIR distinguishes between Project Design Features (PDFs), which are features incorporated into the design of the project to minimize or avoid adverse impacts, and mitigation measures, which are feasible measures that could minimize adverse impacts of the proposed project if adopted as a condition of project approval.

The Project Description in the DEIR clearly included the installation of automated internal shades and intended installation of the shades to reduce a potential environmental effect. Therefore, the installation of the shades will be added to the list of PDFs in the Project Description of the Final EIR and the Mitigation Monitoring and Reporting Program (MMRP) in Chapter 7.0 of the Final EIR.

RESPONSE P-1-19

The comment states that the URBEMIS runs assumed that the South Coast Air Quality Management District’s (SCAQMD) fugitive dust control measures were implemented and, therefore, the measures should be imposed so that they are enforceable. The comment is correct in that the URBEMIS runs assumed SCAQMD’s fugitive dust control measures were implemented, and therefore mitigation is required. For this reason Mitigation Measure 4.4.1, SCAQMD Rule 403 “requires that fugitive dust be controlled with best available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source.” Mitigation was included in the DEIR to require compliance with the fugitive dust control measures assumed in the URBEMIS analysis.

RESPONSE P-1-20

The comment states that the air quality analysis should include the emissions generated by the testing of the emergency generator. Under normal operations the emergency generator would be tested for approximately one hour per month. The emissions generated during this testing would not result in exceedances of the SCAQMD’s thresholds, exacerbate in any meaningful way previously identified exceedances, or result in a health risk to local sensitive receptors due to its limited operation..

RESPONSE P-1-21

The comment states that the air quality analysis should evaluate the impact of nonroutine events within the Civic Green. Events and activities held on the Civic Green may include, but are not limited to, children’s story hour, puppet shows, book discussion groups, film screenings, receptions for events and authors, evening dinner events, and Arts Commission events such as plays and art shows. Most of the events are expected to occur relatively infrequently and outside of the weekday a.m. or

p.m. peak period. In addition, none of these events are expected to attract the 1,600 persons referenced in the comment.

Day-to-day activities within the project site would generate 3,070 daily vehicle trips. The stationary and mobile source emissions generated by the proposed project would not exceed 65 percent of the SCAQMD's daily emission thresholds. The additional vehicle trips associated with the nonroutine events within the Civic Green would not result in any exceedances of the SCAQMD's emission thresholds due to infrequent and off-peak hours, which do not substantially affect total daily vehicle trips.

RESPONSE P-1-22

The comment states that the air quality analysis needs to evaluate the short-term and long-term impacts of diesel particulates on the surrounding sensitive land uses.

The short-term diesel emissions would be generated by the on-site construction equipment and on road haul trucks. Using the localized significance thresholds (LSTs) modeling results for construction exhaust for PM₁₀ emissions (and assuming it is 100 percent diesel exhaust), there will be a maximum 3.46 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) diesel particulate matter (DPM) concentration at the nearest sensitive receptor. Using the State's unit risk factor (URF) for DPM of 3.0E-04 (URF units are $1/\mu\text{g}/\text{m}^3$ so they cancel out when the URF is multiplied with the concentration) and assuming that the duration of this maximum diesel exhaust output is 6 months, the resulting carcinogenic health risk at 55 meters distance (closest residences to the east of the project site) is 1.6 in a million. This health risk is much lower than the 10 in a million threshold carcinogenic health risk.

Other than daily deliveries and monthly testing of the emergency generator, the proposed project would not result in any long-term sources of diesel emissions.

RESPONSE P-1-23

The comment states that there is no discussion of reuse of the existing City Hall site for other purposes and that it is unrealistic to assume that there would be no construction activities associated with reuse of the existing City Hall site considering the age of the building, lack of parking, and other problems at the site discussed throughout the EIR.

Long-term air emission impacts are those associated with stationary sources and mobile sources related to any long-term change as a result of the proposed project. The proposed project includes the reuse of the existing City Hall with other Public Facilities uses. To provide a conservative analysis of potential project impacts, the DEIR did not take credit for the existing trips generated by the existing City Hall. Rather, project trips were added to the proposed project site, and the existing City Hall site was assumed to continue to generate the same number of trips and the same emissions from stationary sources. No architectural or infrastructure changes are proposed to the existing City Hall. Therefore, no construction emissions would be generated by reuse of the existing City Hall facility.

RESPONSE P-1-24

The comment states that impacts of the reuse of the existing City Hall site for other purposes should be more completely addressed in the DEIR and erroneously states that there is no discussion of the existing City Hall site under aesthetics, cultural resources, air quality, geology, hazards and hazardous materials, or noise.

As stated throughout the Project Description of the DEIR, the proposed project includes reuse of the existing City Hall structures located at 3300 Newport Boulevard with public facilities uses. Reuse of the existing City Hall structures is included as part of the proposed project evaluated in this DEIR because (1) the proposed City Hall cannot be operated without the relocation of existing City Hall functions from the existing City Hall site to the proposed project site, and (2) it is unlikely that the existing City Hall facility would remain vacant. The City Hall functions at the existing City Hall site would be relocated to the proposed project site after project construction. The existing City Hall site would then be reused for other public facility uses. No changes to the architecture or infrastructure at the existing City Hall site are proposed.

Each section of the DEIR includes an appropriate discussion of the potential impacts of reuse of the existing City Hall facility given the absence of proposed construction activities or any proposed change in the type of use.

RESPONSE P-1-25

The comment erroneously states that construction noise would be significant and that no mitigation is provided that would reduce noise impacts to a less than significant level. As stated in the noise impact analysis, on-site construction activities during the excavation phase could potentially result in maximum noise levels reaching 80 A-weighted decibels (dBA) at the nearest residences on the east side of MacArthur Boulevard intermittently. This maximum construction noise level would be reduced when excavation reaches deep enough that the earthen berm and edge of the project boundary would provide additional noise attenuation. Traffic on MacArthur Boulevard generates comparable noise levels at these residences. For example, existing traffic noise along MacArthur Boulevard between San Miguel Drive and East Coast Highway is estimated to reach 70 dBA Community Noise Equivalent Level (CNEL) at a distance of 129 feet from the centerline of the road. These homes are less than 100 feet from the centerline of MacArthur Boulevard and would be exposed to traffic noise reaching 72 dBA CNEL. Since the CNEL scale is averaged over a 24-hour, weighted period, it means that during the daytime hours, many vehicles would result in a maximum noise level at these residences that are comparable to the 80 dBA maximum instantaneous noise level (L_{max}) from the onsite construction activity. In addition, these existing residences are protected by an existing sound barrier that provides a minimum of 8 dBA noise reduction from traffic and activity on the project site, reducing the maximum noise levels from both traffic and on-site construction activity to 72 dBA L_{max} or lower. This range of noise levels would be below the City's maximum allowable instantaneous noise level of 75 dBA L_{max} . In addition, Section 10.26.035.D of the City's Municipal Code exempts construction noise from the City's Noise Control Ordinance. Construction noise is instead subject to the provisions of Section 10.28.040 of the Municipal Code, which limits construction activities to between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 8:00 a.m. to 6:00 p.m. on Saturdays; no construction is permitted outside of these hours or on Sundays and federal holidays (refer to page 4.11.11 of the DEIR). Compliance with the City's Municipal Code requirements and Mitigation Measure 4.11.1 during construction activities would

ensure that short-term construction noise impacts from excavation, grading, and erection of buildings on site would be reduced to a less than significant level.

RESPONSE P-1-26

The comment states that the DEIR should include analysis of noise from nonroutine activities including those held on the proposed Civic Green. The noise analysis in the DEIR (page 4.11-33) evaluated events and activities that could be held on the Civic Green that include, but are not limited to, children's story hour, puppet shows, book discussion groups, film screenings, receptions for events and authors, evening dinner events, and Arts Commission events such as plays and art shows. The noise impact analysis also indicated that noise from these events would not be expected to impact residential uses located east of MacArthur Boulevard because of shielding provided by the parking structure, changes in topography, and the location of MacArthur Boulevard. In addition, any events that would generate substantial noise would be subject to the City's Noise Ordinance and would likely be concluded by 10:00 p.m. thereby limited noise in the evening hours.

RESPONSE P-1-27

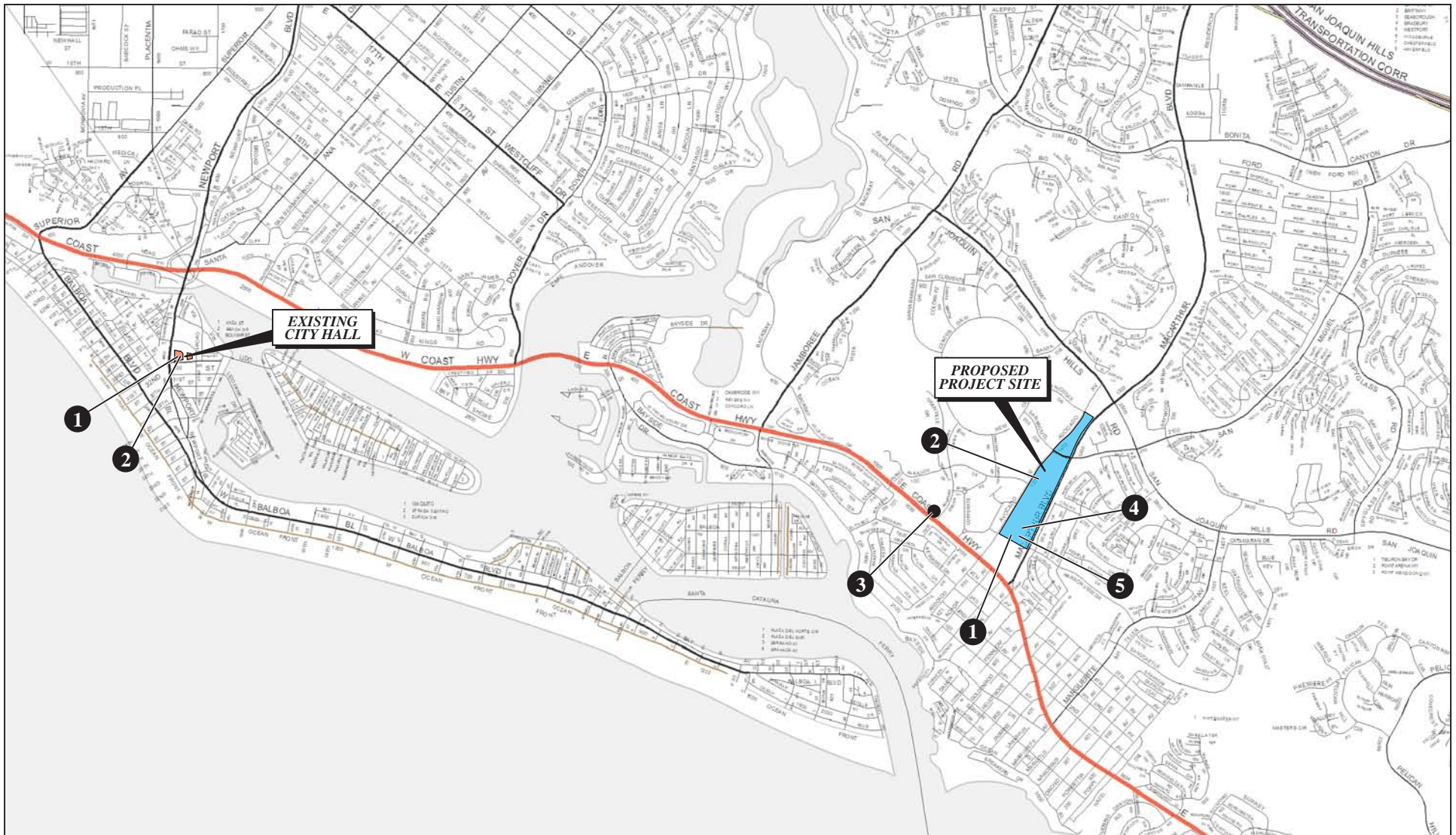
The comment requests a figure showing the location of all project alternatives analyzed in the DEIR. Figure RTC-2 shows the locations of the proposed project alternatives.

RESPONSE P-1-28

The comment states that the 500 Block of Newport Center Drive should have been included in the alternatives analysis.

On December 18, 2007, the City Council adopted the North Newport Center Planned Community (PC) Development Plan, a transfer of development rights, and a Zoning Implementation and Public Benefit Agreement (Development Agreement). This action gave the City the option to purchase a site in Block 500 of Newport Center Drive for the purposes of constructing a new 72,000 square-foot (sf) City Hall. The Development Agreement also specified that the Irvine Company would dedicate an approximately 3.18-acre site in Newport Center for open space and public facilities purposed within 30 days after the earliest of the following (1) the City awarded a construction contract for construction of a City Hall at any location within the City, or (2) the City's option to purchase the Newport Center Block 500 site was terminated.

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LSA



SOURCE: The Thomas Guide

LEGEND

1. No Project/No Development Alternative
2. Existing Zoning Alternative
3. Corporate Plaza West Alternative
4. Reduced Project Alternative
5. Modified Construction Schedule Alternative

FIGURE RTC 2

Newport Beach City Hall and Park Development Plan
Project Alternatives Location Map

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Following the adoption and ratification of Measure B, the City Council adopted a Resolution on May 27, 2008, in which it terminated its option to purchase the Newport Center Block 500 site. Subsequently, the Irvine Company dedicated a 3.18-acre site at the location of the proposed project site considered in the DEIR and requested a series of transfers of development rights for property in the North Newport Center Planned Community (PC) which were granted by the City. Currently, the Block 500 site is entitled to allow development of 526,517 sf of general office space. The Block 500 site is developed with 310,684 sf of general office space and is owned by the Irvine Company.

CEQA requires that an EIR describe and evaluate a reasonable range of alternatives to the project or to its location, but the EIR need not discuss every alternative to the proposed project. Instead an EIR should present a “reasonable range of potentially feasible alternatives” that fosters informed decision-making and public participation and permits a reasonable choice of alternatives. The DEIR evaluated five project alternatives, including one alternative location (Alternative 3, Corporate Plaza West). The evaluation of these alternatives provides a reasonable range of alternatives for consideration and satisfies CEQA’s “rule of reason.”

The City rejected further consideration of Block 500 as a project alternative in the DEIR because it did not satisfy project goals, did not offer substantial environmental advantages, and was infeasible given the Irvine Company's existing development in the 500 Block and the provisions of Measure B.

More specifically, the Block 500 site would not be consistent with Measure B (Objective 1), would not integrate the proposed Civic Center, Park, and the existing Library (Objectives 2, 4, and 13), and could result excessive site acquisition costs or possibly require condemnation of private property (Objective 7).

Moreover as the Block 500 site is already developed and would require demolition and construction of a new Civic Center and Emergency Operations Center (EOC) (Objective 12), the relocation of City Hall functions to the existing office buildings in Block 500 would not result in substantially different environmental advantages or disadvantages than what was already considered in the EIR under Alternative 3, Corporate Plaza West.

Finally, the City already terminated its option to purchase the Newport Center Block 500 site and, pursuant to a Development Agreement with the Irvine Company, specific actions took place as a result of that termination including the dedication of a 3.18-acre site in Newport Center for open space and public facilities purposes. In the City’s opinion it would not be feasible to amend the existing Development Agreement to allow reconsideration of the site for development of a Civic Center, would be prohibitively expensive to purchase the site outright, and would not be consistent with project objectives.

RESPONSE P-1-29

The comment states that the project objectives appear to be narrowly defined in an effort to make sure that alternatives do not meet the project objectives but that a number of the objectives could be met with several of the alternatives. State CEQA Guidelines Section 15124(b) states that the Project Description must include a statement of objectives sought by the proposed project. Section 15124(b) goes on to state that the statement of objectives should include the underlying purpose of the proposed project. Consistent with CEQA and State CEQA Guidelines, the project objectives were

developed to clearly and accurately articulate the purpose and objectives of the proposed project. The alternatives analysis correctly assesses whether or not each alternative can attain the project objectives.

The analysis for each of the alternatives in the DEIR contains an evaluation of the alternatives' ability to attain the project objectives. The DEIR acknowledges that some of the project alternatives may attain some of the project objectives while failing to meet others. Refer to Chapter 5.0 of the DEIR for additional discussion of alternatives and project objectives.

RESPONSE P-1-30

The commenter has suggested that the EIR must consider development of a new City Hall at Newport Center Drive or other locations as an alternative to the project, despite the directive of the voters in Measure B to build a new City Hall at the City's property on Avocado Avenue.

The EIR explains that several off-site alternatives were initially considered but rejected from detailed consideration in the EIR because they were determined to be infeasible (DEIR, pp. 5-3 to 5-8). This conclusion was reasonable and permissible.

The courts have repeatedly held that an EIR need not include a detailed analysis of alternatives, including off site alternatives that cannot feasibly attain the basic objectives of the project. Moreover, in the context of a project-level EIR, which implements previously made planning decisions, the EIR is not required to reexamine the basic land use policy that has previously been made (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 573). The Supreme Court explained that a project-level EIR is not "ordinarily an occasion for the reconsideration or overhaul of fundamental land use policy" (*Ibid*). Such policies are established in the broader planning sphere, and reconsideration of those fundamental land use policies on a project-by-project basis would not only be inefficient, it would undermine long-term planning efforts: "the keystone of regional planning is consistency—between the general plan, its internal elements, subordinate ordinances, and all derivative land use decisions. ... Case-by-case reconsideration of regional land-use policies, in the context of a project-specific EIR, is the very antithesis of that goal" (*Ibid*, pp. 572-573).

Here the basic land use decisions have been made concerning where the new City Hall project should be sited. Measure B, approved by the voters in 2008, added Section 425 to the City's Charter to specifically mandate that the new City Hall, city administrative offices and related parking to be located on the City's Avocado Avenue property. The Charter is the constitution for the City of Newport Beach. The Charter provisions enacted in Measure B cannot be changed by the City Council. Such changes can only be made by future voter approval. Subsequent to the voters' approval of Measure B, the City Council approved amendments to the General Plan to conform to Measure B. One of the primary objectives of this project is to implement these Charter and General Plan provisions.

Under these circumstances, it was reasonable and permissible for the EIR to find that off-site alternatives were not feasible and to focus analysis on alternatives that were potentially feasible and that would minimize the potential impacts of the project (CEQA Guidelines, § 15126.6, subd. (a): "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the

project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project”).

That being said, the DEIR does evaluate one off-site alternative (Alternative 3, Corporate Plaza West). That analysis provides the public and decision makers with information about the impacts of such an alternative. The DEIR also notes the conflict with Measure B and project objectives to implement Measure B. Those factors could render this alternative infeasible. The decisions makers will make the final determination regarding the feasibility of this and the other project alternatives.

RESPONSE P-1-31

That comment opines that the summary of project alternatives and the related discussion provided in Table 5.D are incorrect because the project Alternatives 1 (No Project/No Development) and 2 (Existing Zoning) could be redesigned to incorporate off site components (e.g., “an EOC could be constructed somewhere in the City”) that would allow the alternatives to achieve most of the project objectives.

As stated in the DEIR, Alternative 1 (No Project/No Development) is consistent with Project Objectives 8 and 9. Alternative 2 (Existing Zoning) is consistent with Project Objectives 4, 5, 8, and 9. The evaluation of the alternative’s ability to attain project objectives is based on the description and analysis of the alternatives as provided in Chapter 5.0 of the DEIR.

CEQA does not require an EIR to consider in detail every conceivable variation of stated alternatives (*Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal. App. 4th 477), nor does CEQA require an EIR to discuss alternatives to a component of a project. Rather, the EIR should focus on alternatives to the project as a whole. The alternatives considered should be ones that offer environmental advantages in comparison with the impacts of the proposed project as a whole.

The State CEQA Guidelines (Section 15126.6[d]) also require that an EIR evaluate the comparative merits of the alternatives and that the evaluation allow a meaningful evaluation, analysis, and comparison with the proposed project. Table 5.D provides a summary of the alternatives analysis in the EIR in order to facilitate such a comparison.

RESPONSE P-1-32

The comment states that under Alternatives 1 (No Project/No Development) and 2 (Existing Zoning), the significant air quality and greenhouse gas emissions impacts, as well as significant noise impacts from construction activities, would be reduced or eliminated. This statement is consistent with the information and analysis presented in the DEIR.

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From: JonV3@aol.com [mailto:JonV3@aol.com]
Sent: Thursday, October 15, 2009 1:16 AM
To: Murillo, Jaime; Alford, Patrick
Subject: Comments on Draft EIR City Hall and Park Development Plan

October 15, 2009

Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Email: jmurillo@newportbeachca.gov

Re: Public Comments, Draft EIR
City Hall and Park Development Plan

Dear Mr. Murillo,

Thank you for the opportunity to comment on the Draft EIR for the proposed City Hall and Park Development Plan. Here are my comments:

1. Regarding the Park Development Plan, the proposed plan purports to eliminate 88% of the natural habitats on the site, eliminating 11.68 acres of native vegetation on the site, which is an ESA and has sensitive habitats located on the site, including CSS. This is not consistent with the resource protections of the General Plan, including protection of sensitive terrestrial resources protected by Policies NR 10.3, 10.4, and 10.5, and 10.6 in the General Plan, pages 10-26 and 10-27 of the 2006 General Plan, which state:

NR 10.3 Analysis of Environmental Study Areas

Require a site-specific survey and analysis prepared by a qualified biologist as a filing requirement for any development permit applications where development would occur within or contiguous to areas identified as ESAs. (Imp 2.1, 6.1.)

NR 10.4 New Development Siting and Design

Require that the siting and design of new development, including landscaping and public access, protect sensitive or rare resources against any significant disruption of habitat values. (Imp 2.1)

NR 10.5 Development in Areas Containing Significant or Rare Biological Resources

Limit uses within an area containing any significant or rare biological resources to only those uses that are dependent on such resources, except where application of such a limitation would result in a taking of private property. If application of this policy would likely



constitute a taking of private property, then a non-resource-dependent use shall be allowed on the property, provided development is limited to the minimum amount necessary to avoid a taking and the development is consistent with all other applicable resource protection policies. Public access improvements and educational, interpretative and research facilities are considered resource dependent uses. (Imp 2.1)

NR 10.6 Use of Buffers

Maintain a buffer of sufficient size around significant or rare biological resources, if present, to ensure the protection of these resources. Require the use of native vegetation and prohibit invasive plant species within these buffer areas. (Imp 2.1)

The park site is one of the ESA's identified in the General Plan and the General Plan EIR. Sensitive habitat exists on the site with moderate to good stands of CSS and southern willow scrub. The report by the Chambers Group in 2003 for the GPAC Committee, see attached, identified these habitats as sensitive and therefore should be protected rather than eliminated. See page 29, Section 4.1.5.3 of this report. To quote from this report:

"Section 4.1.5.3 Sensitive Habitats and Species. This site is dominated by Diegan coastal sage scrub habitat. This habitat is considered sensitive, and is listed as rare or threatened or are otherwise protected by the USFWS, CDFG, or local agencies."

The City of Newport Beach should protect this habitat under the Natural Resource policies above, and should vegetate the park consistent with the buffer policy in NR 10.6.

2. Belonging to the NCCP does not require that the City get rid of its sensitive habitats and does not excuse the City from adhering to its own General Plan resource protection policies listed above. The NCCP merely allows the City to avoid takings issues with the Endangered Species Act. It is erroneous to mitigate loss of sensitive habitats within the City by utilizing NCCP. The City should adhere to its resource protection policies enumerated in its General Plan policies separate from the NCCP.

3. The EIR should present an alternative park development plan that protects the CSS on the site as well as the other diverse habitats. Such a plan was approved by the City in 2007 for Newport Center Park emphasizing preservation as well as other park user friendly amenities. See staff report for Agenda Item No. 17, City Council Meeting May 22, 2007, "Park Design Elements for Newport Center Park". The park described in this report should be analyzed in the EIR. Note that the cost of this section of the park was only \$764,000 (see page 12 of staff report, Phase 3, North Park Area). Please include this staff report in the EIR. Such a plan did not contemplate wholesale destruction of the native vegetation, nor did it dig up the top two feet of soil and replant. This park design should be presented in the EIR as an alternative to the proposed park plan.



4. The **General Design Parameters** for the City Hall and Park Master Plan, April 16, 2008, paragraph f, stated:

Natural Park Considerations - "The 5-6 acre portion of the Central Parcel (Newport Center Park) has been considered as a natural park (i.e. one that is reflective of the region's natural habitats and not overly manicured nor oriented towards turfgrass. A previous concept plan for the Newport Center Park is attached as Exhibit E"

4

The currently proposed park plan **eliminates** many of the natural habitats on the site (See table 4.5B in the EIR). Simply retaining these habitats on the site rather than eliminating them will be consistent with the General Design Parameters and be much less costly than removing the vegetation, replacing the soil and starting over. The proposed plan does not make much sense if the park is to be reflective of regional habitats. The existing soil is already good enough to maintain the habitats on the site in a moderate to good condition. See attached General Design Parameters, which includes Exhibit E. Please include this report in the EIR.

The EIR does not present a plant palette, but such a palette is necessary to determine whether regional natural habitats are reflected in the park design. The palette should include plants found in regional habitats.

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The plant palette should be primarily native, not "California friendly" which is a euphemism that would accommodate just about any plant that grows in a moderate climate with irrigation, such as ornamental plants from South Africa.

The northern parcel of the park north of San Miguel should also be considered for native plantings to be consistent with the central portion below San Miguel, and also the native vegetation in the St. Mark's Presbyterian Church at MacArthur and San Joaquin Hills Road.

6

Thanks again for the opportunity to comment.

Sincerely,

Jan D. Vandersloot MD
2221 E 16th Street
Newport Beach, CA 92663

Attachments:

- 1. Chambers biology report 2003
- 2. General Design Parameters

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April 18, 2008 VERSION

City Hall and Park Master Plan Design Competition

General Design Parameters

The following General Design Parameters are for the firms/teams selected to participate in the Newport Beach City Hall and Park Master Plan Design Competition.

- a. Access to Site and Circulation** – The recommended access to the site and surrounding circulation will be presented to City Council by the Building Committee on May 13, 2008. An access/circulation study is underway and will be complete by the end of April. The Study will be attached as *Exhibit H* when complete. *Exhibit A* shows surrounding streets, today's access points to the Library, and identifies the three key parcels (North Parcel, Central Parcel, Library Parcel) subject to the master plan.
- b. City Hall location on the site** – The City Hall and its parking shall generally be located in the Central Parcel south of the projection of Farrallon Drive, as shown on *Exhibit B*.
- c. Building Height** – The height of the City Hall building (and parking facility) shall be no higher than the height limits imposed by the *Newport Village PC Text View Plane* limitation as depicted on *Exhibit C* (to be added) except that architectural design features, appropriate to the scale of the primary structure, may penetrate the view plane created by the aforementioned height limits. Height limits in the Newport Village PC Text are generally 45 feet above grade OR the *View Plane* limitation (expressed in feet above mean sea level), whichever is lower. All landscaping and park improvements, at maturity, shall be lower than the View Plane limitation.
- d. Geotechnical Considerations** – Geotechnical considerations will be set forth in a soils investigation performed by Leighton Associates in April 2008 which is to be attached as *Exhibit D* when completed. The current expected date for the final report is the end of April. Preliminary results show no unique soils or water table issues.
- e. Library Access and Orientation to City Hall** – The Newport Beach Central Library currently faces away from the Central Parcel and the site of City Hall, towards the ocean. The Design should, to the greatest extent practicable, maximize the Library's relationship to the City Hall structure through design features. These may include, but not be limited to, a second entry, plaza, shared parking, landscaping or any other appropriate means within the context of the proposed design.
- f. Natural Park Considerations** – The 5-6 acre portion of the Central Parcel ("Newport Center Park") has been proposed as a natural park (i.e. one that is reflective of the region's natural habitats and not overly manicured nor oriented towards turfgrass). A previous concept plan for the Newport Center Park is attached as *Exhibit E*. Of particular importance is preserving the view from the southernmost meadow area and creating a landscaped border around the natural park area as a transition from the more manicured streetscape to the natural park.
- g. Other Park Requirements** – The southernmost meadow area of the Central Parcel and the 3-acre North Parcel shall have at least substantially the same park amenities and

facilities as shown in *Exhibit E*. An ADA-accessible path around all or part of the 20-acre master plan area is a desirable amenity. Both parcels shall be integrated as portions of the same Newport Center Park. They shall have activity-oriented facilities but not any organized sports fields. Lighting shall be limited to low-intensity safety lighting fixtures around paths and facilities.

- h. Landscaping Considerations** – The landscaping of the Park and City Hall area shall use water conserving plant material to the greatest extent possible. The intent is to not create a desert or dry landscape palette but a palette that is “California-friendly” and blends into the landscape palette of Newport Center and Newport Beach. Best Management Practices in water conservation, irrigation and drainage shall be employed in the design.
- i. Parking** – 350 spaces shall be provided for City Hall with an additional 100 spaces for the Central Library (the Library has a shortage of spaces currently). Parking for the general public should be convenient to the City Hall and Library buildings. The parking structure should be a separate structure from the City Hall building. The additional 100 library spaces need not be in the City Hall parking structure.
- j. Space Allocation and Needs Assessment Criteria** – The 2002 Needs Assessment prepared by LPA (a link to this document, and any updates to the document, on the City’s website is *Exhibit G*) will be the basis for the primary program requirements for the City Hall Structure with the following adjustments:
 - The City desires an open floor plan concept with maximum flexibility for future needs;
 - The building shall be designed for 270 full time employees at 200-250 square feet per employee, not including public areas; and
 - The building’s overall size shall be approximately 72-79,000 total square feet including public areas.

Please note that the 2002 Needs Assessment includes these two program requirements, both of which remain desirable:

- A “one-stop shop” permit counter (for permits relating to Building, Planning, Public Works, and Fire Prevention along with a cashier); and
 - A 150-seat Council Chambers.
- k. LEED Criteria** - The City Hall Structure(s) shall be designed to at least a *Leadership in Energy and Environmental Design* (“LEED”) standard of silver, with a goal to go higher, if feasible within budgetary limitations.
 - l. Corona del Mar Plaza Considerations** – The traffic study being done for “a” above will evaluate any changes that should be made to the access for Corona del Mar Plaza as part of the Master Plan. Such considerations, if any, will be shown on an attached *Exhibit F* and shall be used in the overall Master Plan if provided.
 - m. View Considerations** – Views are a sensitive issue in Newport Beach. In addition to the criteria in “c” above, the design should protect the public views westward over the property from MacArthur Boulevard. The design should also be sensitive to the westward views from homes east of MacArthur Boulevard over the property. Any penetrations above the

view plane as permitted in “c” above should only serve to enhance the architectural appearance of the City Hall structure or frame or enhance the private or public views across the property. Usable landscaped roof treatments or roof terraces are acceptable — these are neither encouraged nor discouraged. Also, the building and parking facility’s lighting design shall take into consideration nighttime views from the residences east of MacArthur Boulevard. All landscaping and park improvements, at maturity, shall be within the view plane on Exhibit C.

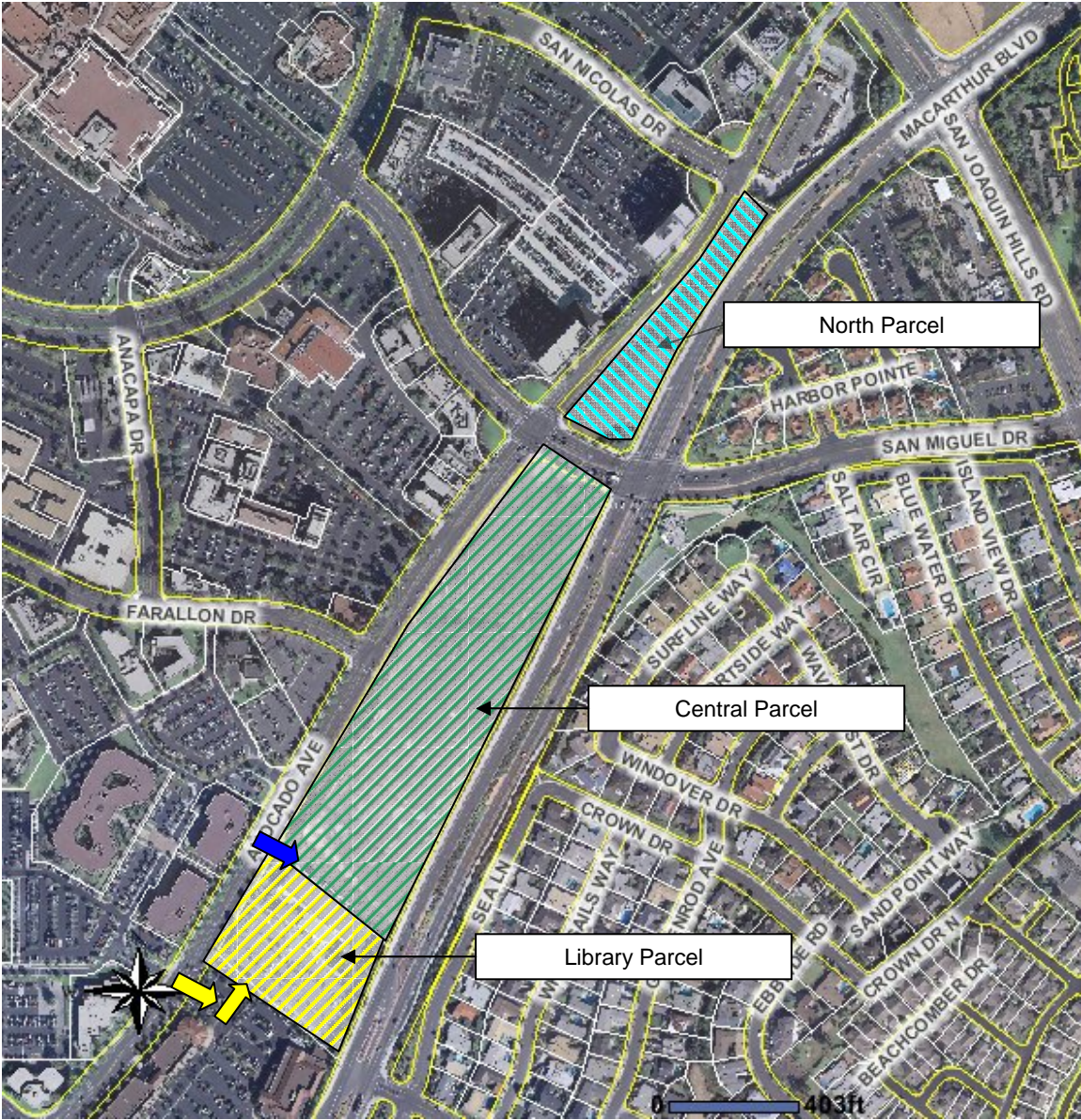
- n. Building Design** — The city is not setting any design theme for the City Hall building other than seeking a timeless design that will wear well over the years and not be dated in a few years. The design should reflect the character of Newport Beach. It should be harmonious with the adjacent Library and the eclectic architectural styles of Newport Center. The building should be recognized as a significant public building.
- o. Budgetary Constraints** – The budgetary goal of the Project is as follows:
- Approximately \$400 per square foot for the City Hall structure (not including FF&E);
 - Approximately \$20-25,000 per space for the parking structure; and
 - Approximately \$7 per square foot for the park, landscaping and site improvements.

The City Hall is not at this time planned to be an “essential services building.” The budget parameters expressed here are not absolute amounts but are intended to indicate the price range the City expects the project to cost. Designers should use these numbers as a guide in preparing their submittals.

Exhibits

- Exhibit A – Diagram showing 20-acre Master Plan area showing North Parcel, Central Parcel, and Library Parcel along with surrounding streets and current site access points to the Library (attached).
- Exhibit B – Diagram showing the area of the Central Parcel where City Hall and Parking are to be located (attached).
- Exhibit C – Diagram of the 20-acre master planning area showing the view plane restrictions over the property (to be added).
- Exhibit D – Soils Report (to be added).
- Exhibit E – Approved concept plan for Newport Center Park (attached in two pages).
- Exhibit F – Diagram showing any potential or revised access, parking or circulation considerations for CdM Plaza (to be added).
- Exhibit G – 2002 LPA Needs Assessment with updates (web link only).
- Exhibit H – Access/Circulation Study (to be added).

Exhibit A
The Master Plan Area



- Legend:**
- **BLUE** arrow is the delivery access point to Library.
 - **YELLOW** arrows show the public access point to the Library.

Exhibit B
City Hall and Parking Facility Location within Central Parcel

The area bounded by RED and in direction of arrow is the area where City Hall and Parking are to be located

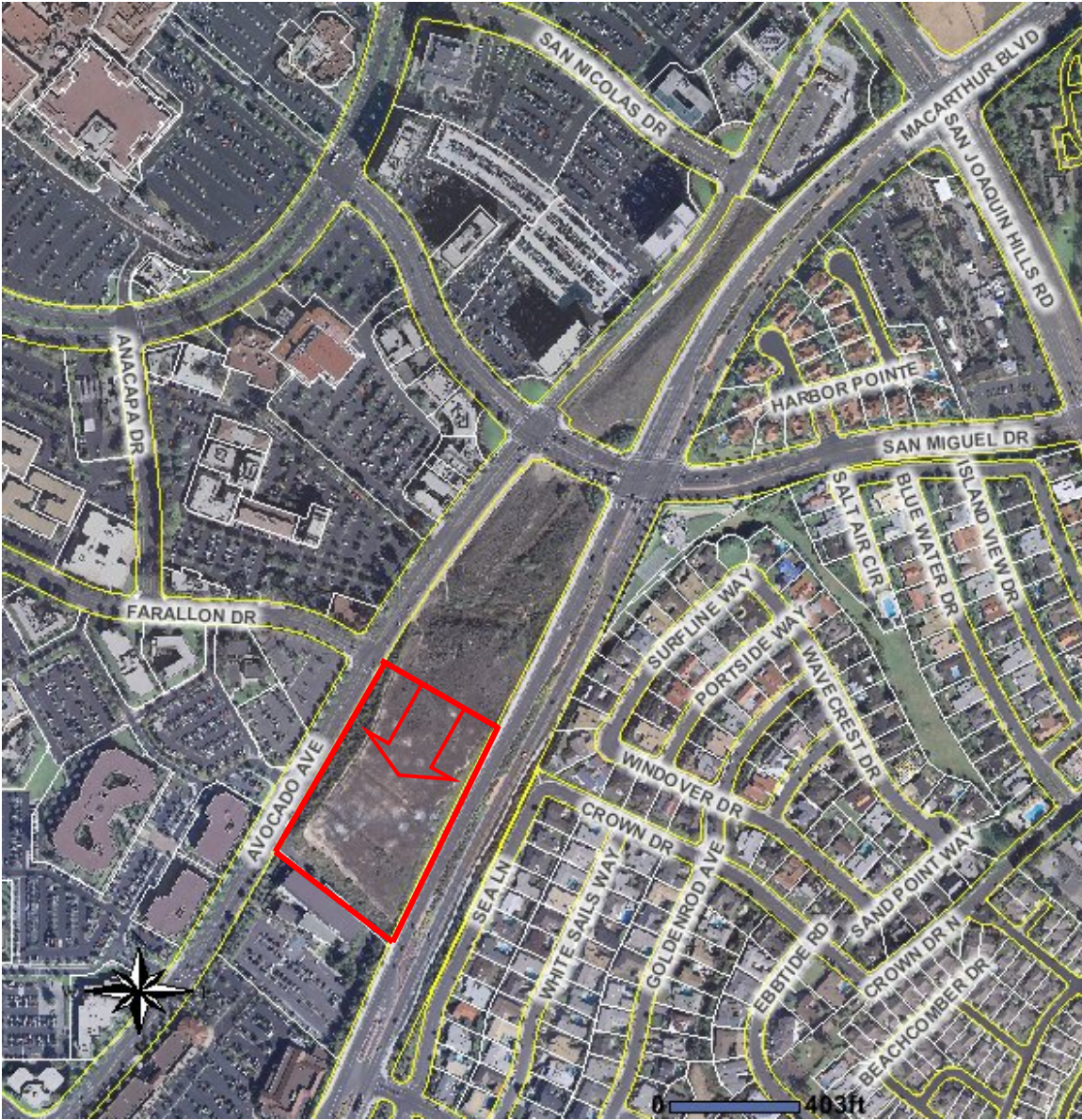


Exhibit C View Plane Limitations

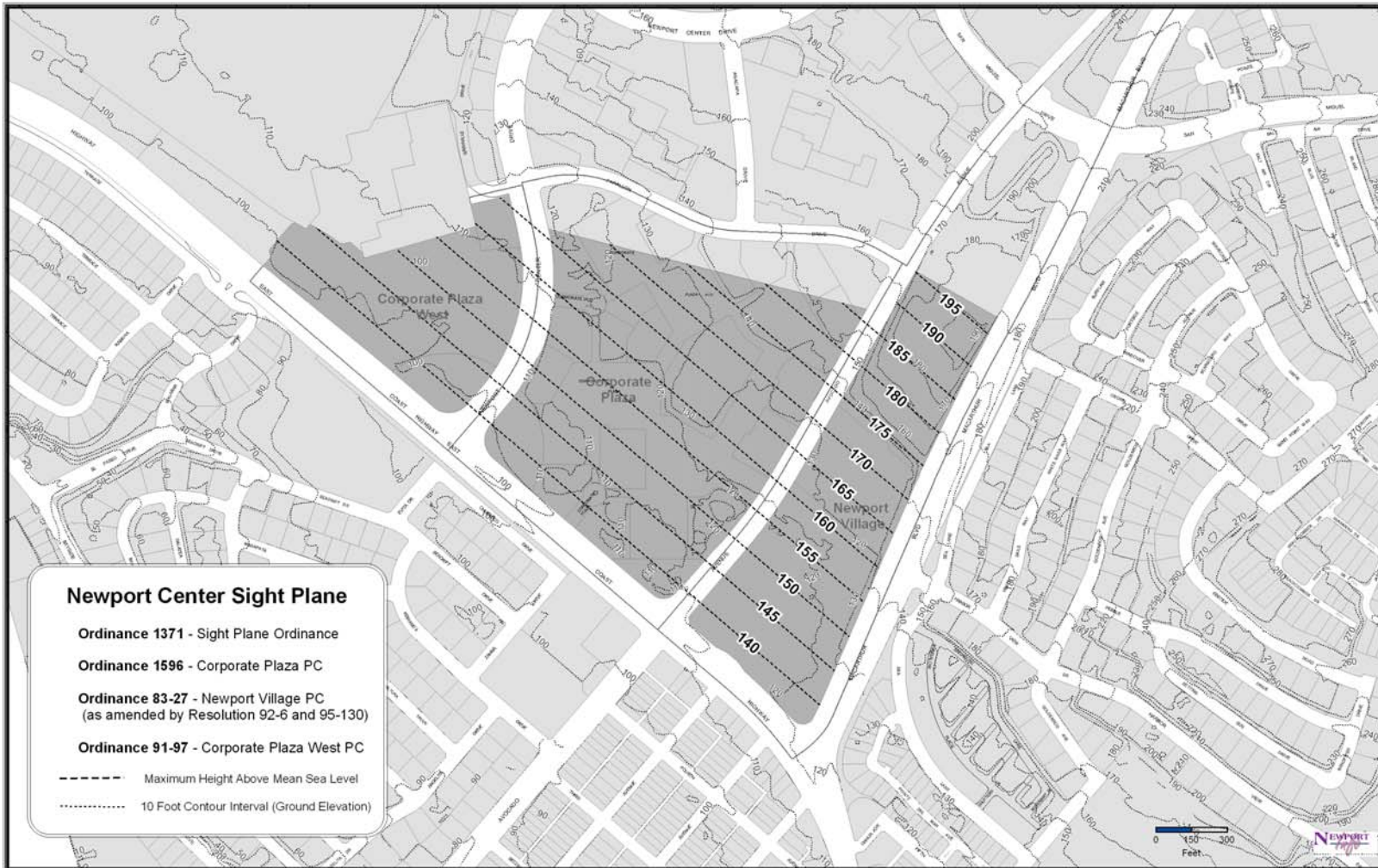
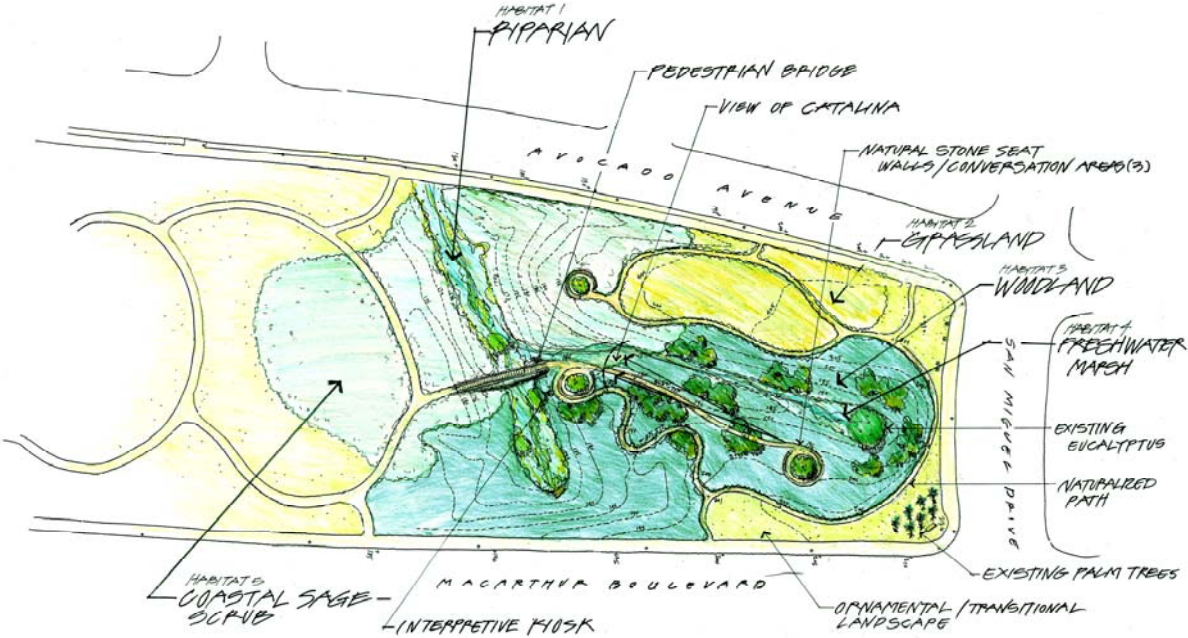


Exhibit D
Soils Report

To be added

Exhibit E
Concept Plan for Newport Center Park
(Part 1 – Upper part of Central Parcel)



Newport Village Park
City of Newport Beach
California Native Garden Concept Plan
Prepared By:
J&K Consulting, Inc.
Date: November 3, 2009

Exhibit F
Potential locations for increased access to CDM Plaza

To be added

Exhibit G

2002 LPA Needs Assessment with any updates (a website link)

<http://www.city.newport-beach.ca.us/cmo/CityHall/cityhalldesignparkmasterplan.asp>

Exhibit H
Access and Circulation Study

To be added

**CITY OF NEWPORT BEACH
GENERAL PLAN UPDATE
NEWPORT BEACH BIOLOGICAL RESOURCES**

Prepared for:

**CITY OF NEWPORT BEACH PLANNING DEPARTMENT
Contact: Mr. Patrick Alford, Senior Planner
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, California 92658-8915
(949) 644-3235**

Prepared by:

**COASTAL RESOURCES MANAGEMENT
1569 Via Monserate
Fallbrook, California 92028
Contact: Rick Ware
(760) 451-1830**

and

**CHAMBERS GROUP, INC.
17671 Cowan Avenue, Suite 100
Irvine, California 92614**

January 2003

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community to the east, and Villagio (private road) to the south. A small drainage runs west through the middle of the site. The site is located on the USGS Newport Beach 7.5-minute topographic quadrangle. Representative site photographs are shown in Figure 5.

4.1.5.2 Current Conditions

The site consists primarily of Diegan coastal sage scrub habitat dominated by coyote brush, coastal prickly pear, California sagebrush, California buckwheat, and California bush sunflower. Portions of the perimeter of the site show signs of previous disturbance likely from adjacent construction activities. These disturbed areas appear to have been restored with native coastal scrub plant species. The site also serves as a minor detention basin, collecting water during periods of precipitation. In the northwest corner of the site there is evidence of past ponding and presence of two dominant hydrophytic plant species, mule fat and cattail.

Table 2 identifies potential threats to this ESHA. Some potential threats to this area include water quality degradation, increased traffic, ambient noise, and human activity, development encroachment, erosion, invasive species, public access, and sedimentation.

4.1.5.3 Sensitive Habitats and Species

This site is dominated by Diegan coastal sage scrub habitat. This habitat is considered sensitive, and is listed as rare or threatened or are otherwise protected by the USFWS, CDFG, or local agencies. Coastal sage scrub supports a number of sensitive plant and animal species, including the federally listed threatened coastal California gnatcatcher. The CNDDB database does not list any records of CAGNs within the site or its immediate vicinity. This site supports adequate foraging area for raptor species.

4.1.6 MacArthur and San Miguel

4.1.6.1 Description

The 4.1 acre MacArthur and San Miguel site is located in the southwest quadrant of the intersection of MacArthur Boulevard and San Miguel Drive (GIS-10). The site consists of a relatively small and isolated patch of undeveloped land bordered by Avocado Avenue to the west, San Miguel Drive to the north, MacArthur Boulevard to the east, and an open lot to the south (north of the Central Library). The current Recreation and Open Space Element identifies 12-acres north of the library as the site for the Newport Village Neighborhood Park. The site is located on the USGS Newport Beach 7.5-minute topographic quadrangle. Representative site photographs are shown in Figure 6.

4.1.6.2 Current Conditions

The upland areas of the site consist primarily of Diegan coastal sage scrub vegetation dominated by California sagebrush, coyote brush, and coastal prickly pear. The perimeter of the site has been previously disturbed by adjacent road development. Several ornamental plant species occur immediately outside the boundaries of the site, including acacia, myoporum (*Myoporum laetum*), and Peruvian pepper tree (*Schinus molle*). Much of the adjacent undeveloped land, particularly the large lot between the site and the Central Library, supports ruderal vegetation.

A narrow drainage runs east and west through the middle of the site. This area supports a limited amount of disturbed southern willow scrub habitat and consists of dominant plant species including willow, cattails, and mule fat.



Photo 1. Facing west from MacArthur Boulevard, the photo depicts the Diegan coastal sage scrub habitat containing coastal prickly pear cactus in the upland areas and southern willow scrub vegetation located in the drainage (middle left of the photo).



Chambers Group, Inc.

Site Photographs
MACARTHUR AND SAN MIGUEL
Figure 6

Table 2 identifies potential threats to this ESHA. Some potential threats to this area include water quality degradation, increased traffic, ambient noise, and human activity, development encroachment, erosion, invasive species, public access, and sedimentation.

4.1.6.3 Sensitive Habitats and Species

This site is dominated by Diegan coastal sage scrub habitat. Coastal sage scrub is considered a sensitive habitat. Coastal sage scrub supports a number of sensitive plant and animal species, including the federally listed threatened coastal California gnatcatcher which has the potential to occur within the site. The CNDDDB database does not list any records of CAGNs within the site or its immediate vicinity. Additionally, this site supports adequate foraging area for raptor species. Coastal cactus wren may find suitable nesting habitat in the patches of coastal prickly pear.

The drainage located in the middle of the site supports a thin strip of disturbed southern willow scrub vegetation. Southern willow scrub is considered a sensitive habitat, and is listed as rare or threatened or is otherwise protected by the USFWS, CDFG, or local agencies. Southern willow scrub is utilized by many species of vertebrates, including birds, amphibians, and mammals. Sensitive species, such as the least Bell's vireo and southwestern willow flycatcher, have the potential to occur within this site.

4.1.7 MacArthur and San Joaquin Hills

4.1.7.1 Description

The 3.6 acre MacArthur and San Joaquin Hills site is located in the northwest quadrant of the intersection of MacArthur Boulevard and San Joaquin Hills Road (GIS-10). The site consists of a relatively small patch of undeveloped land bordered by an open lot and residential area to the west, Big Canyon Golf Course to the north, and MacArthur Boulevard to the south and east. The site is located on the USGS Newport Beach 7.5-minute topographic quadrangle. Representative site photographs are shown in Figure 7.

4.1.7.2 Current Conditions

The site consists of remnant portions of two small ravines that were historically contiguous with Big Canyon. The ravines carry ephemeral surface flow during periods of precipitation towards the golf course property where they join one another. This confluence supports several ornamental tree species including western sycamore (*Platanus racemosa*), eucalyptus, and myoporum. The slopes of both ravines support dense Diegan coastal sage scrub vegetation dominated by California sagebrush and California bush sunflower. One large myoporum tree and three large Mexican elderberry trees occur within the coastal sage scrub habitat. The perimeter of the site to the east, west, and south has been previously cleared and supports only ruderal herbaceous vegetation.

Table 2 identifies potential threats to this ESHA. Some potential threats to this area include increased traffic, ambient noise, and human activity, development encroachment, erosion, invasive species, public access, and sedimentation.

4.1.7.3 Sensitive Habitats and Species

This site is dominated by the sensitive Diegan coastal sage scrub habitat. Coastal sage scrub supports a number of sensitive plant and animal species, including the federally listed threatened coastal California gnatcatcher which has the potential to occur within the site. The CNDDDB database does not list any records of CAGNs within the site or its immediate vicinity. Additionally, this site supports adequate foraging area for raptor species. Suitable raptor nesting habitat is associated with the eucalyptus trees found on the golf course property located immediately north of the site.

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JAN D. VANDERSLOOT, M.D.

LETTER CODE: P-2

DATE: October 15, 2009

RESPONSE P-2-1

The comment lists several City of Newport Beach (City) General Plan policies related to natural resources and states that the proposed project is inconsistent with those policies. The determination of whether the proposed project is consistent with the City’s General Plan is at the discretion of the City Council. Nonetheless, the Draft Environmental Impact Report (DEIR) considered the physical effects of potential conflicts with General Plan policies that address natural resources under Impact 4.5-6 on pages 4.5-37 through 4.5-40. It should be noted, further, that all impacts to biological resources were fully mitigated (DEIR, pp. 4.5-29 through 4.5-45).

The commenter suggests that even though the loss of 11.68 acres (ac) of native vegetation on site that would occur as a result of the project is fully mitigated, that loss cannot be found to be consistent with the City’s General Plan policies. As demonstrated by the policy analysis below, the commenter is mistaken.

Policy	Consistency
Policy NR 10.3	<p>Analysis of Environmental Study Areas.</p> <p>This policy requires site-specific surveys and analysis for projects within an identified ESA. The requisite surveys and analysis has been completed; therefore, the project is consistent with this policy (see Draft EIR, p. 4.5-37 and Appendix D).</p>
Policy NR 10.4	<p>New Development Siting and Design.</p> <p>This policy states that the siting and design of new development, including landscaping and public access, protect sensitive or rare resources against any significant disruption of habitat values.</p> <p>In this case, the siting decisions have been dictated to a degree by the voters in Measure B, which amended the City Charter to specifically mandate that the project be constructed at this location. The site design, however, has been tailored to minimize impacts to habitat. The project features include use of native species (PDF BIO-2), wetland habitat enhancement (PDF BIO-1), and preservation of open space on site in the form of a passive park. The project’s potentially significant impacts to biological resources are reduced to below a level of significance with implementation of mitigation measures that protect the wetlands during construction activities, translocate the Coulter’s saltbush population, require a preconstruction nesting bird survey, and mandate compliance with the Orange County Central and Coastal Subregion Natural Communities Conservation Plan/Habitat Conservation Plan (NCCP/HCP) (see DEIR, pp. 4.5-37 and 4.5-38 and Appendix D).</p>

Policy	Consistency
	<p>Therefore, it is reasonable to conclude that the siting and design of the proposed new development protect sensitive or rare resources against any significant disruption of habitat values.</p>
<p>Policy NR 10.5</p>	<p>Development in Areas Containing Significant Rare Biological Resources.</p> <p>This policy states that uses within an area containing any significant or rare biological resources should be limited to only those uses that are dependent on such resources, except where application of such a limitation would result in a taking of private property. . . . Public access improvements and educational, interpretative, and research facilities are considered resource dependent uses.</p> <p>As explained above, with voter approval of Measure B, the City Charter was amended, requiring that City Hall be located on the proposed project site. This site, while located within two small Environmental Study Areas (ESAs), contains an isolated fragment of native habitat that is disturbed and completely surrounded by existing urban development, and as such, has limited habitat value (DEIR, pp. 4.5-13, 4.5-15; DEIR Appendix D, pp. 12, C-3 to C-6; see also General Plan, Natural Resources, Figure NR2). That said, site development is limited to the area necessary to meet the project objectives, and includes 14.3 acres of passive park space. Public access improvements in particular are considered resource dependent uses; significant improvements, including grading, are necessary to achieve Americans with Disabilities Act (ADA) compliant access facilities. Even within these constraints, the site design allows the existing wetlands to be preserved and even enhanced. Impacts to the Coulter’s saltbush, a California Native Plant Society (CNPS) List 1B.2 species, unfortunately, cannot be avoided; however, Coulter’s saltbush is not a threatened or endangered species, and impacts to the species will be mitigated by translocating on-site plants to a suitable permanent preserve (see DEIR, p. 4.5-38 and Appendix D; see also Draft EIR, pp. 3-9 discussing lack of ADA compliance at current City Hall; 3-16, 3-49 discussing ADA compliant features of the proposed project). For these reasons, it is reasonable to conclude that the project is consistent with this policy. It is also important to keep in mind that the City must consider the project’s consistency with equally important General Plan goals and policies to ensure that recreational facilities, including parks and trails, are developed so that they are accessible to persons with disabilities (see General Plan Goal R 3 [Accessibility of Facilities]). Policies R.3.1 (Adequate Access) and R.3.3 (Facility Design) are also implicated here. Those policies require that the City ensure that parks and recreation facilities include adequate facilities for persons with disabilities and design facilities, including trails, with consideration for views and access for persons in wheelchairs.</p>

Policy	Consistency
<p>Policy NR 10.6</p>	<p>Use of Buffers.</p> <p>Maintain a buffer of sufficient size around significant or rare biological resources, if present, to ensure the protection of these resources. Require the use of native vegetation and prohibit invasive plant species within these buffer areas.</p> <p>The existing wetlands are located within the area proposed for open space and are therefore physically separated from the portion of the site proposed for development. Uses within the passive park are limited to walking trails, picnic areas, etc., with no active sports fields. Therefore, the passive park would serve as a buffer to the existing wetlands. Furthermore, prescribed mitigation measures would require the presence of an experienced biologist to monitor project construction and development to ensure that sensitive plant communities designated for preservation and associated wildlife are protected during project construction activities. New planting in the open space area would include native plant species, and the project includes removal of existing invasive plant species (see DEIR, pp. 3-43 to 3-49, 4.5-38 to 4.5-39). Therefore, it is reasonable to conclude that the project is consistent with this policy.</p>

RESPONSE P-2-2

The comment states that it is erroneous to mitigate loss of sensitive habitats within the City by utilizing the NCCP and that the City should adhere to its resource protection policies enumerated in its General Plan.

The goal of the Orange County Central and Coastal Region NCCP/HCP is to identify significantly important Coastal Sage Scrub (CSS) habitat and to develop ways and means to preserve and/or restore the ecological value of this and associated plant communities and their attendant sensitive species in a rapidly urbanizing setting. The NCCP includes Reserve areas where development is not allowed, allowable development areas, and areas that are not designated for either conservation or development. As indicated on page 4.5-30 of the DEIR:

“NCCPs are routinely and reasonably relied upon to provide adequate mitigation for the impacts associated with authorized projects, consistent with the USFWS and CDFG memorandum dated March 17, 1995, that acknowledges the adequacy of the NCCP program in general for mitigation purposes:

After a subregional NCCP has been prepared and approved, project-related impacts to CSS and target species (including all species receiving regulatory coverage under the NCCP) shall be considered to be mitigated to insignificant levels and consistent with the NCCP Guidelines if the project and its related impacts to CSS/target species are carried out (siting, mitigation, etc.) consistent

with the subregional or subarea NCCP and its associated Implementing Agreement.¹

Within the study area, take of CSS, gnatcatchers, cactus wrens, and other species and habitats covered by the NCCP is already mitigated through the Irvine Company's participation in the NCCP/HCP, which included the Irvine Company's commitment of thousands of acres of land to the NCCP/HCP Reserve System. Please refer to Section 4.5 of the DEIR for a discussion of the project's consistency with City General Plan policies related to resource protection and Response to Comment P-2-1.

RESPONSE P-2-3

The comment states that the EIR should present an alternative park development plan (the Newport Center Park Plan approved by the City Council on May 22, 2007) that protects the CSS on the site and requests that the plan be included in the EIR. The plan was attached to Comment Letter P-2, which will be included in the Final EIR.

The concept of having a park in the general vicinity of what is now the Central Library site has its origins as early as 1990, when a 4-acre park was publicly discussed. Since 2000, the most recent park concept envisioned a parking area behind the Library, passive park area just to the north of this parking lot with low-water ornamental landscaping, turf, a small amphitheater area, and a very modest native vegetation refurbishment at the north end of the site adjacent to San Miguel Drive. In 2006, various amenities were added to the design concept, including an enhanced circular arbor area, landscaping enhancements along the perimeter of the park on Avocado Avenue and San Miguel Drive, and an enhanced vegetation area was proposed for the north area of the park. On May 22, 2007, the City Council directed staff to incorporate the suggestions of the Parks, Beaches, and Recreation Commission to add amenities, including benches, picnic tables, turf areas, parking, and a restroom. On July 24, 2007, the City Council approved the revised concept plan and directed staff to prepare a contract for the design of the Newport Center Park; however, due to the increased public interest to develop a City Hall on the site and eventually the introduction of Measure B, design and permitting activities for the Newport Center Park were halted.

The California Environmental Quality Act (CEQA) requires that an EIR describe and evaluate a reasonable range of alternatives to the project or to its location, but the EIR need not discuss every alternative to the proposed project. State CEQA Guidelines Section 15126.6(a)-(b) further state that an EIR must focus on alternatives that can avoid or substantially lessen a project's significant environmental effects. The proposed project would result in significant unavoidable impacts related to construction air quality and global climate change. Potential project impacts related to the removal of CSS can be mitigated to a less than significant level. Therefore, the development of project alternatives focused on avoiding or substantially lessening potential impacts related to air quality and/or global climate change. Analysis of an alternative that avoids removal of CSS, therefore, is not required. It should be noted, however, that the DEIR did include analysis of an all-park alternative (Alternative 2: Existing Zoning).

¹ Excerpted from March 17, 1995, Memorandum from USFWS and CDFG, *Jurisdictions within the Natural Community Conservation Planning (NCCP) Area*.

RESPONSE P-2-4

The comment states that retaining the natural habitats that exist on the project site would be more consistent with the General Plan Design Parameters (April 16, 2008) than the current plan and less costly. The comment also requests that the General Plan Design Parameters be included in the EIR.

Opinions regarding the design of the park will be forwarded to decision makers for their consideration. The General Plan Design Parameters were attached to Comment Letter P-2, which will be included in the Final EIR. The comment does not contain any substantive comments or questions about the analysis in the DEIR, and does not address environmental issues. Therefore, no further response is necessary.

RESPONSE P-2-5

The comment states that the EIR does not present a plant palette but that a palette is necessary to determine whether regional habitats are reflected in the park design. The comment also suggests that the plant palette should be primarily native, not “California Friendly.” The EIR provides analysis of the project as proposed, which includes substantial grading and a park design that incorporates a variety of plant species. PDF BIO-2 requires the use of native plant species in addition to drought-tolerant, ornamental, and turf species. Opinions regarding the components of the plant palette will be made available to decision makers for their consideration. The comment does not contain any substantive comments or questions about the analysis in the DEIR, and no further response is necessary.

RESPONSE P-2-6

The comment states that the northern parcel of the park (north of San Miguel) should be considered for native plantings to be consistent with the central portion of the project site and St. Mark’s Presbyterian Church. Opinions regarding park design and the components of the plant palette will be made available to the decision makers for their consideration. The comment does not contain any substantive comments or questions about the analysis in the DEIR, and no further response is necessary.

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SANDRA GENIS
1586 MYRTLEWOOD

COSTA MESA, CA. 92626

PHONE/FAX (714) 754-0814

October 14, 2009

Jaime Murillo
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92685-8915

Subject: DEIR for the City Hall and Park Development Plan project (SCH 2009041010)

Dear Mr. Murillo,

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the City Hall and Park Development Plan project (SCH 2009041010) in the City of Newport Beach in Orange County. These comments are submitted on behalf of Stop Polluting Our Newport and myself.

The project will entail the construction of:

- 98,000 square foot city hall, including administrative offices, an approximately 3,200 square foot city council chamber and a 3,800 square foot meeting room;
- 450 space parking structure;
- 17,000 square foot library expansion, including “gathering space” and two tenant spaces for a credit union/bank and food use;
- 4,800 square foot Emergency Operations Center (EOC);
- Civic Green;
- Public park including a dog park, wetlands area, bridges over the wetlands, lookouts, and pedestrian overcrossing over San Miguel Drive;
- Associated infrastructure improvements, including widening of San Miguel Drive.

1

Project Description

A stable, complete, and accurate project description is the most basic and important factor in preparing a lawful EIR. It is the denominator of the document and, thus, of the public’s and decision-maker’s review. A vague or ambiguous project description will render all further analyses and determinations ineffectual. It is critical that the project description be as clear and complete as possible so that the issuing agency and other responsible agencies may make informed decisions regarding a proposed project.

The DEIR indicates that the project site consists of three parcels: the 4-acre site currently occupied by the library, a vacant 11.8 acre site, and a vacant 4.2 acre site (p. 3-12). Although this would total nineteen acres, the site is said to total twenty acres (p. 3-12). The fifteen acres

2

currently vacant would be occupied by a 98,000 square foot city hall, a parking structure, and other facilities which would occupy approximately the southerly third of the site. Additional land would be utilized for widening of San Miguel Drive. Yet, the DEIR states that the future park would be 14.3 acres (p. 3-43). This makes no sense. Does the City propose to define park space as office buildings and parking structures? This must be clarified.

3

The DEIR is vague as to future use and occupancy. The DEIR fails to identify maximum occupancy of the various facilities, a key factor in determining future impacts on traffic, parking demand, and other impacts. In addition to a city council chambers, the project will include a community room, “gathering space” in the library addition, and an emergency operations center which may be utilized for city meetings during non-emergency periods (p. 3-43). It appears that together these facilities could accommodate several hundred people, though only the anticipated capacity of the council chambers is identified. The DEIR must identify the maximum capacity of each facility, including outdoor gathering areas, and total maximum capacity for the entire site. Project impacts must be examined in light of a worst case, maximum occupancy scenario.

4

Based on 3,800 square feet for the community room (p. 3-21) and 3,200 square feet for the council chambers (p. 3-29), it appears that the remaining 91,000 square feet of the city hall structure will be occupied by city administrative functions. Is that correct? If not, what portion of the structure will consist of government offices?

5

Will the city council chambers have fixed seating? Could additional occupants above 150 (p. 3-29) be accommodated?

6

The DEIR fails to indicate maximum occupancy of the community room. Will the entire 3,800 square feet be available for public assembly uses or will a portion of the structure be occupied by offices or kitchen facilities? What will be the maximum occupancy?

7

The DEIR indicates that library expansion will total 17,000 square feet (p. 3-33). However, except for two tenant spaces of 600 square feet each, the specific use of the space is vague. What portion of the additional space will be utilized for the media lab, for maintenance and for storage? What portion of the space will be utilized as “gathering space” (p. 3-33)? “Gathering space” is not defined. Will “gathering space” be provided in additional meeting rooms? What will be the maximum occupancy of the “gathering space”?

8

What would be the maximum event on the civic green? How many people would be anticipated to attend a city wide festival (p. 3-43)? What facilities would be available to support events at the civic green? Would restrooms at city hall be made available?

9

In addition to emergency operations, how often would the EOC be occupied? Would meeting rooms at the EOC be available for meetings of the general public?

10

Plans in the DEIR do not show any restrooms in the future park. Would park visitors be expected to avail themselves of facilities at city hall?

11

Project Design Features indicate that landscaping will “include the use of native plant species in

↓ 12

addition to drought-tolerant, ornamental and turf species”, an assortment of vegetation which is nearly all-inclusive (p. 3-61). What portion of the site will be occupied by native species and what portion of the site will be occupied by ornamental species and turf?

↑
12

Land Use and Planning

Section 15125(d) of the CEQA Guidelines requires that an EIR discuss any inconsistencies between the proposed project and applicable general plans and regional plans. There is no requirement that an EIR identify policies with which a project is consistent or that an EIR balance different policies and programs. An EIR must only identify inconsistencies.

13

By contrast, the DEIR devotes considerable effort to identifying policies with which the project could be considered consistent, but fails to discuss potential inconsistencies at all. The proposed project includes amendment of the Newport Village Planned Community zoning or an exemption from the zoning code. Clearly if the proposed specific plan were consistent with the adopted standards, an amendment or exemption would not be necessary. The DEIR must, at a minimum, discuss these inconsistencies. In addition, while conclusions may be subjective, a finding that the proposed project preserves the visual character of the area or that no habitat values would be disrupted strain credibility.

14

Areas of potential conflict include the following general plan goals and policies which relate to the proposed project and/or surrounding properties that may be affected by development pursuant to the proposed plan:

- R 2.2 Preservation of Public Parkland
Protect public parkland from non-recreational uses; any loss of parkland through governmental action shall be replaced in-kind.

15

The EIR must identify how parkland to be occupied by the city hall, parking garage and library expansion will be replaced in-kind.

- NR 10.4 New Development Siting and Design
Require that the siting and design of new development, including landscaping and public access, protect sensitive or rare resources against any significant disruption of habitat values.

16

The proposed project would eliminate habitat, contrary to this policy.

- NR 10.5 Development in Areas Containing Significant or Rare Biological Resources
Limit uses within an area containing any significant or rare biological resources to only those uses that are dependent on such resources, except where application of such a limitation would result in a taking of private property. ...

17

The proposed project would establish recreational uses not dependent on the resource within areas identified as environmental study areas in the Natural Resource Element, specifically areas 25 and 26, MacArthur/San Miguel and MacArthur/San Joaquin Hills, respectively.

- NR 17.1 Open Space Protection
Protect, conserve, and maintain designated open space areas that define the City’s urban form, serve as habitat for many species, and provide recreational opportunities.

18

The proposed project would eliminate public open space, replacing the open space with city administrative offices and a parking garage.

Traffic and Circulation

Trip generation assumed for analysis purposes in the DEIR does not appear to include generation of trips related to meeting rooms or gathering places. This is unrealistic. Conferences and seminars which generate peak hour traffic commonly make use of public meeting rooms in other communities as well as similar spaces in hotels. In addition, the children’s story hours and puppet shows that are cited as potential uses (p. 4.2-18) commonly take place in the after-school hours, ending as evening traffic begins to peak. Are taxpayers to believe that the City of Newport Beach will be expending millions of tax dollars for facilities which will be used “relatively infrequently” (p. 4.2-18)? Traffic analyses must be revised to include traffic generated due to use of at least a portion of meeting facilities or the project must be conditioned to prohibit any events which would generate peak hour traffic.

19

Table 4.2-F shows an increase in peak hour traffic of 0.01 at both the Goldenrod and Coast Highway and Marguerite and Coast Highway intersections in the morning and evening peak hour. Table 4.2-J shows increases at both intersections of 0.006 in the morning peak hour and 0.007 in the evening. Is the difference due to rounding?

20

Parking demand was projected based on a parking study of the existing city hall (p. 4.2-41). Did the parking study take into account parking in metered stalls in the area and informal use of other parking, such as parking at the adjacent shopping center or was the study restricted to the city hall lot? It is not unusual for all visitor parking spaces at city hall to be occupied, forcing visitors to park elsewhere. Projection of parking demand for city administrative services must be based on a baseline which includes existing use of off-site parking. In addition, projection of future parking demand must include use of meeting spaces.

21

Handicapped parking areas are not identified on plans in the DEIR. Based on the location of parking on the site plans, it appears that a considerable walk would be required from any parking space in order to reach most areas of city hall. Consideration must be given to adequate access for handicapped individuals. It cannot be assumed that people will be dropped off, as many individuals with physical limitations function independently.

22

The twenty parking spaces in the area of the proposed park are quite close to the transportation center. Is parking at that location currently adequate or is spillover parking demand likely to use spaces provided for park users?

23

Aesthetics

The EIR must present and analyze views from an easterly direction in the area intended to be protected by the Newport Center Sight Plane. Renderings from these areas must be provided

24a

with the structure intruding into the site plane clearly identified. ↑24a

It appears that significant view blockage would be created by vegetation to be planted on the project site (Figure 4.3.10, View 9). It makes no sense to plant a grove of trees in an area where they will block views. This is the type of ill considered landscape design that ultimately leads to illicit destruction of trees by frustrated neighbors. Visually intrusive vegetation must not be planted along view corridors. 24b

The EIR must address the precedent set by sight plane intrusion. This includes inducement of additional growth which would create additional sight plane intrusions. 25

Biological Resources

The proposed project will result in the removal of approximately 6.5 acres of scrub and grassland habitats, in addition to 5.17 acres of ruderal grassland (p. 4.5-34). Portions of the scrub and grassland that will be lost are in the area designated as a park, north of the city hall complex. Natural habitat must be retained to the extent feasible, and the park must be vegetated with native species. 26

It is admirable that the preparers took the effort to compare ponding at Fairview Park to the shallow depressions on the project site (p. 4.5-23). However, unless rain gauges were also utilized at the two sites, the effort was for naught. Rainfall would vary at the sites, which are six miles apart and on opposite sides of Newport Bay. The DEIR indicates that approximately 0.7 inches of rain had fallen in the previous three days (p. 4.5-23), but does not indicate the specific location at which this precipitation was recorded. This would be a particular issue in a year such as 2009, when rainfall has been scarce and sporadic. 27

The DEIR proposed translocation of Coulter’s saltbush (p. 4.5-32; 4.5-41)). Where, locally has this been successful? What time frames were required for success? 28

The DEIR states that “When viewed in the context of how much raptor foraging habitat has already been conserved in Orange County, the quantity of raptor foraging habitat lost on the site is not substantial.”(p. 4.5-32) How much raptor forage area, in acres, has been saved? What percent of raptor foraging area provided in Orange County fifty years ago would this represent? When viewed in the context of how much raptor foraging has already been lost in Orange County, what is the cumulative loss?

The DEIR cites adequate raptor forage in the Bolsa Chica Ecological Reserve and Cerritos wetlands (p. 4.5-24). However, the Bolsa Chica Ecological Reserve was preserved for its wetland values and habitat provided for high interest species such as Belding's Savannah Sparrow (*Passerculus sandwichensis beldingi*), Light-footed Clapper Rail (*Railus longirostris levipes*), California Least Tern (*Sterna antillarum browni*), a State and Federal endangered species , and Western Snowy Plover (*Charadrius alexandrinus nivosus*). Purchase and restoration of the Reserve has been largely funded through port mitigation funds, which must be targeted to wetlands, not raptor forage. In fact, concern regarding raptor predation in the lowlands due to loss of upland forage was a significant issue in the review of development 29

proposals in upland areas adjacent to the reserve. While some upland forage will be preserved in the Bolsa Chica area, this amounts to only a few hundred acres, not a large amount in the context of all of Orange County. The DEIR must examine the effect of cumulative loss of raptor forage on predation of high interest species in Upper Newport Bay.

↑
29

The DEIR assumes that removal of vegetation would be authorized under the Irvine Company’s previous entitlements under the NCCP (p. 4.5-33). Under the NCCP Implementation Agreement signed in 1996, the Irvine Company authority to take is not infinite, but is limited to 4,420 acres of habitat. As stated in the DEIR (p. 4.5-34), the project site was deeded to the City of Newport Beach pursuant to the Circulation Improvement and Open Space Agreement (CIOSA), which was approved in the early 1990s. Thus, at the time the NCCPIA was signed, no development was contemplated on the project site. Thus, the 4,420 acres of take may not include the subject property. The EIR must verify that credit for take is available and is not already allocated to Irvine Company development elsewhere.

30

The project would reduce drainage to on-site wetlands by eleven percent (p. 4.5-39). Impacts on wetlands species must be examined in the light of climate change and expectations of reduced precipitation. Bridges must be adequately elevated so that no portion of the wetlands is shaded for more than a short while.

31a
31b
31c

Utilities and Service Systems

The DEIR calculates demand for services such as solid waste disposal, water consumption, wastewater disposal, and electricity on the basis of assumed rated for government offices (Tables 4.13A, 4.13C, 4.13D, 4.13E) Doesn’t the city have data regarding usage at the existing city hall? How does that compare to assumed rates? It is recognized that the decades old city hall may not make efficient use of energy, but the age of the existing city hall is unlikely to affect factors such as solid waste generation.

32

While the DEIR identifies certain infrastructure, the DEIR fails to identify the capacity of conveyance systems in the immediate vicinity of the proposed project. The EIR must identify the location and capacity of all infrastructure which would serve the project, not just community wide facilities. Any capacity limitations must be identified. Are existing sewers and lift stations which would serve the project adequate to handle the additional volumes of wastewater to be generated by the project? Are existing water lines adjacent to the site adequate to provide acceptable water pressure?

33

Recreation

The Recreation Element of the General Plan establishes a goal of 5 acres of park land per thousand residents. This will create a need for 415.6 acres of park land in the City, while only 286.4 acres of park land exist in the City (Recreation Element p. 8-10). The EIR must address how loss of park land to administrative offices and a parking structure will affect the ability of the City to meet its goals for park land.

34

Cumulative Impact

At the time CIOSA was adopted, various sites were set aside as open space in return for development guarantees on other sites. Over time, several of the designated open space sites have been developed for retail and institutional uses. The EIR must identify the cumulative loss of CIOSA open space sites, including the subject property, along with measures to compensate for the loss of open space at these locations.

35

Growth Inducing Impact

Because the DEIR fails to address infrastructure capacity in the area immediately surrounding the project site, it is not known if any new facilities, such as water lines or pump stations, would be needed to serve the site nor if any such new facilities would facilitate additional growth. Thus, it cannot be concluded that the project will not induce additional growth on either an individual or cumulative basis.

36

Conclusion

As currently presented, the DEIR is inadequate to fulfill the purposes of CEQA. The DEIR must be revised to provide more complete, accurate information regarding characteristics of the proposed project and project impacts. Once again, thank you for this opportunity to comment.

37

Yours truly,



Sandra L. Genis

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SANDRA GENIS

LETTER CODE: P-3

DATE: October 14, 2009

RESPONSE P-3-1

The comment states that the comment letter has been submitted on behalf of Sandra Genis and Stop Polluting Our Newport (SPON), contains a summary of the proposed project, and provides a statement on the importance of a stable, complete, and accurate Project Description. The comment does not contain any substantive comments or questions about the Draft Environmental Impact Report (DEIR) or analysis therein; no further response is required.

RESPONSE P-3-2

The comment erroneously states that there is a mathematical error in the DEIR Project Description. The size of the proposed project site is accurately stated in the DEIR as 20 acres (ac). $4 \text{ ac} + 11.8 \text{ ac} + 4.2 \text{ ac} = 20 \text{ ac}$.

RESPONSE P-3-3

The comment requests clarification as to how the 14.3 ac of park is calculated. The 14.3 ac park includes all land that is not an interior building space, including the wetland, Civic Green, and large landscaped areas adjacent to Avocado Avenue.

RESPONSE P-3-4

The comment states that the DEIR is vague as to future use and occupancy and should identify maximum occupancy of proposed buildings, including the Council Chambers, Library addition, and Emergency Operations Center (EOC) in order to determine impacts related to traffic and parking. The comment also states that the maximum occupancy of the site must be used in the DEIR analysis. This statement is not supported by any reference in CEQA and misrepresents the concept of “worst case” analysis.

Further, it is important to note that over 70 percent of the proposed project site is proposed to be park space, which is a distinct use for which “maximum capacity” has little relevance. As stated in Section 4.2 of the DEIR, forecast trip generation for the proposed City Hall, park, and library expansion land uses was based on Institute of Transportation Engineers (ITE) trip generation rates which are based on square footage (Library) or projected number of employees (City Hall), and the forecast trip generation for the dog park was based on a trip generation survey. As shown in Table 4.2.E, the trip generation rate for the proposed City Hall was based on a projection of 295 employees using ITE trip generation rates because it was higher during the p.m. peak hour and daily trips than the rates determined by the counts collected at the existing City Hall site. Refer to pages 15–16 of the Traffic Impact Analysis in Appendix B of the DEIR for additional information. Furthermore, the ITE rates

for Government Office Complex (733) incorporate a variety of civic center functions including but not limited to the Council Chambers, meeting rooms, and offices. Trip generation for the library was based on ITE rates for Library (590), which incorporate a variety of functions, including reading rooms and meeting rooms. Therefore, the analysis in the DEIR provided a conservative, worst-case analysis. Inasmuch as all uses are identified in the DEIR and are fully analyzed in the DEIR, the requirements of CEQA have been satisfied by using the traffic generation rates accepted by the City and traffic engineering professionals. This analysis in turn was part of the basis for the noise and air quality analyses. Simultaneous use of project facilities is assumed in the analysis in the DEIR to adequately represent the “worst case” scenario. Refer to Chapter 3.0 for a complete description of future uses proposed on the project site. Please also refer to Responses to Comments P-3-6, P-3-7, and P-3-10.

RESPONSE P-3-5

The comment asks what portion of the City Hall administration building will be occupied by administrative functions (i.e., not community room). The administration portion of the proposed City Hall Administration building is 86,000 square foot (sf). This does not include the proposed Council Chambers or Community Room.

RESPONSE P-3-6

The comment asks if the Council Chambers will have fixed seating and if the Council Chambers could accommodate more than 150 people. The Council Chamber would have fixed seats. The seating capacity of the Council Chambers with the dais seating (for Council Members and staff) is 190 occupants.

RESPONSE P-3-7

The comment requests the maximum occupancy of the proposed Community Room. Using 7 sf per person standing occupancy load factor, the maximum capacity is 560 people for a standing room only event. A more typical scenario would be a seated event with 255 people.

RESPONSE P-3-8

The comment asks for clarification of proposed uses in the Library expansion area. The Library expansion area will include the following uses, which total 16,650 sf (the DEIR stated approximately 17,000 sf):

First Floor		Second Floor	
Use	Square Footage	Use	Square Footage
Reading Area	2,782	Reading	3,963
Media Lab	1,030	Café	677
Art Storage	160	Credit Union	543
Restrooms	220	Café Seating	2,000
Mechanical Space	370		
Café Storage	207		
Office	389		
Print Services	195		
Total	7,920	Total	8,730

RESPONSE P-3-9

The comment asks what the maximum event would be on the Civic Green and what facilities (including restrooms) were available to people using the Civic Green. Based on Building Code occupancy factors, a maximum of 3,500 people could potentially gather on the Civic Green; however, this is the maximum event capacity according to Code and does not represent the size of events envisioned by the City. In practice, the City would review all proposed events to make a determination of how many people would be considered an acceptable maximum. Potential traffic, parking, noise, safety, and security impacts associated with special events, are reviewed on a per-event basis through the City's Special Events Permit process. As stated on page 3-21 of the DEIR, the Community Room bay would also contain restrooms for Civic Center and park visitors.

RESPONSE P-3-10

The comment asks how often the EOC would be occupied and if the EOC would be available for meetings of the general public. Section 3.5.4 (Emergency Operations Center) of the Project Description of the DEIR states that during nonemergency operations, the EOC would be used for emergency preparedness activities, including training for members of the public who are part of the community's emergency preparedness volunteers, and other City meetings and training, such as computer software training. At this time, it is unknown exactly how many times per year the EOC would be occupied; however, the EOC will not be available for meetings of the general public, with the exception of the volunteer activities described above.

RESPONSE P-3-11

The comment asks if park visitors would be expected to avail themselves of restroom facilities at City Hall. As stated on page 3-21 of the DEIR, the Community Room would contain restrooms for Civic Center and park visitors.

RESPONSE P-3-12

The comment asks what portion of the site will be occupied by native species and what portion of the site will be occupied by ornamental species and turf. Please refer to Responses to Comments O-3-4, O-4-33, and P-2-5. The DEIR provides analysis of the project as proposed, which includes substantial

grading and a park design that incorporates a variety of plant species. The Civic Green may incorporate the use of turf, ficus hedges, wisteria, and subtropical plants interplanted (by zoned water areas) with native species and other drought-tolerant plants.

RESPONSE P-3-13

The comment states that an EIR must only identify inconsistencies between the proposed project and applicable General Plans and regional plans. The comment goes on to state that if the project were consistent with the adopted standards, an amendment or exemption from the Newport Village Planned Community zoning would not be necessary.

The State CEQA Guidelines require that an EIR discuss potential inconsistencies with applicable plans. In practice, however, many EIRs go beyond the requirement and discuss plan consistency as well as inconsistency in order to provide evidence of compliance with State CEQA Guidelines Section 15125(d). This is the case with the DEIR.

The DEIR also includes a discussion of the project's potential inconsistencies with various General Plan goals and the City's Zoning Code. For example, on page 4.1-33, the DEIR states that "the proposed Civic Center would not be consistent with the Open Space land uses assigned to that area of the project site under PC-27." Therefore, the comment is incorrect in stating that the DEIR failed to discuss potential inconsistencies.

RESPONSE P-3-14

The comment opines that while conclusions related to the project's consistency with various plans may be subjective, it strains credibility to conclude that the proposed project preserves the visual character of the area and that no habitat values would be disrupted.

It is unclear from the comment to which specific General Plan goals or regional plans the commenter is referring that relate to visual character and habitat value. Section 4.3 of the DEIR provides analysis of the project's potential aesthetics impacts and concludes that the proposed project would permanently alter the existing visual character and quality of the proposed project site, but the changes would not substantially degrade the visual character or quality of the site and its surroundings. Therefore, it is incorrect to imply that the DEIR concluded that the proposed project "preserved" the visual character of the area.

Section 4.5 of the DEIR provides analysis of the project's potential impacts related to biological resources including habitat. The DEIR states that in the existing condition, the proposed project site is characterized by various habitat types composed of native and nonnative vegetation and that the proposed project would result in the loss of 11.68 ac of native habitat. Therefore, it is incorrect to imply that the DEIR concluded that the proposed project would not disrupt any on-site habitat. Please also refer to Response to Comment P-2-1.

RESPONSE P-3-15

The comment states that DEIR must identify how parkland to be occupied by the proposed City Hall uses would be replaced in kind. The portion of the central parcel where the City administrative offices and parking garage are proposed to be located is not currently designated for Open Space or Park use by the Land Use Element of the General Plan, but rather is designated for Public Facilities land uses. The proposed Civic Center facilities are consistent land uses within the Public Facilities land use designation. Furthermore, Recreation Policy 2.2 is intended to implement Recreation Goal 2 (Maintenance and Preservation) – Maintenance and preservation of existing parks and recreation facilities. Although the site was previously considered for a future park use, the parcel was never utilized as a public park and is not currently designated for park use by the General Plan; therefore, R 2.2 does not apply.

RESPONSE P-3-16

The comment states that the project may not be consistent with City of Newport Beach General Plan Policy NR10.4. The policy does not prohibit all loss of habitat, as suggested by the comment. Rather, the policy mandates that siting and design decisions be made to protect sensitive or rare species against significant disruptions of habitat value. See Response to Comment P-2-1.

RESPONSE P-3-17

The comment states that the project may not be consistent with City of Newport Beach General Plan Policy NR10.5. The comment misquotes policy NR 10.5. That policy does limit development in areas containing significant or rare resources but creates an exception for uses that are dependent on those uses. It specifically defines recreational uses as uses that are dependent on those resources. The policy does not, however, require a finding that a particular recreational use is specifically dependent on habitat, as stated by the comment. Nevertheless, it important to recognize that the pathway and trail project elements in particular are resource-dependent. These ADA-compliant facilities will allow wheelchair-dependent and other disabled park users access to view wetland and other natural features in the park. See Response to Comment P-2-1.

RESPONSE P-3-18

The comment erroneously states that the proposed project would eliminate public open space. The portion of the central parcel where the City administrative offices and parking garage are proposed to be located is not currently designated for Open Space use by the Land Use Element of the General Plan, but rather is designated for Public Facilities land uses. The proposed Civic Center facilities are consistent land uses within the Public Facilities land use designation; therefore, NR 17.1 does not apply. Refer also to Response to Comment P-3-15.

RESPONSE P-3-19

The comment erroneously states that the trip generation assumed in the DEIR analysis did not include generation of trips for meeting rooms or gathering spaces. Please refer to Response to Comment P-3-4.

RESPONSE P-3-20

The comment requests clarification of data presented in Tables 4.2.F and 4.2.J. Table 4.2-F shows the project contribution to existing conditions, while Table 4.2-J shows the project contribution to forecast year 2013 with committed and cumulative projects conditions. Based on City guidelines for traffic analysis, the increase in volume-to-capacity ratio is reported to two decimal places for existing plus project conditions, and three decimal places for forecast year 2013 with committed and cumulative projects plus project conditions.

RESPONSE P-3-21

The comment requests clarification as to how the projected parking demand rate was established for the proposed project. The parking study conducted at the existing City Hall site on April 29, 2009, included City Hall-related parking that occurred in the Lido Village Shopping Center parking area, metered and nonmetered parking on 32nd Street, and parking lots off of 32nd and 31st Streets between Villa Way and Lafayette Road, in addition to the parking spaces at the existing City Hall site. On the basis of the parking demand established considering all of these areas for the number of City Hall employees onsite that day, the demand was projected for the anticipated level of the future use. See also Response to Comment O-4-18.

RESPONSE P-3-22

The comment states that handicapped parking is not shown on the plan in the DEIR and that the DEIR cannot assume that people will be dropped off. Consistent with local, State, and federal law, the proposed project includes 13 handicapped parking spaces, including 2 in the surface lot adjacent to the parking structure, 1 space adjacent to the EOC, and 10 spaces in the parking structure. These spaces are in addition to the existing 7 spaces in the Library parking lot. Therefore, there is adequate parking to accommodate ADA requirements.

RESPONSE P-3-23

The comment asks if parking at the Newport Transportation Center (located north of the proposed project site) has adequate parking or if spillover parking demand is likely to use spaces intended to park visitors. Parking supply at the existing transportation center adjacent to the proposed park is currently adequate. In fact, multiple site observations of the Newport Transportation Center at various times of day typically find over 75 percent of the parking spaces vacant. Spillover from the transportation center into the park parking is not anticipated, given the low level of use currently experienced at the Newport Transportation Center.

RESPONSE P-3-24A

The comment states that the EIR must present and analyze views from an easterly direction in the area intended to be protected by the Newport Center sight plane to illustrate the structure intruding into the sight plane. The DEIR included renderings from all cardinal directions (east, west, north,

south) in Section 4.3. Figures 4.3.5 and 4.3.6 provide renderings that show the elevator shafts that would extend into the sight plane.

RESPONSE P-3-24B

The comment states that it appears that vegetation planted on-site may block views and implies that frustrated residents may destroy trees in order to reduce disruption of views and that visually intrusive vegetation should not be planted along view corridors. Please refer to Response to Comment P-1-11. Opinions of the commenter regarding proposed vegetation will be made available to decision makers for their consideration.

RESPONSE P-3-25

The comment states that the EIR must address precedent set by sight plane intrusion, including inducement of additional growth that could create additional sight plane intrusions.

The City does not believe the intrusion of the elevator shafts into the sight plane represents a precedent-setting action. This projection into the sight plane is consistent with an existing exception to the portion of the Sight Plan applicable to the Corporate Plaza West Planned Community (Ordinance No. 1371), which includes a provision for permitting minor penetrations into the sight plane, including elevator penthouses. The projection of the elevator above the sight plane is also generally consistent with an exception to the height limits that exist in the City's Zoning Code (Section 20.65.070.B), which permits elevator shafts to exceed the height limit by 5 feet.

Further, the proposed project is a unique, one-of-a-kind capital improvement project. Given that the existing City Hall was first constructed in 1945, it is unlikely that the City would undertake the design and construction of another new City Hall within the next 50–75 years. Therefore, the proposed project does not propose any precedent-setting actions that, if approved, would specifically allow or encourage other projects and resultant growth to occur. Therefore, the analysis does not support the idea that the proposed project would lead to additional growth that would create additional sight plane intrusions.

RESPONSE P-3-26

The comment states that the proposed project would result in the removal of approximately 6.5 ac of scrub and grassland habitats and 5.7 ac of ruderal grassland. The commenter opines that the proposed park must be vegetated with native species and that natural habitat must be retained to the extent feasible. Because there is no substantiation as to why proposed plant palette should include the specified native species, the comment fails to justify why the claim and does not related the demand to any environmental analysis. The plant palette to be used on the proposed project site would include the use of native plant species in addition to drought-tolerant, ornamental, and turf species (PDF BIO-2). Opinions about the use of native plants on the project site will be made available to decision makers for their consideration.

RESPONSE P-3-27

The comment opines that a comparison of ponding at Fairview Park to the shallow depressions on the proposed project site is not relevant because rainfall would vary between the sites.

Rainfall data was noted from the County of Orange Watershed & Coastal Resources Division website. The nearest rainfall recording station to the project site and Fairview Park is located in Costa Mesa. The rainfall observed at each site on each occasion was essentially the same. The amount of rainfall could vary slightly from site to site, but the distance between the sites is not substantial, and both sites are approximately the same distance from the coast. Therefore, the practical difference in rainfall between the sites would be negligible in this particular case. The City finds the analysis to be reasonable and defensible. Further, the analysis is consistent with the State CEQA Guidelines in that the analysis need not be “exhaustive.”

RESPONSE P-3-28

The comment asks whether Coulter’s saltbush has been successfully relocated and what the time frame is for relocation. While the City is not aware of previous translocation efforts for Coulter’s saltbush, Mr. Will Miller of the U.S. Fish and Wildlife Service (USFWS) was contacted regarding translocation of Coulter’s saltbush. Mr. Miller reportedly contacted other biologists at both the USFWS and the California Department of Fish and Game (CDFG) to inquire about any attempts to translocate Coulter’s saltbush. Mr. Miller later stated that although a Coulter’s Saltbush Translocation Plan had been prepared and incorporated into Section 5 of Appendix I of the Southern Orange County Draft Natural Communities Conservation Plan (NCCP)/Master Streambed Alteration Agreement (MSAA)/Habitat Conservation Plan (HCP) Joint Programmatic Environmental Impact Report (EIR)/Environmental Impact Statement (EIS), he was not aware of any actual translocation effort regarding Coulter’s saltbush. That being said, the various agencies found the proposal to be reasonably feasible when they adopted the mitigation program. A 5-year monitoring period is identified in the NCCP documentation cited above and in Mitigation Measure 4.5.1 in the DEIR. Although the City is not aware of any previous translocations of this particular species, other sensitive plant species including intermediate mariposa lily (*Calochortus weedii* var. *intermedius*) and many-stemmed dudleya (*Dudleya multicaulis*), have been successfully translocated.

RESPONSE P-3-29

The comment states that raptor predation is a significant concern in the Bolsa Chica Ecological Reserve, and encouraging raptors to forage in this area could result in predation of high-interest species in the Upper Newport Bay. The DEIR (page 4.5-32) identified some large, more prominent open space lands located in the general vicinity of the project site (i.e., Seal Beach National Wildlife Refuge, Bolsa Chica Ecological Reserve, and Upper Newport Bay Ecological Reserve) and set aside for permanent preservation to illustrate the much greater abundance and accessibility of additional open space suitable for potential raptor foraging. Raptors can and do forage in the lowland wetlands at these locations, but these open space preserves do not constitute the entire potential raptor foraging habitat in the region. Raptor foraging ranges are often quite vast, covering large expanses of open space areas. It is just as likely that the raptors observed or potentially foraging on site could also be foraging in other upland habitat in preserved open space along coastal Orange County. In fact, the raptor foraging habitat on site is primarily upland, so the raptors frequenting the site to forage are

more likely to use other upland habitats in the surrounding open space of the San Joaquin Hills. Therefore, the loss of the relatively small quantity of raptor foraging habitat on site, while contributing to the loss of potential raptor foraging habitat, is unlikely to contribute significantly to the ongoing raptor predation situation occurring at the Seal Beach National Wildlife Refuge, Bolsa Chica Ecological Reserve, or Upper Newport Bay Ecological Reserve, and would not be considered cumulatively significant, as indicated in Section 4.5.6 of the DEIR.

RESPONSE P-3-30

The comment erroneously states that no development was contemplated on the project site when the NCCP was signed by the Irvine Company and that the DEIR should verify that “credit” for take is available and not already allocated to Irvine Company development elsewhere. Although a specific project may not have been identified for the project site at the time the NCCP Implementation Agreement was approved, the property was nevertheless designated for future development. No NCCP boundary amendments have occurred with regard to the project area, and the commenter offers no evidence to support a contradictory conclusion. Therefore, authorization of take on site is still valid, and the site remains designated for potential development under the NCCP.

RESPONSE P-3-31A

The comment states that the proposed project would reduce drainage to the existing on-site wetlands by 11 percent. This statement is consistent with information presented in the DEIR. As stated on page 4.5-39 of the DEIR, the wetland plants are well established, and the relatively small fluctuations in water conveyance are not expected to threaten the viability and value of the wetlands habitat on site.

RESPONSE P-3-31B

The comment states that impacts to wetlands species must be examined in light of climate change and expectations of reduced precipitation. Potential impacts related to global climate change are analyzed in Section 4.8 of the DEIR. It should be noted that global climate change, or more specifically the warming of the earth’s surface, leads to a larger vapor-pressure difference between the sea surface and the adjacent atmosphere. This enhances evaporation rates which, in turn, enhance the global hydrologic cycle. For example, a global warming by 4 degrees Celsius (7.2 degrees Fahrenheit) would be expected to increase global precipitation by approximately 10 percent. Therefore, it is incorrect to imply that global climate change may lead to a reduction in precipitation that would potentially affect on-site wetlands. Additionally, the global climate change analysis is in the global context, which cannot be extrapolated to be site-specific. Rainfall increased or decrease will fluctuate and are very difficult to predict, especially as they relate to on-site wetlands viability.

RESPONSE P-3-31C

The comment states that bridges must be adequately elevated so that no portion of the wetlands is shaded for more than a short while. The project proposed the construction of elevated bridges. As stated on page 4.5-39 of the DEIR, the wetland plants are well established, and the relatively small

amount of shading that would result from the proposed bridges is not expected to threaten the viability and value of the wetlands habitat on site.

RESPONSE P-3-32

The comment questions whether the City has data regarding the disposal of solid waste, water consumption, wastewater disposal, and electricity use for the existing City Hall and how such data would compare to the rates used in the DEIR.

The City does not retain records of the amount of solid waste disposed at the existing City Hall site. The California Integrated Waste Management Board's Estimated Solid Waste Generation Rates for Institutions is the most appropriate and conservative solid waste disposal generation rate available for use in the DEIR analysis.

As cited in the DEIR, the demand factors used to calculate existing water demand (Table 4.13.C) and existing wastewater generation (Table 4.13.D) are based on data provided by the City's Utilities Department.

The City does not retain records of the electricity usage rates at the existing City Hall site. The SCAQMD Electricity Usage Rates is the most appropriate and conservative electricity usage rate available for use in the DEIR analysis.

RESPONSE P-3-33

The comment states that the DEIR fails to identify the location and capacity of all infrastructure that would service the project. Specifically, the comment asks (1) whether the existing sewers and lift station that would serve the project are adequate to handle additional volumes of wastewater to be generated by the project; and (2) whether existing water lines adjacent to the site are adequate to provide acceptable water pressure.

As stated in Section 4.13, Public Services, Utilities, and Service Systems, the proposed project site is currently serviced by all public service providers. Existing and planned on-site facilities are sufficient to accommodate demand for services generated by the proposed project. No expansion or upgrades to existing water or wastewater facilities are required to accommodate the proposed project.

Specifically, there is a City-owned 12 inch asbestos cement pipe (ACP) pipe that runs along Avocado Avenue that would be the source for domestic water for the project. There is sufficient capacity in this pipe to accommodate the water demand of the proposed project, and no upgrades are proposed or would be required. There is a City-owned 8-inch vitrified clay pipe (VCP) pipe that runs along Avocado Avenue that would serve the proposed project site's wastewater needs. The pipe would be adequate to handle the additional volumes of wastewater to be generated by the proposed project, and no upgrades are proposed or would be required.

RESPONSE P-3-34

The comment states that the City's General Plan establishes a goal of 5 ac of park land per 1,000 residents, which creates a need for 415.6 ac of park land in the City, while only 286.4 acres exists in the City. The comment goes on to request that the EIR address the loss of parkland to the proposed project and how it will affect the City's ability to meet its parkland goals.

As stated in Section 4.14 of the DEIR, as of 2005 the City had a total deficit of 38.8 ac of combined park and beach acreage citywide. The City is divided into service areas for the purposes of park planning and to equitably administer parkland dedications and fees provided by residential development. The proposed project site is located in Service Area 9, Newport Center, in which there is park surplus, according to the City's General Plan. Further, the proposed project includes development of a 14.3 ac park on the project site, which would account for 37 percent of the City's total parkland deficit. Therefore, the proposed project would further the City's goal of providing adequate park and recreation facilities that meet the recreational needs of existing and new residents of the community (Goal R 1 in the City's General Plan).

RESPONSE P-3-35

The comment states that over time CIOSA sites designated for open space have been developed for retail and institutional uses and that the EIR must identify the cumulative loss of CIOSA open space sites, including the subject property, along with measures to compensate for the loss of open space at these locations.

As stated in Section 4.14 of the DEIR, CIOSA is an agreement between the City and the Irvine Company that has allowed building entitlements for the Irvine Company in exchange for payments for circulation projects, an interest-free loan, and land for open space and potential senior housing sites for the City.

The City does not mitigate for the loss of land dedicated under the CIOSA as it is an agreement between the City and Irvine Company. The City does mitigate for the loss of open space or park land designated in its General Plan. For this reason it is important to note that the portion of the central parcel where the City administrative offices and parking garage are proposed to be located is not currently designated for Open Space use by the Land Use Element of the General Plan, but rather is designated for Public Facilities land uses. The proposed Civic Center facilities are consistent land uses within the Public Facilities land use designation.

RESPONSE P-3-36

The comment erroneously states that the DEIR failed to address infrastructure capacity in the immediately surrounding area of the proposed project site and therefore, it cannot be concluded that the proposed project will not induce additional growth.

As stated in Section 4.13, Public Services, Utilities, and Service Systems, and Chapter 7.0, Long-Term Implications of the Project, the proposed project site is currently serviced by all public service providers. Existing and planned on-site facilities are sufficient to accommodate the demand for services generated by the proposed project. No expansion or upgrades to existing water or wastewater

facilities are required to accommodate the proposed project. Therefore, expansion of public services beyond what is currently planned for, and encouragement of new growth, would not result from project implementation.

RESPONSE P-3-37

The comment states that the DEIR is inadequate to fulfill the purposes of CEQA because it does not provide complete, accurate information regarding the characteristics of the proposed project and project impacts.

The DEIR was prepared to evaluate the environmental impacts associated with the proposed project. It is intended to serve as an informational document to be considered by City decision makers and Responsible Agencies during deliberations of the proposed project. The EIR provides a complete, accurate Project Description and discloses the potential environmental impacts of the proposed project. Opinions regarding the quality of the analysis in the EIR will be made available to the decision makers for their consideration.

From: George Jeffries
Sent: Thursday, October 15, 2009 3:04 PM
To: Murillo, Jaime
Cc: gjj4@cox.net
Subject: COMMENTS ON CIVIC CENTER EIR10/15/09- 3:01p.m.

Sir, I attach below my comments on the Newport Beach Civic Center EIR. Your acknowledgement of receipt and consideration are appreciated. George J. Jeffries (949-759-0400)

MEMO TO: JAIME MURILLO, N.B. CITY PLANNER

FROM: GEORGE JEFFRIES (By e-mail)

RE: CIVIC CENTER PROJECT EIR COMMENTS

DATE: October 15, 2009

This memo is devoted to comments on the traffic issues discussed in the proposed EIR.

Traffic and Circulation Problems:

a. No Committee and Little Public Consideration:

An issue which has baffled me is the failure of the city to consider publicly the near and long term traffic and circulation issues *prior* to the design of the city hall project. Early on, I raised this issue early to the then city manager and two council members and got no satisfaction. The most recent Irvine Co. development agreement provided two and one-half million dollars for traffic improvements adjacent to this development. I now find that the city has done a “study” and EIR and proposes improvements to San Miguel-Avocado-MacArthur without any public or council review. However, public response to the EIR is pending. What concerns me is that this project as currently presented is cast in concrete even though further planning should be in process which would affect it.

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b. The “San Miguel” study and improvement proposal are inadequate to handle future problems. The plan is a band-aid adding a left turn lane for MacArthur and additional lane for San Miguel right turns. . It proposes to dump more traffic from Southbound Avocado on to San Miguel. While possibly a little better than before it

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fails to consider and propose any additional mitigation for the project to the west of Avocado or North of San Miguel. It fails to add a no merge lane south on MacArthur. The city manager has acknowledged that he thinks “other improvements will need to be made.” If so, where are the proposals? Let’s get these things on the table before working drawings commence. The EIR is directed only to near term improvements.

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c. The EIR traffic study fails to consider the impact of near term and long term improvements. The city hall project with a single entrance/exit at Farallon-Avocado will add 3,000 car trips per day to an already overcrowded Avocado Avenue at peak periods. Except for the Farallon escape hatch, the site is surrounded on four sides by some of the most traffic intense, signal delayed intersections in the city. What mitigation might be done to affect these intersections? As designed, all traffic coming from the North on MacArthur or West on San Miguel must go through the inadequate San Miguel-Avocado intersections forcing people to move laterally across a wide street in a very short distance. At present, 270,000 feet of additional retail space is under construction in Newport Center, and the city has authorized 550,000 square feet of additional office-residential in the 500-600 blocks of Newport Center and 413 residential units in Newport Center. Add to that the city of Irvine’s published proposed development through 2020, and its relationship to the Newport Center traffic magnet. This is a future traffic disaster ready to happen.

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c. The Study and EIR fails to address the problem adequately: The EIR appears to be a whitewash justifying traffic loads as meeting municipal standards. Reading the Study and EIR reminds me of the story told by Richard Prior about the husband caught by his wife in *flagrante delicto*.. In denying anything happened, the husband said to his wife: “Who are you going to believe, me or your lying eyes?” Look at the current traffic and circulation situation. Go to the affected intersections at peak hours. What demands from the increased population will be placed on the traffic infrastructure, the library, and the city hall in the next ten to fifty years? With CDM Plaza patrons already poaching parking spaces from the library and the additional adjacent population the current parking plan expansions appear too limited. The library board proposes an expansion that will multiply spaces used by student-patrons for hours for a study hall although they largely do not use library services or facilities. The city hall is designed for the addition of approximately seven more employees but has space for many more.

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d. The studies in the Environmental Impact Statement cannot be relied upon as they may apply to the San Miguel – Avocado – MacArthur. According to Assistant City Manager Sharon Wood’s oral statement to me in a recent conversation, a traffic engineer(s?) has acknowledged as much. Again, as designed, all traffic coming from the North on MacArthur or West on San Miguel must go through the inadequate San Miguel-Avocado intersections forcing drivers to move laterally across a wide street in a very short distance to be able to turn left. Who are you going to believe: The EIR, with its conservative traffic assumptions, or the obvious continuing peak hour gridlock destined to only get worse when a million square feet are built out in the adjacent Newport Center?. The council should also consider the possible mitigation benefits of no right turns, one way streets, variable signal timing, restrictions on turn lanes, elimination of pedestrian crossings, and unimpeded right turn lanes (particularly on San Miguel) which will contribute to traffic flow during peak hours. (Again, city staff may have something in mind, but it has not been presented.) This possible mitigation, even if traffic meets technical compliance, should be presented to serve intermediate and long term problems.

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GEORGE JEFFRIES

LETTER CODE: P-4

DATE: October 15, 2009

RESPONSE P-4-1

The comment questions the public review process as it pertains to long term traffic and circulation issues and opines that planning and traffic analysis of proposed improvements should have been done with public input prior to planning for the proposed project.

Table 4.2-G (Page 4.2-21) of the DEIR provides a list of the City's Committed Projects. The Committed Projects List consists of approved, but not yet completed projects in the City. For each of these projects a separate traffic study was prepared pursuant to the City's Traffic Phasing Ordinance. Of these committed projects, the following projects are located within the vicinity of the proposed Civic Center and Park project: Fashion Island Expansion, St. Mark Presbyterian Church, Corporate Plaza West, North Newport Center, and the Santa Barbara Condominiums. These studies were completed in addition to the City's own traffic and circulation management studies. Therefore, City staff and Council members had a great deal of information about the short and long term traffic and circulation issues surrounding the proposed project site before the environmental review process for the proposed project began. For example, the Zoning Implementation and Public Benefit Agreement for North Newport Center, approved in January 2008, requires the Irvine Company to contribute \$2,500,000 to the City for circulation enhancements, including the following improvement projects:

- Widening of Avocado Avenue between San Miguel Drive and San Nicolas Drive;
- Widening, operational improvements and/or other capacity enhancements to San Miguel Drive between MacArthur Boulevard and Avocado Avenue; and
- Other improvements as may be mutually agreed upon.

It should also be clarified that the "study" the commenter refers to is the traffic study specifically prepared for this project to evaluate the potential impacts associated with construction and operation of the City Hall and Park project. The traffic study was not intended to provide an overall evaluation of traffic operations in the Newport Center area. The traffic study for the proposed project evaluated the possible impacts of the proposed project, including cumulative impacts of the project, taking into account the existing and reasonably foreseeable activities in the area, and recommended mitigation that would reduce or avoid those impacts. Such a study can only be accomplished with a site plan that includes definitive building plans with square footage estimates of each proposed use and planned site access. The plans associated with the City Hall and Park project, including proposed mitigation, are not set in concrete. They continue to be subject to public review, including environmental review, as explained below.

The proposed widening of San Miguel Drive and related intersection improvements evaluated in the DEIR are consistent with the Zoning Implementation and Public Benefit Agreement discussed above. In addition, these recommended improvements were discussed with the City Hall Design Committee and Building Committee during the concept plan refinement process and ultimately presented to the

City Council on April 14, 2009, when the concept plan was approved. As stated in the DEIR, these improvements are intended to supplement the recently implemented traffic signal coordination program in order to improve the operational efficiency of these intersections. The possibility of additional traffic improvements, consistent with the Zoning Implementation and Public Benefit Agreement, will continue to be studied outside the scope of this project.

Finally, CEQA and the State CEQA Guidelines dictate a variety of opportunities for public input into the environmental review process, and the City provides additional opportunities for input in the form of hearings and public meetings, which are not specifically required by CEQA. The City issued a Notice of Preparation on April 1, 2009, to solicit agency and public comment on the scope of the EIR. The City held a public scoping meeting on April 22, 2009, during which the interested parties were encouraged to ask questions and leave comments on the project and the scope of the DEIR. The City issued the DEIR for a 45-day public review period on September 1, 2009. The City will also accept public comments at the City Council meeting at which certification of the EIR will be considered.

RESPONSE P-4-2

The comment states that the left turn lane on MacArthur and the additional lane on San Miguel would not adequately address traffic impacts on Avocado Avenue and San Miguel Drive. The potentially significant impacts of the project with regard to traffic were evaluated in Section 4.2 of the DEIR. The DEIR considered both long- and short-term project impacts. The traffic impact analysis for the proposed project includes existing plus project analysis, a forecast 2013 analysis, and a long range-General Plan consistency analysis (2030). After implementation of recommended mitigation measures, all traffic and circulation impacts of the proposed project would be reduced to below a level of significance. With regard to the intersections mentioned in the comment, the EIR states that under existing and forecast conditions—with or without the project—the MacArthur Boulevard/San Miguel Drive and Avocado Avenue/San Miguel Drive intersections have experienced, and are forecast to experience, operational issues due to the combination of the short spacing between the intersections and heavy turning movements. Refer to pages 4.2-12 and 4.2-39–4.2-41 of the DEIR for additional information. Although the project is not expected to cause any impacts at these intersections (DEIR, pages 4.2-19, 4.2-20, 4.2-23, 4.2-24, 4.2-27, and 4.2-30), the project proposes improvements to address the existing operational issues. Refer to pages 4.2-39–4.2-41 of the DEIR for additional information.

It is important to recognize that more improvements are proposed than the additional left-turn lane referenced in the comment. Provision of an additional eastbound left-turn lane from San Miguel Drive onto MacArthur Boulevard, an additional eastbound through lane at the San Miguel Drive/Avocado Avenue intersection, and de-facto right-turn lanes on San Miguel Drive increases the storage capacity of critical movements at the San Miguel intersections, particularly in regard to the eastbound left-turn lane from San Miguel Drive onto MacArthur Boulevard. The additional storage capacity at this location will help to prevent queue spillback through the San Miguel Drive/Avocado Avenue intersections. That said, this project is not intended to fix all existing traffic operational concerns in the Newport Center area. The objectives of the project are more focused and are stated in DEIR Section 3.3.

RESPONSE P-4-3

The comment states that the DEIR traffic study failed to consider the impact of near term and long term improvements. The traffic study was conducted based on applicable City of Newport Beach guidelines for traffic impact analysis, which includes looking at both relatively short-term projections, as well as the conditions projected at build out of all development allowed in the City's General Plan. Specifically, all the development referenced in the comment is considered in the City Hall and Park Traffic Study impact analysis. Mitigation measures were proposed at all intersections in the study area that were significantly impacted by the proposed project based on City of Newport Beach and City of Irvine thresholds of significance. Refer to DEIR Section 4.2.8 for additional information. After implementation of recommended mitigation measures, all traffic and circulation impacts of the proposed project (both project and cumulative) would be reduced to below a level of significance. Therefore, the traffic study is complete for both the short-term and long-term conditions and includes the cumulative condition requested in the comment.

RESPONSE P-4-4

The comment states that the DEIR and traffic study failed to adequately address traffic impacts. The traffic assessment has been prepared utilizing long-established City, County, and State methodologies for assessing the capacity-based congestion level of the arterial intersections and future cumulative traffic conditions. Using these established methodologies, the traffic assessment evaluated the existing and forecast conditions both with and without the project and compared those to the adopted level of service (LOS) standards. Refer to pages 4.2-14–4.2-36 of the DEIR. The DEIR identifies one significant impact of the project at Bayside Drive/East Coast Highway. Mitigation Measure 4.2-1 is identified to address that impact. With that mitigation, the impact will be less than significant. The commenter may disagree with these conclusions, but points to no alleged deficiencies in the analysis. Please refer to Responses to Comments P-4-2 and P-4-3.

RESPONSE P-4-5

The comment states that the current parking plan does not provide sufficient parking. Based on both the City Municipal Code and a demand based parking assessment of parking demand for the current City Hall, the amount of parking proposed for the overall project is sufficient to meet anticipated demand.

RESPONSE P-4-6

The comment states that Assistant City Manager Wood acknowledged that the EIR cannot be replied upon as it related to San Miguel Drive, Avocado Avenue, and MacArthur Boulevard.

The comment incorrectly interprets Assistant City Manager Wood's statement. Assistant City Manager Wood's reference was to the City's recognition, during the 2006 General Plan Update, that Intersection Capacity Utilization (ICU) model calculations alone do not provide a complete picture for all intersections. This statement related to the General Plan Update and how intersections are assessed for the purpose of establishing policies and making long-term plans for the City. Recognizing this, the City established General Plan Goal CE 2.3, optimal roadway system. Some

intersections have operations issues that are not fully reflected in ICU calculations. To address these situations, the General Plan Circulation Element includes Policy CE 2.3.4, Improvements to Reflect Changing Conditions, which helps implement Goal 2.3 and reads, “Based on the monitoring of traffic conditions, consider additional improvements in areas with operations issues, such as intersections with heavy turn volumes (e.g. additional turn lanes, traffic signal progression, etc.)” As stated in the DEIR on page 4.2-12, the intersections of San Miguel Drive with Avocado Avenue and MacArthur Boulevard have preexisting operations issues due to their close proximity and the high turn movements from San Miguel eastbound to MacArthur northbound. These intersections can be made to operate more optimally with improvements, even though they continue to operate within the levels of service established for them.

Consistent with the Circulation Element policy, the City has monitored these intersections and included improvements to them as part of project development in the vicinity. The Zoning Implementation and Public Benefit Agreement for North Newport Center, approved in January 2008, requires the Irvine Company to contribute \$2,500,000 to the City for circulation enhancements, including the following improvement projects:

- Widening of Avocado Avenue between San Miguel Drive and San Nicolas Drive;
- Widening, operational improvements and/or other capacity enhancements to San Miguel Drive between MacArthur Boulevard and Avocado Avenue; and
- Other improvements as may be mutually agreed upon.

The proposed widening of San Miguel Drive and related intersection improvements evaluated in the DEIR are consistent with the Zoning Implementation and Public Benefit Agreement discussed above. These improvements will help meet the City's goal for improving the existing roadway system to optimize operations, which is different from CEQA's mandate to identify and mitigate environmental impacts. As stated in the DEIR, these improvements are intended to supplement the recently implemented traffic signal coordination program in order to improve the operational efficiency of these intersections. The possibility of additional traffic improvements, consistent with the Zoning Implementation and Public Benefit Agreement, will continue to be studied outside the scope of this project.

RESPONSE P-4-7

The comment opines that the traffic assumptions in the DEIR were too conservative to address the existing and future traffic conditions. See responses to comments P-4-2, P-4-3, and P-4-4.

RESPONSE P-4-8

The comment states that the City Council should consider the additional mitigation to address intermediate and long term problems. As noted in Section 4.2.9 of the DEIR, all potentially significant transportation impacts of the project have been mitigated to a level of less than significant. Therefore, no additional mitigation is required under CEQA.

That said, the operational efficiencies of the City's transportation facilities in the vicinity of the project were considered during the design of the project. Specifically, during development of the

proposed improvements to San Miguel over the last year and half, all potential improvements, including those referenced in the Comment, were considered. As discussed in the response to comment P-4-4, the proposed improvement program was developed to maximize the available storage area for the stopped vehicles while also including intersection improvements that can minimize the time necessary for the other traffic movements competing for a share of the available time in a typical signal cycle. Please also refer to Responses to Comments P-4-2, P-4-3, P-4-4, and P-4-6. City staff will monitor operations on San Miguel Drive to determine whether operational improvements can be made in addition to those planned. The traffic conditions are monitored through the existing closed circuit television (CCTV) cameras.

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