

RESPONSES TO COMMENTS
AND
NATIVE AMERICAN TRIBAL CONSULTATION

RED HILL AVENUE SPECIFIC PLAN
ENVIRONMENTAL IMPACT REPORT
SCH NO. 2017041031

Prepared for

City of Tustin
300 Centennial Way
Tustin, CA 92780

Prepared by

Kimley-Horn and Associates, Inc.
765 The City Drive, Suite 200
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Date

July 2018

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1 INTRODUCTION

1.1 Introduction

The purpose of this document is to present public comments and responses to comments received on the Draft Environmental Impact Report (EIR) (State Clearinghouse Number 2017041031) for the Red Hill Avenue Specific Plan located in the City of Tustin. The Draft Program EIR was released for public review and comment by the City of Tustin on February 1, 2018 for a 45-day review period ending on March 19, 2018.

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Tustin, as the Lead Agency, has evaluated all substantive comments received on the Draft Program EIR, and has prepared written responses to these comments. This document has been prepared in accordance with CEQA and represents the independent judgment of the Lead Agency.

1.2 Format

The Final EIR for the Red Hill Avenue Specific Plan Project consists of the Draft Program EIR and its technical appendices; the Responses to Comments included herein; other written documentation prepared during the EIR process; and those documents which may be modified by the City Council at the time of consideration of certification of the Final EIR. The City Council would also consider adoption of a Mitigation Monitoring and Reporting Program (MMRP), a Statement of Findings of Fact, and a Statement of Overriding Considerations as part of the approval process for the Project.

This Response to Comments document is organized as follows:

Section 1 Provides a brief introduction to this document.

Section 2 Identifies the Draft Program EIR commenters.

Section 3 Provides responses to substantive comments received on the Draft Program EIR. Responses are provided in the form of individual responses to comment letters received. Comment letters are followed immediately by the responses to each letter.

Section 4 Presents clarifications to the Program EIR, identifying revisions to the text of the document.

1.3 CEQA Requirements Regarding Comments and Responses

CEQA Guidelines Section 15204(a) directs persons and public agencies to focus their review of a Draft EIR “on the sufficiency of the document in identifying and analyzing possible impacts on the environment and ways in which significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible. ...CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended

or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.”

CEQA Guidelines Section 15204(c) further advises, “Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to CEQA Guidelines Section 15064, an effect shall not be considered significant in the absence of substantial evidence.” Section 15204(d) states, “Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency’s statutory responsibility.” CEQA Guidelines Section 15204(e) states, “This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.”

In accordance with CEQA, Public Resources Code Section 21092.5, copies of the written responses to public agencies will be forwarded to those agencies at least 10 days prior to certifying the Final EIR.

2 LIST OF RESPONDENTS

In accordance with the State CEQA Guidelines Section 15132, the following is a list of public agencies, organizations, and individuals and businesses that submitted comments on the Draft Program EIR received as of close of the public review period on March 19, 2018. Comments have been numbered and responses have been developed with corresponding numbers.

Letter Reference	Commenter	Date of Correspondence	Page No.
C-1	Department of Transportation, District 12	March 19, 2018	3-3
C-2	South Coast Air Quality Management District	March 14, 2018	3-11
C-3	Orange County Transportation Authority	March 16, 2018	3-23
C-4	City of Irvine	February 26, 2018	3-26
C-5	Airport Land Use Commission for Orange County	March 16, 2018	3-33
C-6	Kevin Heydman	February 4, 2018	3-35
C-7	Kathy Hall	February 16, 2018	3-38
C-8	Peter Kim	February 16, 2018	3-40
C-9	Howard L. Abel	March 15, 2018	3-42
C-10	Jerry Marcil	February 5, 2018	3-46
C-11	Tim Mcc	February 22, 2018	3-48
C-12	Qantas Corman	March 7, 2018	3-50
C-13	Susan Eilenberg	February 6, 2018	3-52
C-14	WTM Tustin Investors, LP, and Lake Union Investors, LP	March 16, 2018	3-54

3 RESPONSES TO ENVIRONMENTAL COMMENTS

This section includes responses to all substantive environmental issues raised in comments received on the Red Hill Avenue Specific Plan Draft Program EIR (Program EIR). Comments submitted include questions about conclusions identified in the Draft Program EIR, findings and methodology for preparation of technical analyses; position statements for/against the Project; and comments about community and regional issues. The Final EIR provides responses to comments on significant environmental points describing the disposition of issues, explanations of the EIR analysis, supporting EIR conclusions, and new information or clarifications, as appropriate. The Final EIR does not respond to the comments on the merits of the Project nor does it attempt to solve regional issues requiring full countywide input and consideration. When comments did not address the completeness or adequacy of the environmental documentation, or did not raise significant environmental issues, the receipt of the comment is noted; no further response is provided.

This section is formatted so that the respective comment letters are followed immediately by the corresponding responses. Where sections of the Program EIR are excerpted in this document, the sections are shown indented. Changes to the EIR text are shown in underlined text for additions and ~~strikeout~~ for deletions.

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Letter C-1 Department of Transportation, District 12

Marlon Regisford

March 19, 2018

Comment Letter C-1

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

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*Making Conservation
a California Way of Life.*

March 19, 2018

Erica Demkowicz
City of Tustin
300 Centennial Way
Tustin, CA 92680

File: IGR/CEQA
SCH: #2017041031
12-ORA-2018-00809
I-5; PM 29.102

Dear Ms. Demkowicz,

Thank you for including the California Department of Transportation (Caltrans) in the review of the Draft Environmental Impact Report (DEIR) for the proposed Red Hill Avenue Specific Plan bordering the Interstate 5 (I-5) Freeway. The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability.

The project proposes 325,000 additional square feet of nonresidential development and 500 additional residential dwelling units. The project is approximately 43.11-acres, inclusive of approximately 7.32 acres of roadway rights-of-way. The project area extends along Red Hill Avenue to Bryan Avenue to the northeast, and generally Walnut Avenue to the southwest. I-5 bisects the Specific Plan area creating the northern and southern portions of the Specific Plan area. Interstate 5 is overseen by Caltrans. Caltrans is a responsible agency and has the following comments:

Air Quality

1. Caltrans recommends that vehicle parking spaces developed within the Specific Plan area shall be EV ready to encourage EV use and appropriately size electrical panels to accommodate future expanded EV use. The voluntary ride sharing program could be achieved through a multifaceted approach, such as designating a certain percentage of parking spaces for ride-sharing vehicles
 - The entire length of the Specific Plan is within a mile of Interstate 5. Residents of the new 500 residential units living within the Specific Plan would be exposed to significant concentrations of air pollutants and may be develop health complications. Please consider the creation of vegetation walls to mitigate the effects of air pollutants on residents. Visit the Environmental Protection Agency's website for additional information: <https://www.epa.gov/sciencematters/living-close-roadways-health-concerns-and-mitigation-strategies>. Consider this strategy



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when implementing the planned streetscape and landscaped median improvements.

- Since a majority of the proposed land use along Red Hill Avenue will be commercial, designate rideshare pick-up and drop off areas, as to not interfere with the general flow of traffic.

cont'd
1

Traffic Operations

2. The Traffic Impact Study (TIS) reviewed multiple intersections, including:
 4. Red Hill Avenue at I-5 NB Ramps
 5. Red Hill Avenue at I-5 SB Ramps
 - Please include queuing analysis for Caltrans on/off-ramps. This complements Objective 7-1: Ensure infrastructure capacity within the Specific Plan area meets future demands.

2

Transportation Planning

3. Caltrans currently has plans for I-5 improvements that includes Red Hill Avenue. The City and Caltrans, along with OCTA, can coordinate to determine what improvements are adequate mitigation for the Specific Plan and fair-share contribution from the City. The City's contribution will be proportional to the extent of its impact on State facilities.
4. The TIS identified existing bus routes that run within the Specific Planning area. It includes Orange County Transportation Authority (OCTA) Routes 66, 71, and 79.
 - Please include Tustin Metrolink Station into the City's analysis. The station is located three miles away from the Specific Plan. Inform residents, workers, and visitors to the Specific Plan about the transit opportunities available to them. This would complement Objective 2-1: Identify ways to improve and enhance linkages and connections between new development in the Specific Plan area and surrounding neighborhoods; of the General Plan.
 - Caltrans' previous comment letter for the NOP expressed the importance of increasing multi-modal options and accessibility within the Specific Plan. Please consider the development of a multi-modal transportation fund to mitigate transportation impacts of development. This fund can provide capital for the development of the multi-modal alternatives and enhancement of existing transit facilities. This would complement Objective 4-4: Identify local, State, and Federal funding opportunities that can provide businesses assistance and offer the City the means to upgrade the area, along with Objective 5-3: Promote and develop a transportation system which includes provisions for public transportation, bikes, and pedestrians; of the Specific Plan.

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5. The Specific Plan is adjacent to multiple educational facilities of all levels, elementary to high school.
- Consider the development of a Safe Routes to School Study. This would not only improve the safety of students, but also improve multi-modal travel options to school from the surrounding residential neighborhoods. Caltrans would like to inform the city of possible funding opportunities for the aforementioned Study. Please consider applying for Caltrans' Sustainable Transportation Planning Grant. Coordinate with local school districts, local authorities, surrounding local agencies, and Caltrans about applying for the Grant. Please visit: <http://www.dot.ca.gov/hq/tpp/grants.html> for additional information.
 - The City's Bike Master Plan designates a Class II bicycle facility for the entire length of Red Hill Avenue. The implementation of this proposal not only complements the suggested Safe Routes to School, but also improves multi-modal transportation options along the Specific Plan. The multi-modal transportation fund would help in the construction of the bicycle facility. Red Hill Avenue is a major corridor in the City of Tustin and will experience heavy traffic. Please ensure the safety of bicyclists and pedestrians by including bicycle and pedestrian signs along Red Hill Avenue. Increase rider safety by improving the proposed Class II with a colored bicycle path. This complements Objective 1-1: Establish a streetscape program using landscaping, signage, street furniture, entry statements, and other visual amenities compatible with the character of Tustin to achieve a distinct identity for the area.
 - The City should mitigate the Red Hill/SB I-5 intersection to a less than significant level, which shall not include the removal of bike lanes.

5

System Planning Comments:

6. Explore the potential of establishing a city wide multimodal transportation fee to fund non-auto infrastructure improvement projects. A fee program as such would support the management of vehicular trip demand.
- Developments along Red Hill Avenue in the project area can fund the construction of bike and pedestrian facilities. According to Policy 6.14 in the City's General Plan Circulation Element (2008), new developments are required to dedicate land and fund the improvement of bicycle and pedestrian facilities. Dedicated funding (such as the funding mechanisms mentioned in the traffic study) can help ensure construction of the facilities.
7. Please explore a potential partnership with Caltrans to provide, or dedicate spaces in an existing lot, to create a park and ride facility within or adjacent to the project area. A park and ride lot would support Caltrans' initiative to create a network of managed lanes facilities. Policy 5.1 of the City's Circulation Element (2008) supports the development of park-and-ride lots near the SR 55 and I-5 freeways.

6

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8. Future development plans that fall within the project area should be circulated to Caltrans for review and concurrence.

8

9. The project should be conditioned to ensure connections to existing bike lanes and multiuse trails to facilitate walking and biking to nearby jobs, neighborhood services, and transit. Providing these connections with streets configured for alternative transportation modes will reduce Vehicle Miles Traveled (VMT) by promoting usage of nearby public transit lines. Mitigation to reduce VMT should include funding the proposed bike paths identified in the OCTA Commuter Bikeways Strategic Plan (2009). These paths include a Class II bike lane on Red Hill Avenue from Edinger Avenue to Nisson Road, Class II bike lane on Red Hill Avenue from El Camino Real to First Street, Class II bike lane on Red Hill Avenue from First Street to Melvin Way, and Class II bike lane on Red Hill Avenue from Melvin Way to North of Irvine Boulevard. The projects provided above have been identified as Regional Priority Projects in the OCTA Commuter Bikeways Strategic Plan.

9

- The Specific Plan proposes that Class II bike lanes be striped through the entirety of Red Hill Avenue in the project area, and development should adhere to this proposal. The proposal would increase connectivity in the bike network and is consistent with the City of Tustin’s Bicycle Master Plan, as Red Hill Avenue is identified as a proposed Class II bike lane. Additionally, there are existing Class II lanes located from Nisson Avenue to El Camino Real. These lanes shall not be removed in order to ensure connectivity.

10. We also encourage you to develop Travel Demand Management (TDM) policies to encourage smart mobility and the use of nearby OCTA Bus Routes 71, 79, and 79A. To reduce regional VMT and traffic impacts to the State Highway System please consider requiring future development to adopt the TDM options listed below:

10

- Project design to encourage walking, bicycling, and convenient transit access;
- Dedicate carpool parking spaces;
- Allocate space for bicycle parking;
- Form of a Transportation Management Association (TMA) in partnership with other developments in the area;
- Adopt an aggressive trip reduction target with Lead Agency monitoring and enforcement;
- Reduce headway times for adjacent transit routes; and
- Provide and/or subsidize transit passes for employees and residents on a continuing basis.

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Active Transportation Comments:

- 11. Several schools are located adjacent to the project area. Thus, multimodal challenges and potential safety measures (e.g., yellow striping, signage, etc.) should be taken into consideration when implementing the Specific Plan. Nearby parks can attract pedestrians and bicyclists, too, so these should also be considered when making improvements.
 - Development of Safe Routes to School programs can be utilized to help identify sensitive areas and decrease negative impacts around schools.

- 12. Ramps and other measures (i.e., truncated domes, sidewalk widths, etc.) shall be constructed or updated at all intersections in the project area to adhere to the Americans with Disabilities Act (ADA) standards. Policy 6.3 of the City’s Circulation Element supports this notion.

- 13. Caltrans supports the development of plans and projects that incorporate Complete Streets features, which increase safety as multimodal accessibility for all potential users of the corridor. Caltrans has developed a guide for implementing Complete Streets features on roadways such as Red Hill Avenue, with the goal of ensuring that plans and projects support mutual transportation, development, livability and sustainability goals. The Main Streets Guide can be accessed here:
http://dot.ca.gov/hq/LandArch/mainstreet/main_street_3rd_edition.pdf
 - In the Circulation Element, Goal 6 is to, “Increase the use of non-motorized modes of transportation,” with subsequent Policies supporting this Goal. Therefore, Complete Streets measures should be implemented to ensure that safety, access, mobility, and sustainability are increased for all potential users, especially since traffic volumes are expected to increase over time.

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Please continue to coordinate with Caltrans for any future developments that could potentially impact State transportation facilities. If you have any questions, please do not hesitate to contact Julie Lugaro at 657-328-6368 or Julie.lugaro@dot.ca.gov.

Sincerely,



MARLON REGISFORD
Branch Chief, Regional-IGR-Transit Planning
District 12

“Provide a safe, sustainable, integrated and efficient transportation system to enhance California’s economy and livability”

Response 1

The recommendations of Caltrans related to electric vehicle (EV) charging stations, the use of vegetation walls, and ridesharing facilities are noted. The Program EIR Mitigation Measure (MM) 4.2-1 requires project-specific development plans and specifications to designate vehicle parking spaces to be EV ready and that electrical panels are appropriately sized to accommodate future expanded EV use. MM 4.4-2 requires future commercial uses within the Specific Plan area include Codes, Covenants, and Restrictions (CC&Rs) that provide for a voluntary vanpool/shuttle and employee ridesharing programs for which all employees shall be eligible to participate. The voluntary ride sharing program could be achieved through a multi-faceted approach, such as designating a certain percentage of parking spaces for ride-sharing vehicles, designating adequate passenger loading and unloading and waiting areas for ridesharing vehicles, and/or providing a web site or message board for coordinating rides. With respect to vegetation walls associated with residential development proximate to I-5, the Program EIR does not evaluate any project-specific developments. Should residential development be proposed in the future within 500 feet of I-5, the City will require project review including preparing a Health Risk Assessment as set forth in MM 4.2-4. At such time, the City could consider additional development conditions of approval, such as recommended by Caltrans.

Response 2

The following summarizes the projected vehicle queues for the morning and evening peak hours for the Red Hill Avenue and I-5 northbound and southbound on-ramps and off-ramps:

Intersection	Ramp	Movement	Queuing Distance (feet)	Number of Lanes	Projected Queue (feet)	
					AM Peak Hour	PM Peak Hour
Red Hill at I-5 NB Ramps	On-Ramp	NB Meter	407	2	116 ^a	16 ^a
	Off-Ramp	WBL	480 ^{+ a}	2	113/200 ^c	131/225 ^c
		WBR	380 ^{+ a}	1	222/344 ^c	383/544 ^c
Red Hill at I-5 SB Ramps	On-Ramp	SB Meter	431	2	272 ^a	168 ^a
	Off-Ramp	EBL	430 ^{+ a}	1	85/154 ^c	293/434 ^c
		EBR	430 ^{+ a}	1	184/296 ^c	195/309 ^c

a. Queue per lane at 80% of maximum service rate
 b. Plus 500+ feet of single-lane off-ramp
 c. 50th / 95th Percentile

Response 3

The comment is noted regarding future improvements to I-5. As it pertains to the proposed project, the Program EIR evaluates the potential traffic effects associated with buildout of the Specific Plan Project including impacts to Caltrans facilities within the traffic study area. Per CEQA requirements, an improvement has been identified to mitigate the Project impact. The City shall coordinate with Caltrans in its future implementation or in the identification of alternate improvements, if necessary.

Response 4

The following provides a description of the transit and rail services available to the area via the Tustin Metrolink Station:

The Tustin Metrolink Station is located on Edinger Avenue, west of Jamboree Road, approximately two to three miles from the Specific Plan area. Metrolink trains on the Orange County Line (Oceanside to LA) stop at the Tustin station. Metrolink trains run in the northbound direction from 4:21 AM to 11:46 AM and 3:46 to 9:06 PM, and from 7:51 to 10:23 AM and 2:03 to 10:33 PM in the southbound direction, Monday through Friday. Headways (the time interval between train arrivals) vary between 12 minutes and 1½ hours, with the shortest headways occurring during the morning and evening commute periods. Weekend Metrolink service is provided between 9:25 AM and 6:46 PM, with two-hour to three-hour headways.

The OCTA bus route closest to the Specific Plan area that serves the Tustin Metrolink Station is Route 472, which travels on Red Hill Avenue to Edinger Avenue to reach the station. The closest bus stop for Route 472 is located at the corner of Red Hill Avenue at Edinger Avenue. Route 472 runs only during the morning and evening commute periods, with 10 to 40-minute headways.

With respect to Caltrans' request for the City to consider the creation of a multi-modal transportation fund to traffic impacts and transit facilities, the recommendation is noted and will be provided to City decision-makers. No further response is required.

Response 5

With respect to Caltrans' suggestion for the City to prepare a Safe Routes to School Study, the recommendation is noted but is beyond the scope of the Program EIR.

With respect to the provision of bike signage, the Specific Plan includes a wayfinding signage program. With respect to a multi-modal transportation fund, please refer to the response to Comment 4. Caltrans' recommendations are noted and will be provided to City decision-makers. No further response is required.

The Traffic Study identified the following mitigation measure to mitigate the Project's impact at the intersection of Red Hill Avenue at the I-5 southbound ramp: Re-stripe the eastbound approach (the off-ramp) to convert from one shared left-through lane and one dedicated right-turn lane to one dedicated left-turn lane and a shared left-through-right lane. This improvement would not require the removal of the bike lane on Red Hill Avenue. While this improvement has been identified per CEQA requirements, the City shall coordinate with Caltrans in its future implementation or in identification of alternate improvements, if necessary.

Response 6

Please refer to the response to Comment 4 regarding a multi-modal transportation fund.

Response 7

A park-and-ride facility within the Specific Plan area is not currently proposed. However, Caltrans' recommendation and offer of participation is noted and will be provided to City decision-makers. Please also refer to the response to Comment 1 regarding ridesharing.

Response 8

The comment is noted.

Response 9

The comment is noted. No further response is required.

Response 10

The recommendations of Caltrans to reduce vehicle miles traveled are noted. Many of these recommendations are identified in the proposed Specific Plan related to creating a Specific Plan area that encourages options to personal vehicle use including bike paths, bike parking, transit use, and ridesharing (see the response to Comment 1). The City also has a Transportation Demand Management (TDM) Program. Additional options can be considered by the City as site-specific development projects are proposed and reviewed by the City.

Response 11

Please refer to the response to Comment 5.

Response 12

The comment is noted. The City of Tustin Public Works Department currently has a program to install ADA ramps and Accessible Pedestrian Signals (APS) at intersections.

Response 13

The comment is noted. No further response is required.

Letter C-2 South Coast Air Quality Management District

Lijin Sun, J.D., Program Supervisor

March 14, 2018



**South Coast
Air Quality Management District**

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

SENT VIA E-MAIL AND USPS:
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Erica Demkowicz, AICP, Senior Planner
City of Tustin, Community Development Department
300 Centennial Way
Tustin, CA 92780

Comment Letter C-2

RECEIVED

MAR 19 2018

COMMUNITY DEVELOPMENT
BY: _____

March 14, 2018

**Draft Environmental Impact Report (Draft EIR) for the Proposed
Red Hill Avenue Specific Plan**

The South Coast Air Quality Management District (SCAQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final EIR.

SCAQMD Staff's Summary of Project Description

The Lead Agency proposes to develop a comprehensive set of goals and objectives, a land use plan, regulatory standards, design criteria, and administration and implementation programs to guide future change, promote high-quality development, and implement the community's vision for an approximate 43.11-acre Specific Plan area (Proposed Project). Projected build-out for residential and non-residential development would include a net increase of 325,000 square feet of non-residential uses and 500 additional dwelling units.¹ The Proposed Project extends along Red Hill Avenue and is generally bounded by Bryan Avenue to the northeast and Walnut Avenue to the southwest. Interstate 5 (I-5) bisects the Red Hill Avenue in the middle of the Proposed Project. The Proposed Project is expected to be developed over time with an expected buildout year of 2035².

SCAQMD Staff's Air Quality Analysis

Based on a review of the Air Quality Section, SCAQMD staff found that the Air Quality Analysis was based on the expected buildout scenario. The Lead Agency did not quantify construction emissions because it determined that "[q]uantifying individual future development's air emissions from short-term, temporary construction-related activities is not possible due to project-level variability and uncertainties concerning locations, detailed site plans, construction schedules/duration, equipment requirements, etc., among other factors, which are presently unknown. Since these parameters can vary so widely (and individual project-related construction activities would occur over time dependent upon numerous factors), quantifying precise construction-related emissions and impacts would be speculative³." However, the Lead Agency found that "construction-related air quality impacts would be considered significant and unavoidable due to the potential magnitude of construction that could occur from implementation of the Specific Plan⁴."

The Lead Agency quantified the Proposed Project's operational air quality emissions based on the expected buildout scenario and compared the emissions to SCAQMD's regional air quality CEQA significance thresholds for operation. After incorporating Mitigation Measures (MM) 4.2-1 through 4.2-4⁵, which require future projects to accommodate electric vehicle charging stations, include a voluntary vanpool/shuttle ridesharing program for commercial uses, consider and mitigate the impacts on regional air quality and greenhouse gas (GHG) emissions through recommended mitigation measures for future site plans, and conduct a Health Risk Assessment (HRA) for future residential development located

¹ Draft EIR, Section 3.2: Specific Plan Project Overview, Page 3-1.
² *Ibid.*, Section 3.8: Phasing, Page 3-35.
³ *Ibid.*, Section 4.2.5 Environmental Impacts, Page 4.2-11.
⁴ *Ibid.*, Page 4.2-13.
⁵ *Ibid.*, Page 4.2-15.



Erica Demkowicz

March 14, 2018

within 500 feet of I-5, the Lead Agency found that the Proposed Project's mitigated operational emissions would exceed SCAQMD's regional CEQA significant thresholds for NOx emissions, resulting in a significant and unavoidable impact⁶. Although the Lead Agency did not conduct a localized significance thresholds (LSTs) analysis or a HRA analysis because, as the Lead Agency stated, the analysis could only be conducted at the project-specific level⁷ and were not applicable for regional projects such as Specific Plans, the Lead Agency concluded that sensitive receptors could be potentially exposed to substantial pollutant concentrations or diesel particulate matter (DPM), resulting in a less than significant impact with implementation of MM 4.2-4.

SCAQMD's 2016 Air Quality Management Plan

On March 3, 2017, the SCAQMD's Governing Board adopted the 2016 Air Quality Management Plan (2016 AQMP)⁸, which was later approved by the California Air Resources Board on March 23, 2017. Built upon the progress in implementing the 2007 and 2012 AQMPs, the 2016 AQMP provides a regional perspective on air quality and the challenges facing the South Coast Air Basin. The most significant air quality challenge in the Basin is to achieve an additional 45 percent reduction in nitrogen oxide (NOx) emissions in 2023 and an additional 55 percent NOx reduction beyond 2031 levels for ozone attainment.

General Comments

SCAQMD staff has reviewed the Air Quality Analysis in the Draft EIR and has comments on the methodology. Please see the attachment for more information. Additionally, as described in the 2016 AQMP, to achieve NOx emissions reductions in a timely manner is critical to attaining the National Ambient Air Quality Standard (NAAQS) for ozone before the 2023 and 2031 deadlines. SCAQMD is committed to attain the ozone NAAQS as expeditiously as practicable. The Proposed Project plays an important role in contributing to NOx emissions during operation. Therefore, SCAQMD staff has comments on existing air quality mitigation measures and recommends additional mitigation measures to further reduce NOx emissions as well as ROG, PM10, and PM2.5 emissions. Finally, the attachment includes recommendations to include a discussion on SCAQMD rules and regulations.

Closing

Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), SCAQMD staff requests that the Lead Agency provide SCAQMD staff with written responses to all comments contained herein prior to the certification of the Final EIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful or useful to decision makers and to the public who are interested in the Proposed Project. Further, when the Lead Agency makes the finding that the recommended mitigation measures are not feasible, the Lead Agency should describe the specific reasons for rejecting them in the Final EIR (CEQA Guidelines Section 15091).

cont'd
1

⁶ *Ibid.* Page 4.2-20.

⁷ *Ibid.* Pages 4.2-9, 4.2-15, and 4.2-16.

⁸ South Coast Air Quality Management District. March 3, 2017. *2016 Air Quality Management Plan*. Accessed at: <http://www.aqmd.gov/home/library/clean-air-plans/air-quality-mgt-plan>.

Erica Demkowicz

March 14, 2018

SCAQMD staff is available to work with the lead agency to address these issues and any other questions that may arise. Please contact Ryan Bañuelos, Air Quality Specialist, CEQA Section, at (909) 396-3479 if you have any questions regarding the enclosed comments.

cont'd
1

Sincerely,



Lijin Sun, J.D.
Program Supervisor, CEQA IGR
Planning, Rule Development & Area Sources

Attachment
LS:RB
ORC180202-02
Control Number

Erica Demkowicz

March 14, 2018

ATTACHMENT

Air Quality Analysis – Construction Impact Analysis

1. When specific development is reasonably foreseeable as a result of the goals, policies, and guidelines in the Proposed Project, the Lead Agency should identify any potential adverse air quality impacts and sources of air pollution that could occur using its best efforts to find out and a good-faith effort at full disclosure in the EIR. “Drafting an EIR [...] necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can” (CEQA Guidelines Section 15144). The degree of specificity will correspond to the degree of specificity involved in the underlying activity which is described in the EIR (CEQA Guidelines Section 15146). When quantifying air quality emissions, emissions from both construction (including demolition, if any) and operations should be calculated.

2

When the precise construction schedule or scenario is unknown, the Lead Agency should identify and quantify a worst-case construction impact scenario that is reasonably foreseeable at the time the Draft EIR is prepared. As shown in Table 3-4 and Table 3-5 in the Draft EIR, the Lead Agency has identified the estimated development potential in terms of a net increase of 325,000 non-residential square feet and 500 additional dwelling units for the Proposed Project. Therefore, the Lead Agency can and should use this information and its best efforts to identify construction activities that would be required to implement the maximum build-out scenarios and quantify associated construction emissions, including emissions from any demolition activities.

Alternatively, the Lead Agency should use construction scenarios from other comparable projects to develop an appropriate construction scenario for modeling the Proposed Project’s construction impacts. For example, the Downtown Commercial Core Specific Plan in the City of Tustin is expected to be developed over time from 2018 and 2035, and the maximum construction emissions were quantified and disclosed in the Draft EIR for that project⁹. Therefore, the Lead Agency should use the construction scenarios that has already been developed for the Downtown Commercial Core Specific Plan to quantify the construction air quality impacts for the Proposed Project. Otherwise, there is no substantial evidence to support the Lead Agency’s finding that the Proposed Project’s construction impacts would be significant and unavoidable.

Air Quality Analysis – Interim Milestone Years

2. The Draft EIR included only one Air Quality Analysis year for modeling: 2019¹⁰ (operational year). By 2035, the Proposed Project is assumed to be fully built based on the projections. Although the Proposed Project may not be at peak capacity in earlier years, it is possible that due to higher emission rates of vehicles, trucks, and equipment in earlier years, peak daily emissions may occur in 2018 and beyond. The overall emission rates of vehicles, trucks, and equipment are generally higher in earlier years as more stringent emission standards and technologies have not been fully implemented, and fleets have not fully turned over. Furthermore, according to the Lead Agency, construction activities associated with future development would occur in incremental phases over time and would be based on numerous factors¹¹. Therefore, SCAQMD staff recommends that the Lead Agency include interim milestone years (i.e., year 2020, year 2025, and year 2030) in the Air Quality Analysis to ensure the peak daily emissions are identified and adequately disclosed in the Final EIR. The interim milestone years will also assist in the demonstration of progress overtime from implementing air quality-related mitigation measures and policies included in the Draft EIR.

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⁹ Draft EIR. Downtown Commercial Core Specific Plan. February 2018. Page 5.2-17. Accessed at: <http://www.tustinca.org/civicax/filebank/blobdload.aspx?BlobID=28094>.

¹⁰ *Ibid.* Appendix B: Air Quality and Greenhouse Gas. Pages 3, 11, 20, 28, 37, and 48.

¹¹ *Ibid.* Section 4.2.5. Page 4,2-12.

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Air Quality Analysis – Overlapping Construction and Operational Impacts

3. Based on a review of the Air Quality Analysis, SCAQMD staff found that the Lead Agency did not analyze a scenario where construction activities overlap with operational activities. Since implementation of the Proposed Project is expected to occur over a multi-year timeframe of 17 years from 2018 to 2035¹², an overlapping construction and operation scenario is reasonably foreseeable, unless the Proposed Project includes requirement(s) that will prohibit overlapping construction and operational activities. To properly analyze a worst-case impact scenario that is reasonably foreseeable at the time the Draft EIR is prepared, SCAQMD staff recommends that the Lead Agency identify the overlapping years, combine construction emissions (including emissions from demolition) with operational emissions, and compare the combined emissions to SCAQMD’s air quality CEQA *operational* thresholds of significance to determine the level of significance in the Final EIR. In the event that the Lead Agency, after revising the Air Quality Analysis, finds that the Proposed Project’s air quality impacts would be significant, mitigation measures will be required pursuant to CEQA Guidelines Section 15126.4. For more information on suggested potential mitigation measures as guidance to the Lead Agency, please see Comment No. 6 below and visit SCAQMD’s CEQA Air Quality Handbook website¹³.

4

Air Quality Analysis – Localized Significance Thresholds (LSTs) Analysis

4. When specific development is reasonably foreseeable as a result of the goals, policies, and elements in the Proposed Project, the Lead Agency should identify any potential adverse air quality impacts and sources of air pollution that could occur using its best efforts to find out and a good-faith effort at full disclosure in a CEQA document. In the Draft EIR, the Lead Agency stated that “LSTs are applicable to projects at the project-specific level and are not applicable to regional projects such as Specific Plans (SCAQMD, 2003). As such, LSTs would be required for future development projects, but do not apply to the programmatic Specific Plan analysis¹⁴.” SCAQMD staff is concerned with this analysis. Detailed comments are discussed below.

Localized Significance Thresholds Analysis

To analyze and disclose a worst-case impact scenario that is reasonably foreseeable at the time the Draft EIR is prepared, SCAQMD staff recommends that the Lead Agency use its best efforts, based on already available Project information such as build-out nonresidential uses in square feet and dwelling units to quantify the Proposed Project’s localized emissions and disclose the localized air quality impacts in the Final EIR. SCAQMD guidance for performing a localized air quality analysis is available on SCAQMD website¹⁵. Alternatively, the Lead Agency should consider to include a new air quality mitigation measure to require a project-level LSTs analysis prior to issuance of a grading permit as follows:

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Prior to issuance of a grading permit for new development projects that are one acre or larger, the applicant/developer shall provide modeling of the localized emissions (NOx, CO, PM10, and PM 2.5) associated with the maximum daily grading activities for the proposed development. If the modeling shows that emissions would exceed SCAQMD’s air quality CEQA localized thresholds for those emissions, the maximum daily grading activities of the proposed development shall be limited to the extent that could occur without resulting in emissions in excess of SCAQMD’s significance thresholds for those emissions.

¹² *Ibid.* Section 3.8. Page 3-35.

¹³ South Coast Air Quality Management District. Accessed at: <http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook>.

¹⁴ *Ibid.* Section 4.2.4. Page 4.2-9.

¹⁵ South Coast Air Quality Management District. Localized Significance Thresholds. Accessed at: <http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/localized-significance-thresholds>.

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This mitigation measure ensures that the Lead Agency has adequately analyzed the Proposed Project's localized air quality impacts to justify deferring the LSTs analysis, that a project- or site-specific LSTs analysis will be completed in a later stage, and that any nearby sensitive receptors are not adversely affected by the Proposed Project's construction activities that are occurring in close proximity.

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Health Risk Assessment (HRA) Analysis and Additional Consideration for Existing Mitigation Measure (MM) 4.2-4

5. According to the Lead Agency, residential units could be constructed as close as 100 feet from the I-5¹⁶. To facilitate the purpose and goal of CEQA on public disclosure, SCAQMD staff recommends that the Lead Agency use applicable Project information that is already available in the Draft EIR to conduct a HRA analysis¹⁷ and to disclose the potential health risks in the Final EIR¹⁸. In addition, the Lead Agency, as part of MM 4.2-4, is committed to a project-specific HRA for future residential development proposed within 500 feet of I-5. This mitigation measure ensures that the Lead Agency would adequately consider the Proposed Project's health impacts and that a project-level HRA analysis will be completed in a later stage to facilitate the disclosure of health impacts to prospective residents. Further, the Lead Agency is committed to mitigation should a project-level HRA be found to exceed the SCAQMD's HRA thresholds¹⁹.

Additional Consideration for Existing MM 4.2-4

- a) The Lead Agency should also consider requiring the use of enhanced filtration systems with maximum efficiency rating value (MERV) of 13 or better in residential units within 500 feet of I-5 to ensure the maximum reduction of health risks from exposures to diesel particulate matter (DPM) emissions from vehicles and trucks traveling on the freeway.
- b) If enhanced filtration system is installed, it is important to consider the limitations. In a study that SCAQMD conducted to investigate filters²⁰, a cost burden is expected to be within the range of \$120 to \$240 per year to replace each filter. In addition, because the filters would not have any effectiveness unless the HVAC system is running, there may be increased energy costs to the residents. It is typically assumed that the filters operate 100 percent of the time while residents are indoors, and the environmental analysis does not generally account for the times when the residents have their windows or doors open or are in common space areas of the project. Moreover, these filters have no ability to filter out any toxic gases from vehicle exhaust. Therefore, the presumed effectiveness and feasibility of any filtration units should be carefully evaluated in more detail and disclosed to prospective residences prior to assuming that they will sufficiently alleviate exposures to DPM emissions.

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¹⁶ *Ibid.* Section 4.2.5, Page 4.2-16.

¹⁷ "Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis," Accessed at: <http://www.aqmd.gov/home/regulations/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis>.

¹⁸ SCAQMD has developed the CEQA significance threshold of 10 in one million for cancer risk. When SCAQMD acts as the Lead Agency, SCAQMD staff conducts a HRA, compares the maximum cancer risk to the threshold of 10 in one million to determine the level of significance for health risk impacts, and identifies mitigation measures if the risk is found to be significant.

¹⁹ *Ibid.* Section 4.2, Page 4.2-20.

²⁰ This study evaluated filters rated MERV 13 or better. Accessed at: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/aqmdpilotstudyfinalreport.pdf>. Also see also 2012 Peer Review Journal article by SCAQMD: <http://d7.igair.com/sites/default/files/pdf/Polidori-et-al-2012.pdf>.

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- c) Because of the limitations, SCAQMD staff recommends that the Lead Agency make the following disclosures to prospective residences and include them as requirements in the Final EIR.
 - Disclosure on potential health impacts to prospective residents from living in proximity to freeways and the reduced effectiveness of air filtration system when windows are open;
 - Disclosure on increased energy costs for running the HVAC system to prospective residents;
 - Recommended schedules (e.g., once a year or every six months) for replacing the enhanced filtration units;
 - Ongoing cost sharing strategies, if any, for replacing the enhanced filtration units;
 - Identification of the responsible implementing and enforcement agency such as the Lead Agency for ensuring that enhanced filters are installed at residential units before a permit of occupancy is issued;
 - Identification of the responsible entity such as Homeowners Association or property management for ensuring filters are replaced on time, if appropriate and feasible;
 - Criteria for assessing progress in installing and replacing the enhanced filtration units; and
 - Process for evaluating the effectiveness of the enhanced filtration units at the Proposed Project.

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Additional Guidance for Siting Sensitive Receptors for Existing MM 4.2-4

- d) SCAQMD staff recognizes that there are many factors Lead Agencies must consider when making local planning and land use decisions. To facilitate stronger collaboration between Lead Agencies and SCAQMD to reduce community exposure to source-specific and cumulative air pollution impacts, SCAQMD adopted the *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning* in 2005²¹. This Guidance document provides recommended policies that local governments can use in their General Plans or through local planning to prevent or reduce potential air pollution impacts and protect public health. Therefore, it is recommended that the Lead Agency review this Guidance document in addition to the California Air Resources Board's Guidance document, *Air Quality and Land Use Handbook: A Community Health Perspective*, prior to approving the Proposed Project.

Additional Recommended Mitigation Measures

- 6. CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize or eliminate these impacts. SCAQMD staff recommends that the Lead Agency incorporate the following mitigation measures in the Final EIR to further reduce emissions, particularly from ROG, NO_x, and particulate matter. Additional information on potential mitigation measures as guidance to the Lead Agency is available on the SCAQMD CEQA Air Quality Handbook website.
 - a) Require all off-road diesel-powered construction equipment meet or exceed Tier 4 off-road emissions standards. A copy of the fleet's tier compliance documentation, and CARB or SCAQMD operating permit shall be provided to the Lead Agency at the time of mobilization of each applicable unit of equipment. In the event that all construction equipment cannot meet the Tier 4 engine certification, the Lead Agency must demonstrate through future study with written findings supported by substantial evidence before using other technologies/strategies. Alternative strategies may include, but would not be limited to, reduction in the number and/or horsepower rating of construction equipment, limiting the number of daily construction haul truck trips to and

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²¹ South Coast Air Quality Management District, May 2005. "Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning" Accessed at: <http://www.aqmd.gov/docs/default-source/planning/air-quality-guidance/complete-guidance-document.pdf>

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from the Proposed Project, and/or limiting the number of individual construction project phases occurring simultaneously. Include this requirement as a bid or contract specification with contractors. Require periodic reporting and provision of written documents by contractors to prove and ensure compliance.

- b) Require the use of 2010 model year diesel haul trucks that conform to 2010 EPA truck standards or newer diesel haul trucks (e.g., material delivery trucks and soil import/export) during construction, and if the Lead Agency determines that 2010 model year or newer diesel haul trucks are not feasible, the Lead Agency shall use trucks that meet EPA 2007 model year NOx emissions requirements, at a minimum. Include this requirement as a bid or contract specification with contractors. Require periodic reporting and provision of written documents by contractors to prove and ensure compliance.
- c) Maximize use of solar energy including solar panels; installing the maximum possible number of solar energy arrays on the building roofs and/or on the Project site to generate solar energy for the facility.
- d) Limit parking supply and unbundle parking costs.
- e) Maximize the planting of trees in landscaping and parking lots.
- f) Use light colored paving and roofing materials.
- g) Install light colored "cool" roofs and cool pavements.
- h) Require use of electric or alternatively fueled sweepers with HEPA filters.
- i) Require use of electric lawn mowers and leaf blowers.
- j) Utilize only Energy Star heating, cooling, and lighting devices, and appliances.
- k) Use of water-based or low VOC cleaning products.

To further reduce particulate matter from the Proposed Project, SCAQMD staff recommends that the Lead Agency include the following mitigation measures in the Final EIR.

- a) Suspend all soil disturbance activities when winds exceed 25 mph as instantaneous gusts or when visible plumes emanate from the site and stabilize all disturbed areas.
- b) Appoint a construction relations officer to act as a community liaison concerning on-site construction activity including resolution of issues related to PM10 generation.
- c) Sweep all streets at least once a day using SCAQMD Rule 1186, 1186.1 certified street sweepers or roadway washing trucks if visible soil materials are carried to adjacent streets (recommend water sweepers with reclaimed water).
- d) Apply water three times daily or non-toxic soil stabilizers according to manufacturers' specifications to all unpaved parking or staging areas, unpaved road surfaces, or to areas where soil is disturbed. Reclaimed water should be used.

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March 14, 2018

Other Comment

7. SCAQMD staff found an inconsistency amongst the references included in the Draft EIR. In the Air Quality Analysis, the Lead Agency refers to “MM 4.2-5” to mitigate threshold 4.2-4; however, the Lead Agency did not proposed or include the “MM 4.2-5” in the Draft EIR²². This inconsistency makes the Air Quality Analysis difficult to follow. Therefore, the Lead Agency should correct the inconsistency in the Final EIR.

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²² *Ibid.* Section 4.2.5. Page 4.2-16.

Response 1

The comment provides a summary of the project, the air quality analysis in the Draft Program EIR, the 2016 Air Quality Management Plan, general information about the CEQA Guidelines, and introductory comments. The comment is general in nature. Specific responses to subsequent comments are provided below.

Response 2

CEQA Guidelines Section 15146 notes that the degree of specificity required in an EIR should correspond to the degree of specificity involved in the underlying activity which is described in the EIR. An EIR on the adoption or amendment of a plan, such as the proposed Red Hill Avenue Specific Plan, "...need not be as detailed as an EIR on the specific construction projects that may follow." Therefore, the quantification of construction impacts associated with future potential development projects is not required.

The Draft Specific Plan Program EIR provides a programmatic analysis of the future development potential allowed by the Specific Plan. It should be noted that specific development projects are not proposed and are therefore not analyzed within the Draft Program EIR. As discussed under Draft Program EIR Impact 4.2-2, quantifying individual future development's air emissions from short-term, temporary construction-related activities would be speculative due to project-level variability and uncertainties concerning locations, detailed site plans, construction schedules/duration, equipment requirements, etc., among other factors, which are presently unknown. For example, project-specific earthwork and the associated number of haul truck trips have a major influence on construction emissions, and these details can vary drastically depending on specific project requirements (i.e., a project with a subterranean garage would require much more excavation and off-site hauling than a project with only surface parking). Since these parameters can vary so widely (and individual project-related construction activities are time dependent and based upon numerous factors including size, earthwork volumes, timing/duration, etc.), quantifying precise construction-related emissions and impacts would yield unreliable, speculative results.

Using construction scenarios that have already been developed for the Downtown Commercial Core Specific Plan EIR to quantify construction air quality emissions for the Red Hill Avenue Specific Plan is not necessary or appropriate. They are two separate projects. It is noted that the Downtown Commercial Core Specific Plan EIR quantified construction emissions and determined that construction emissions would exceed SCAQMD thresholds and that impacts would be significant and unavoidable. The Draft Program EIR for the Red Hill Specific Plan reached the same conclusion.

As noted above, specific development projects have not been identified as part of the Red Hill Avenue Specific Plan. Therefore, a program level analysis has been provided in the Draft Specific Plan EIR and worst case potential impacts were disclosed and corresponding mitigation was identified. Project specific analysis and mitigation (if necessary) would be required for future projects.

Response 3

The analysis conservatively modeled operations of full build out of the Specific Plan in 2019 as the worst-case scenario. It would not be practical to use 2018 as the operational year because it is the current year and future development projects could not possibly be developed and operational in 2018.

Environmental clearance and other approvals would also be required of future development projects within the Specific Plan area.

The 2019 operational analysis year is considered conservative because emissions factors decrease in future years due to vehicle fleet turnover and implementation of regulatory improvements. As such, the analysis of future interim milestone years (e.g., 2020, 2025, and 2030, as suggested in the commenter) would result in lower emissions levels than what has been identified in the Draft Program EIR. The lower future emissions levels would only reflect the fleet turnover and regulatory improvements anticipated by CalEEMod and EMFAC. Air quality related mitigation measures and policies included in the Draft Program EIR are already reflected in the emissions modeling for the Specific Plan. There are no additional quantifiable mitigation measures or policies that would be incorporated into future milestone years.

Response 4

As described above and in the Draft Program EIR, the Draft Red Hill Specific Plan EIR is a programmatic analysis that addresses impacts as specifically and comprehensively as possible. The Specific Plan provides planning policies and regulations that connect General Plan policies to guide future change, but does not propose any specific development project. While the analysis of detailed project level actions can eliminate the need for further environmental documentation, those details are currently not available for future potential development projects from an air quality perspective. As such, on a programmatic level, the analysis identifies significant and unavoidable impacts for construction and operations and identifies applicable mitigation. Part of the basis for the impact conclusions was the fact that specific development projects and construction schedules are currently unknown and have the potential to overlap.

The Draft Program EIR identifies standard conditions that would ensure compliance with SCAQMD rules as well as mitigation measures that would require future development to mitigate regional air quality impacts during the development review process. Mitigation measures may include energy efficiency measures, water efficiency measures, encouragement of alternatively fueled vehicles, facilitation of ride-sharing programs, provide informational materials on low ROG/VOC consumer products, among others.

Response 5

As described above in responses 2 through 4, specific development projects have not been identified and are not analyzed within the Draft Program EIR. The commenter requests the addition of a mitigation measure that requires LST analyses for future development projects. An analysis of localized impacts would be required for future development projects as part of a project specific environmental review as this is the recommended methodology and necessary for an adequate environmental document. Therefore, the addition of a new mitigation measure is not required.

Response 6

Although the Draft Program EIR states that residential development could potentially be constructed as close as 100 feet from I-5, there are no development applications for any such development. The analysis of health risk impacts depends on numerous variables, and the location of receivers can greatly influence the results. Therefore, the Draft Program EIR includes mitigation requiring project-specific health risk assessments for projects located within the CARB recommended 500-foot freeway buffer zone. As described in MM 4.2-4, a health risk assessment would be required to first determine if any impacts would

occur based on the project's location and other parameters and also determine which specific measures would be the most effective at reducing that impact. The inclusion of the mitigation measures specified in the comment may not be necessary after the project-level analysis or may become obsolete. Draft Program EIR MM 4.2-4 allows for a project specific analysis and mitigation measures, if necessary, when future development is identified.

The commenter also identifies the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning* (2005) as additional guidance for siting sensitive receptors. Although not specifically referenced in the Draft Program EIR, the analysis complies with the recommendations in the guidance document. For example, the guidance document recommends the buffer distances to sources of air contaminants that were recommended by CARB in the *Air Quality Land Use Handbook*, which is what the analysis in Draft Program EIR Section 4.2-4 and mitigation measure 4.2-4 are based on. Furthermore, the Draft Program EIR is consistent with applicable recommended policies in the SCAQMD guidance document through the requirements of MM 4.2-4. MM 4.2-4 requires a health risk assessment for future development projects located within 500 feet of I-5. The health risk assessment is required to identify mitigation for projects that are shown to exceed the SCAQMD's thresholds. For example, this mitigation measure would require future development projects to ensure that site plans incorporate the appropriate set-backs and other design features to reduce toxic air contaminant exposure (SCAQMD recommended policies AQ 1.1.3 and AQ 1.1.4).

Response 7

The Draft Program EIR found impacts associated with construction to be potentially significant due to the unknown nature of construction activities associated with future development projects. As a result, the Draft Program EIR identified standard conditions that would minimize construction emissions. Standard Condition (SC) 4.2-1 requires adherence to SCAQMD Rule 403 (Fugitive Dust) to reduce fugitive dust emissions generated at future construction sites by requiring dust abatement measures. State Vehicle Code Section 23114 requires all trucks hauling excavated or graded material to the prevention of such material spilling onto public streets. SC 4.2-2 requires future construction contractors to adhere to SCAQMD Rule 1113 (Architectural Coatings) to limit volatile organic compounds from architectural coatings.

As addressed in the Program EIR, environmental review would be required for future development projects. Project-specific environmental review would rely on the SCAQMD's significance thresholds to determine the significance level of a future project impact. Projects that exceed the SCAQMD's thresholds would be required to implement all feasible project specific mitigation measures, such as those identified in the comment (e.g., the use of Tier 4 construction equipment, 2010 model year diesel haul trucks, etc.). Additionally, the particulate matter measures identified by the commenter are part of the recommended measures in SCAQMD Rule 403. As noted above, the Standard Conditions identified in the Draft Program EIR require compliance with Rule 403. Additionally, MM 4.2-3 provides numerous options for reducing operational emissions, similar to the measures recommended by the commenter. It should be noted that the mitigation measure specifically states that these are potential measures and that mitigation measures for future development projects are not limited to those listed in MM 4.2-3. The actual mitigation measures required for future development projects would be determined as a part of project-specific environmental review by the City of Tustin.

Response 8

The comment identifies a typographical error in the numbering of the mitigation measure referenced on page 4.2-16 of the Draft Program EIR. Page 4.2-16 is revised and incorporated into the Final EIR, as indicated below.

Therefore, implementation of MM 4.2-~~54~~ is required to ensure a project-specific Health Risk Assessment (HRA) is conducted for future residential uses located within 500 feet of I-5. Implementation of MM 4.2-~~54~~ would reduce exposure of sensitive receptors to substantial pollutant concentrations to a less than significant level.

Letter C-3 Orange County Transportation Authority
Dan Phu, Manager, Environmental Programs
March 16, 2018

Comment Letter C-3



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March 16, 2018

Ms. Erica Demkowicz, AICP, Senior Planner
City of Tustin
Community Development Department
300 Centennial Way
Tustin, CA 92780

**Subject: Notice of Availability of a Draft Environmental Impact Report –
Red Hill Avenue Specific Plan**

Dear Ms. Demkowicz:

The Orange County Transportation Authority (OCTA) has reviewed the Notice of Availability of a Draft EIR for the Red Hill Avenue Specific Plan Project. The following comments are provided for your consideration:

Active Transportation Comments

- As noted on Page 3-20 of the DEIR and the City of Tustin General Plan, Figure C-5 (Master Bikeway Plan), a Class II bikeway is planned on Red Hill Avenue within the project study area. The bikeway exists at I-5 within Caltrans managed areas at the interchange ramps. OCTA is supportive of the Specific Plan proposed “revisions to the roadway cross section for Red Hill Avenue to include a Class II striped on-street bike lane the entire length of the Specific Plan area.”
- OCTA is preparing OC Active, the first countywide bike and pedestrian master plan. The report and other studies under preparation by OCTA will include recommended treatments to improve infrastructure for pedestrian function. OCTA will continue to collaborate with the City of Tustin as a resource for consideration of engineering treatments to enhance safety for people walking and biking within the community and the project area.
- New residential land use construction provides an opportunity to encourage a variety of travel choices. We encourage the Specific Plan to also include short and long-term bicycle parking and bicycle facilities for residents and guests. Short-term parking in the ratio of one bicycle parking space for each four units might be considered, and inclusion of a secure ground floor indoor bicycle storage area may serve long-term bicycle parking needs.
- New workplace construction provides an opportunity to encourage a variety of travel choices. OCTA encourages consideration of Transportation Demand Management measures such as long-term bicycle parking,



employee access to showers, and changing rooms to encourage multi-modal transportation choices. The availability of showers is often noted as the top item limiting bicycle commuting by employees.

cont'd
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Transit Planning Comment

- OCTA currently provides transit service near the project site. Should the project have any impacts to nearby bus stops, please coordinate with OCTA to employ measures to reduce potential transit service disruptions. We also recommend the City keep OCTA informed with any potential bus stop interruptions or street closures that may require detours.

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We appreciate the opportunity to provide input on this project. If you have any further questions or need additional information, please feel free to contact me via phone at (714) 560-5907 or by email at DPhu@octa.net.

Sincerely,



Dan Phu
Environmental Programs Manager
Orange County Transportation Authority (OCTA)

Response 1

OCTA's support of a Class II bikeway on Red Hill Avenue is noted.

Response 2

The comment is noted. No further response is required.

Response 3

The Red Hill Avenue Specific Plan, Chapter 4, Land Use and Development Standards, requires an access plan be submitted and approved by the City as a part of Design Review prior to the approval of development projects. The access plan is required to identify the location of bike racks and lockers to accommodate estimated bike user needs which would be defined on a project-specific basis.

Response 4

The comment is noted. The Specific Plan is programmatic in nature and encourages opportunities for non-vehicular movement. The suggested improvements (e.g., shower facilities) can be implemented on a project-specific basis. No further response is required.

Response 5

The comment is noted. The City will continue to coordinate with OCTA. No further response is required.

Letter C-4 **City of Irvine**
Melissa Chao, Senior Planner
February 26, 2018

Comment Letter C-4



Community Development
Civic Center Plaza, Irvine, CA 92606-5209

cityofirvine.org
949-724-5000

February 26, 2018

Sent via USPS and
email: edemkowicz@tustinca.org

Ms. Erica Demkowicz
City of Tustin
Community Development Department
300 Centennial Way
Tustin, CA 92780

Subject: First Review of the Draft Environmental Impact Report (SCH No. 2017041031) for the Red Hill Avenue Specific Plan (SP-13), General Plan Amendment (2017-01), and Zoning Map Amendment in Tustin

Dear Ms. Demkowicz:

City of Irvine staff has reviewed the Draft Program Environmental Impact Report (EIR) for the subject project. The proposed project is a Specific Plan for mixed-use development on approximately 43.11-acres, including 7.32-acres of roadway rights-of-way, along Red Hill Avenue generally between Bryan and Walnut Avenue (includes Red Hill Shopping Village to the southwest) in Tustin as follows:

- The Specific Plan area includes approximately 296,446 square feet of existing non-residential uses (primarily commercial) and 21 existing dwelling units.
- The Specific Plan provides planning policies and regulations that allow for vertical and horizontal mixed-use developments with retail/office and residential uses, streetscape landscaping improvements, gateway/wayfinding signage enhancements, on-street bike lanes, reduced lane widths, landscaped medians, pedestrian-friendly design, and public art opportunities.
- The Specific Plan will increase existing development intensity by 325,000 square feet of non-residential development intensity and 500 additional residential dwelling units.
- Build-out of the Specific Plan is assumed by 2035.

Based on the review of the Draft EIR, City of Irvine staff would like to provide the following comments:

1. As previously requested in our April 26, 2017 letter regarding the NOP, include the following intersections in the project's traffic impact analysis study area:
 - All intersections along Redhill Ave. from Irvine Blvd. south to MacArthur Blvd.



Ms. Erica Demkowicz
February 26, 2018
Page 2 of 6

- Intersections of Irvine Blvd at Newport Ave., Browning Ave. and Tustin Ranch Rd.
- Intersections of Bryan Ave. at Newport Ave., Browning Ave. and Tustin Ranch Rd.

The additional intensity of this proposed project warrants additional intersection evaluation beyond the limits of the proposed street improvements. These study locations are located within the City of Irvine's Irvine Business Complex (IBC) Vision Plan traffic study area and Irvine's North Irvine Transportation Mitigation (NITM) traffic study area.

2. The ICU worksheets in the Traffic Appendices indicate that in the build-out scenario the intersection of Red Hill at Walnut goes from LOS D in the No Project to LOS E (shown below) in the With Project scenario in the PM Peak hour; however, the DEIR shows this location as LOS D and no project impact. Revise accordingly.

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Red Hill Corridor SP

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Scenario 4 BO WP PM

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1/22/2018

Intersection Analysis Summary

ID	Intersection Name	Control Type	Method	Worst Mvmt	V/C	Delay (s/veh)	LOS
1	Bryan Ave / Red Hill Ave	Signalized	ICU 1	WB Thru	0.853	-	D
2	San Juan St / Red Hill Ave	Signalized	ICU 1	NB Thru	0.481	-	A
3	El Camino Real / Red Hill Ave	Signalized	ICU 1	NB Thru	0.804	-	D
4	I-15 NB Ramps / Red Hill Ave	Signalized	ICU 1	WB Right	0.659	-	B
5	I-15 SB Ramps / Red Hill Ave	Signalized	ICU 1	NB Right	0.972	-	E
6	Red Hill Ave / Nissan Rd	Signalized	ICU 1	NB Thru	0.847	-	D
7	Red Hill Ave / Mitchell Ave	Signalized	ICU 1	NB Thru	0.747	-	C
8	Red Hill Ave / Walnut Ave	Signalized	ICU 1	NB Thru	0.904	-	E
9	Red Hill Ave / Sycamore Ave	Signalized	ICU 1	NB Thru	0.665	-	B

V/C, Delay, LOS: For two-way stop, these values are taken from the movement with the worst (highest) delay value. for all other control types, they are taken for the whole intersection.

cont'd
1

2

Ms. Erica Demkowicz
February 26, 2018
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Version 5.00-00

Intersection Level Of Service Report
Intersection 8: Red Hill Ave / Walnut Ave

Control Type:	Signalized	Delay (sec / veh):	-
Analysis Method:	ICU 1	Level Of Service:	E
Analysis Period:	15 minutes	Volume to Capacity (v/c):	0.904

Intersection Setup

Name	Red Hill Ave			Red Hill Ave			Walnut Ave			Walnut Ave		
Approach	Northbound			Southbound			Eastbound			Westbound		
Lane Configuration	T T T			T T T			T T T			T T T		
Turning Movement	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right
Lane Width [ft]	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00
No. of Lanes in Pocket	0		0	0		0	0		0	0		0
Pocket Length [ft]												
Speed [mph]	30.00			30.00			30.00			30.00		
Grade [%]	0.00			0.00			0.00			0.00		
Crosswalk	Yes			Yes			Yes			Yes		

cont'd
2

- Several build-out traffic volumes appear to conflict with IBC Vision Plan P2035 turn volume assumptions. Please see the summary comparison table below of build-out with project vs. IBC Vision Plan. Provide the traffic counts in the appendices and confirm the build-out volumes utilized. Indicate why the volumes are significantly less in many cases. The traffic study states volumes have been modified when comparing ITAM vs counts. This should be further clarified.

Excerpt from Kimley Horn TIA dated January 2018
BO AM WP

Generated with **PTV VISTRO**
Version 5.00-00

Intersection Level Of Service Report
Intersection 3: El Camino Real / Red Hill Ave

Control Type:	Signalized	Delay (sec / veh):	-
Analysis Method:	ICU 1	Level Of Service:	D
Analysis Period:	15 minutes	Volume to Capacity (v/c):	0.866

Intersection Setup

Name	Red Hill Ave			Red Hill Ave			El Camino Real			El Camino Real		
Approach	Northbound			Southbound			Eastbound			Westbound		
Lane Configuration	T T T			T T T			T T T			T T		
Turning Movement	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right
Lane Width [ft]	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00
No. of Lanes in Pocket	0		0	0		0	0		0	0		0
Pocket Length [ft]												
Speed [mph]	30.00			30.00			30.00			30.00		
Grade [%]	0.00			0.00			0.00			0.00		
Crosswalk	Yes			Yes			Yes			Yes		

Volumes

Name	Red Hill Ave			Red Hill Ave			El Camino Real			El Camino Real		
Base Volume Input [veh/h]	261	733	310	15	1298	80	83	325	184	368	371	14

3

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BO PM WP

Intersection Level of Service Report
Intersection 3: El Camino Real / Red Hill Ave

Control Type:	Signalized	Delay (sec / veh):	-
Analysis Method:	ICU 1	Level of Service:	D
Analysis Period:	15 minutes	Volume to Capacity (v/c):	0.904

Intersection Setup

Name	Red Hill Ave			Red Hill Ave			El Camino Real			El Camino Real		
	Northbound			Southbound			Eastbound			Westbound		
Approach	Northbound			Southbound			Eastbound			Westbound		
Lane Configuration	T T T			T T T			T T			T T		
Turning Movement	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right
Lane Width (ft)	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00
No. of Lanes in Pocket	0		0	0		0	0		0	0		0
Pocket Length (ft)												
Speed (mph)	30.00			30.00			30.00			30.00		
Grade (%)	0.00			0.00			0.00			0.00		
Crosswalk	Yes			Yes			Yes			Yes		

Volumes

Name	Red Hill Ave			Red Hill Ave			El Camino Real			El Camino Real		
	Base Volume Input (veh/h)	487	1209	415	37	848	116	74	305	179	233	423
Base Volume Adjustment Factor	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000

Excerpt from IBC Vision Plan 2015 Five Year Update P2035 Cumulative Baseline

36 Red Hill Av. at El Camino Real

ITAM 12:4 P2035 Cumulative (TUSTIN ISEC)

	LANES	CAPACITY	AM PK HOUR VOL	PM PK HOUR V/C	AM PK HOUR VOL	PM PK HOUR V/C
NBL	2	3400	394	.12*	428	.13
NBT	3	5100	673	.13	818	.16*
NBR	1	1700	213	.13	317	.19
SBL	1	1700	84	.05	255	.15*
SBT	3	5100	1276	.26*	651	.14
SBR	0	0	59		59	
EBL	1	1700	80	.05	32	.02
EBT	1.5	5100	246	(.07)*	958	.28*
EBR	1.5		265	(.07)	172	
WBL	1.5		342	(.12)*	357	(.21)*
WBT	1.5	5100	243	.12	963	.29*
WBR	0		46		151	
Clearance Interval				.05*		.05*
TOTAL CAPACITY UTILIZATION				.62		.85

cont'd
3

Ms. Erica Demkowicz
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Traffic Volume Comparison Summary

AM Peak	Project Build-Out	IBC Vision Plan
EBR	184	265
SBR	15	59
WBR	14	46

PM Peak	Project Build-Out	IBC Vision Plan
SBL	37	255
EBT	305	958
WBT	423	963
WBR	27	151

cont'd
3

- Section 6.3 of the Draft Specific Plan (dated January 2018) indicates that "The Tustin General Plan was amended by Resolution concurrent with the adoption of the Red Hill Avenue Specific Plan to provide consistency between the two documents..." Additionally, Section 6.4 of the Draft Specific Plan indicates that "The RHASP was adopted by Ordinance and defines the zoning for the properties within its boundaries. The adoption of the Specific Plan was accompanied by a concurrent zoning map amendment to designate the area "Red Hill Specific Plan (SP-13)." It appears the aforementioned amendments (e.g., development intensity summary) are not contained in the Land Use Section (4.8) of the DEIR, but should be included. Please clarify the project component/implementation sequencing, as typically the DEIR would need to be certified prior to approving the proposed Specific Plan and associated General Plan and Zoning Map Amendments.

4

Ms. Erica Demkowicz
February 26, 2018
Page 6 of 6

Thank you for the opportunity to review and comment on the proposed project. Staff would appreciate the opportunity to review any further information regarding this project as the planning process proceeds. If you have any questions, I can be reached at 949-724-6395, or by email at mchao@cityofirvine.org.

Sincerely,



Melissa Chao
Senior Planner

cc: Kerwin Lau, Manager of Planning Services
Bill Jacobs, Principal Planner
Sun-Sun Murillo, Supervising Transportation Analyst
Karen Urman, Senior Transportation Analyst

Response 1

In response to the City of Irvine letter regarding the NOP, the traffic study area was expanded to include the intersections of Red Hill Avenue at Sycamore Avenue and Red Hill Avenue at Bryan Avenue. Project trips will continue to dissipate beyond these intersections, such that the project trips at the additional intersections mentioned in the letter would be nominal, and would not meet the City's criteria for inclusion in a traffic study.

Response 2

Intersection Capacity Utilization (ICU) values for City of Tustin analyses are rounded and reported to two decimals. The Vistro intersection worksheets are generated by the software, which was developed by a third-party vendor. The worksheets display the ICU values calculated to three decimals, and bases the Level of Service on the three-decimal value. This discrepancy between the City's standard and the Vistro software output was corrected by hand in the report.

Response 3

The 2035 forecasts are based on the latest ITAM traffic model data available at the time of the analysis. The forecasts were adjusted, if needed, to ensure that all forecast volumes would be equal to or greater than the existing turning movement counts. The 2035 data provided did not include forecasts for the intersection of Red Hill Avenue at San Juan Street. Forecasts were developed for this intersection by factoring existing traffic counts by the average growth for the two adjacent intersections.

Response 4

The language in the proposed Specific Plan is applicable subsequent to the City's consideration of certification of the Final EIR, followed by approval of the discretionary actions identified in the Program EIR including an amendment of the General Plan, adoption of the Specific Plan, and an amendment to the Zoning Map.

Letter C-5 Airport Land Use Commission for Orange County

Kari A. Rigoni, Executive Officer

March 16, 2018

Comment Letter C-5



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

March 16, 2018

Erica Demokowicz, Senior Planner
City of Tustin
Community Development Department
300 Centennial Way
Tustin, CA 92780

Subject: Notice of Availability of a DEIR Red Hill Avenue Specific Plan

Dear Ms. Demokowicz:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the proposed Red Hill Avenue Specific Plan Project. The proposed project is not located within the Notification Area (Airport Planning Area) for John Wayne Airport (JWA). However, portions of the proposed project fall within the Federal Aviation Regulation (FAR) Part 77 approach and transitional surfaces for JWA.

Although the proposed development is located outside of the Airport Planning Area, please be aware that development proposals which include the construction or alteration of a structure more than 200 feet above ground level, require filing with the Federal Aviation Administration (FAA). Structures meeting this threshold must comply with procedures provided by Federal and State law, with the referral requirements of ALUC, and with all conditions of approval imposed or recommended by the FAA and ALUC including filing a Notice of Proposed Construction or Alteration (FAA Form 7460-1).

The proposed project does not include the development of heliports or helistops. For your information, should the development of heliports occur 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.

Thank you again for the opportunity to comment on this DEIR. Please contact Lea Choum at (949) 252-5123 or via email at lchoum@ocair.com should you have any questions related to the Airport Land Use Commission for Orange County.

Sincerely,

Kari A. Rigoni
Executive Officer

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Response 1

The Red Hill Avenue Specific Plan does not propose nor would it permit any structures more than 200 feet above ground level. The proposed maximum building height is five stories which would be substantially less than 200 feet. Additionally, no heliports or helistops are proposed.

Letter C-6 **Kevin Heydman**
February 4, 2018

Comment Letter C-6

Demkowicz, Erica

From: Kevin Heydman <kheydman@gmail.com>
Sent: Sunday, February 04, 2018 8:50 PM
To: Demkowicz, Erica
Subject: Hello Mrs. Demkowicz I have some questions about the Red Hill Specific Plan

Follow Up Flag: Follow up
Flag Status: Completed

Hello Mrs. Demkowicz,

My name is Kevin Heydman, I currently live in the area for the Red Hill Ave. Plan. How will this affect people who live in the area? From what I have read it is to build new shops and residential units, but what about the condominiums currently here? Parking on San Juan is already difficult. Are there plans to add parking solutions? Specifically the residents of the neighborhood?

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Thank you for your time,

Kevin Heydman

Response 1

The Program EIR evaluates the potential environmental effects associated with the addition of 500 dwelling units and 325,000 square feet of non-residential uses to the Specific Plan area which extends from Bryan Avenue to the northeast to Walnut Avenue at the southwest. The Specific Plan provides planning policies and regulations that connect the City of Tustin General Plan policies with project-level development within the Specific Plan area. The Specific Plan provides long- and short-term goals and objectives, a land use plan, regulatory standards, Design Criteria, and administration and implementation programs.

No site-specific projects are proposed as a part of the Specific Plan or are evaluated in the Program EIR. It is anticipated that further projects would occur over many years. The Specific Plan identifies parking requirements and alternative parking standards. As it relates to parking, Chapter 4, Land use and Development Standards, of the proposed Specific Plan includes off-street parking standards for residential uses and non-residential uses; see Table 4-4.

The City's email response to Mr. Heydman's comment letter elaborates on this response and immediately follows this response.

Demkowicz, Erica

From: Demkowicz, Erica
Sent: Friday, February 09, 2018 1:03 PM
To: 'Kevin Heydman'
Subject: RE: Hello Mrs. Demkowics I have some questions about the Red Hill Specific Plan

Hello Kevin,

The goals and objectives of the Red Hill Specific Plan include continuing the commercial corridor that Red Hill already is and allowing for mixed use development and improving the pedestrian experience within the area. Mixed use means a combination of either commercial retail and/or office on the ground floor with residential or office uses above (i.e. vertical) or commercial/office uses and residential uses next to each other (i.e. horizontal), on the same site or property. The Specific Plan would also establish a program of streetscape improvements within the public rights-of-way along Red Hill that includes landscaped medians, street trees, plants and a flexible amenity setback area in front of the commercial or retail buildings that would allow for outside dining, landscaping, plazas for gathering and other such things to enhance pedestrian activities.

Existing residential uses within or surrounding the Red Hill Avenue Specific Plan area would remain "as is" and once the Red Hill area starts to develop (which is anticipated to take many years) there could be taller buildings in and around the area with additional people and cars. The Draft Environmental Impact Report (EIR), which analyzes the potential impacts of the Red Hill Avenue Specific Plan on the area is posted on the City's website at the link below. The EIR document looks at many different areas and contains a discussion of each of the areas with a summary about the potential impacts. If you have an opportunity to look at this information on-line, you will be able to better understand more about the potential impacts.

The development standards for the Red Hill Avenue Specific Plan would establish the requirement that any new projects within the area provide all parking on-site. This means if a new project requires a certain number of spaces to meet the parking code, then the parking must be provided on the same property where the project is to be developed. There would also be an alternative option to provide the required parking on a different parcel near the project site, but that option would only be exercised if it is within a certain distance from the project site to be developed.

<http://www.tustinca.org/depts/cd/planningupdate.asp>

If you have had an opportunity to look on-line at the Red Hill information and still have some questions, please feel free to give me a call.

Regards,

Erica H. Demkowicz, AICP
Senior Planner
City of Tustin - Community Development Department
300 Centennial Way
Tustin, CA 92780
(714) 573-3127
edemkowicz@tustinca.org

Letter C-7 **Kathy Hall**
February 16, 2018

Comment Letter C-7

Demkowicz, Erica

From: Kathy Hall <khall@startmail.com>
Sent: Friday, February 16, 2018 10:34 AM
To: Demkowicz, Erica
Subject: Red Hill Avenue Specific Plan

Follow Up Flag: Follow up
Flag Status: Completed

Hi Erica,

The online material about the Red Hill Avenue Specific Plan is very well done and informative. Please let me add a point about the area which I did not see covered - shopping cart blight.

Everyone working on this project should be aware that the current shopping cart ordinance is not working. It is very difficult for residents to arrange for removal of a single stray cart. It takes time making calls, persistence and determination to have a cart identified for pickup. Then it takes days for the cart to actually be removed. Multiply that by new carts being released into the Red Hill area neighborhoods every day, and cart eradication by residents is futile.

The worst offender appears to be the Stater Brothers Market at the corner of Red Hill and Mitchell. A polite conversation with the manager there was unproductive. He gave the impression that once a cart leaves the property of his store, it becomes the responsibility of residents to deal with it. There are also stray carts from the 99 Cent store on Red Hill, but nowhere near as many as from Stater Brothers.

Stray shopping carts have long been regarded as an indicator of urban blight. Unless there can be very strict enforcement of shopping cart containment in the Red Hill corridor, the area will under perform in terms of desirability.

Thank you for considering my comments.

Best,

Kathy

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Response 1

The commenter raises concerns that the City's shopping cart ordinance is not effective. While the commenter's concern is noted, the comment letter does not raise any environmental issues and thus does not constitute a comment under CEQA to which a response must be provided.

Letter C-8 Peter Kim
February 16, 2018

Comment Letter C-8

Demkowicz, Erica

From: Demkowicz, Erica
Sent: Wednesday, February 21, 2018 10:53 AM
To: 'peter888'
Subject: RE: red hill draft plan comments

Hello Peter,

The City is in receipt of your comments and they will be added to the public record. Information about the potential locations of the medians can be found in Chapter 3 of the Draft Red Hill Avenue Specific Plan. Below is a link to the Red Hill Avenue Specific Plan and Draft Environmental Impact Report for the Plan for your reference.

<http://www.tustinca.org/depts/cd/planningupdate.asp>

Regards,

Erica H. Demkowicz, AICP
Senior Planner
City of Tustin - Community Development Department
300 Centennial Way
Tustin, CA 92780
(714) 573-3127
edemkowicz@tustinca.org

From: peter888 [<mailto:peter@cwinsite.com>]
Sent: Friday, February 16, 2018 5:44 PM
To: Demkowicz, Erica
Subject: red hill draft plan comments

Hello Erica
I would like to add my comments to the red hill draft plan.
We are the tenants for the business at 13871 Red Hill Ave,
We would like to request a review of the proposed median and impact of traffic patterns.
We would like to request unhindered access to our property from the north bound lanes that currently exist.
Please let me know if you have any further questions or concerns.
Regards,
Peter Kim

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350 N Glendale Ave Ste B231
Glendale, CA 91206
310-500-0316 (C)



Response 1

The commenter requests the City's consideration of removing the median at the business located at 13871 Red Hill Avenue and the impact of "traffic patterns." The Specific Plan and the Program EIR identify a potential median location on Red Hill Avenue at this location. The location of the potential medians is shown on Exhibit 3-9 of the Program EIR. The Program EIR does evaluate traffic including the forecasted distribution of traffic within and through the Specific Plan area. Please refer to Section 4.13 of the Draft Program EIR.

The City, in its response to Mr. Kim's comments, noted that the locations of the proposed medians are identified in Chapter 3 of the proposed Specific Plan, and that the Specific Plan and Program EIR are available on the City's website at <http://www.tustinca.org/departs/cd/planningupdate.asp>.

The commenter's request to remove a potential median from consideration is noted and will be forwarded to City decision-makers for consideration.

Letter C-9 **Howard L. Abel**
March 15, 2018

Comment Letter C-9

March 15, 2018
Via Email, US Mail First Class Mail and Hand Delivery

To: Erica Demkowicz, Senior Planner, City of Tustin
300 Centennial Way
Tustin, CA 92780
E-mail: edemkowicz@tustinca.org

Fr: Howard L. Abel, Trustee
Howard L. Abel Family Trust and
Howard L. Abel as President of Mayflower Motors, Inc.
Being the General Partner of Mayflower Properties, LP
7 Island Vista
Newport Coast, CA 92657
E-mail: luckyhwr@gmail.com Cell: 949 922-7749

RECEIVED
MAR 19 2018
COMMUNITY DEVELOPMENT
BY: _____

Re: Property Owner's Comments on the *Draft Red Hill Avenue Specific Plan*

Dear Ms. Demkowicz,

We thank you and the other Staff Members for the time spent with us recently going over the current draft of the *Red Hill Avenue Specific Plan*. As our two firms represent the ownership of the entire city block between San Juan and El Camino Real on the East side of Red Hill apart only from the two parcels now held by our neighbors, WTM Tustin Investors, LP, and Lake Union Investors, LP, who own the property within the block that is tenanted by Big Lots, we have a significant stake in the outcome of this Specific Plan.

We are in agreement with the letter also sent you by M. Katherine Jenson of the firm Rutan and Tucker, LLP that expresses the joint concerns of our full block ownership. We do not wish to just repeat the issues and matters contained in that letter but wish to add a few additional comments as follows:

- #1 This full block has been burdened since our consolidation of all but the Big Lots parcels by the unwillingness of the long term underlying fee ownership of those parcels to engage in any form of dialog or action to enhance and re-develop the site. With the recent (just as of this past January) acquisition of those two parcels by a consortium of firms that like ourselves, have extensive experience in site development, we are just now able to begin a collaborative effort to address the obvious issues of the properties. In short, the *Red Hill Specific Plan* is not allowing us adequate opportunity to address for the first time in over 40 years a significant combined response as co-operating developers.
- #2 Given the uncertainty of the future ability to act as a consolidated and mutually co-operative developmental team, the underlying fee owners have



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been forced over the years, including in the recent past, to enter into leases with a wide variety of tenants who now have significant sway over when and how development can proceed. As these leases expire, there will be freedoms that as Owners we do not have available. Unfortunately, we no longer have the former tools such as Redevelopment Agencies with all their powers to aid in moving Specific Plan goals forward on an immediate basis.

#3 We have economic realities in that not one of our in place tenants can afford to pay the additional rent needed to fund the contemplated costs that appear to fall to our properties. Also, many of the Specific Plan design goals would be of no economic value to any tenant that we have either in these properties or in our other commercial projects we own and operate here in the West. Of special concern are the excessive amounts of landscape contemplated (not just as to cost to install but also to maintain) that will also reduce our parking counts and other design criteria that are not typical for these kind of properties as in very low light poles and extensive use of street furniture.

#4 Practically speaking, we have to be able to back fill and re-tenant our coming vacancies or we will not be able to pay for any pass through costs of a Specific Plan. If we cannot economically keep our spaces full, the net result will be additional blight to the area as maintenance and upgrades require cash flow.

#5 We applaud the use of public set aside funds for the capital improvements in the currently dedicated public right of way. We understand that at times we will have to also participate in part for some of these improvements based on our increasing our density of use or impact on public in fracture. Where there are no budgeted amounts we would suggest delaying costly improvements.

#6 While we fully understand the demands and requirements of the Housing Element of the General Plan, we have concerns about the massive residential project proposed for the East side of Red Hill adjacent to our properties. The impact on the community of these housing types is not always known until after they are in operation. We would welcome more business for our tenants but would not want to become a free parking lot for that project nor do we believe we should pay for infrastructure costs that their impacts bring about in short order.

#7 Mixed use is not viable for our properties without some very significant density allowances as we simply do not have the land area net of the established corner uses to design a residential element that is large enough in unit size and count including parking to attract a developer with the necessary expertise to do a credible job of delivering an economic produce that has existing resident support.

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So what do we suggest at this point in time? Obviously the use of existing funds to complete a reasonable level of public right of way enhancement is always well advised. We would co-operate in the reduction of curb cuts and other matters.

As Owners, we need to complete the development of the Red Hill frontage by way of back fill of the current Del Taco site and the creation of two additional pads between that site and the Exxon/Mobil/Circle K to the South. The revenue streams from these developments will enhance our ability to take on other site work behind the pads and in the right of way.

The Big Lots parcels will need to be back filled and re-positioned without undue limitations on new use(s) or unfair share of onsite and offsite costs. This will help establish a stronger retail presence as a strong anchor will attract more desirable inline tenants in the shops buildings.

The coming onsite and offsite costs to be born by our private ownerships need to be within affordable reason, have economic value to our tenant mix, and by charged over time as we re-develop.

It may well be that only a very limited Specific Plan will bear fruit at this point in time. While we cannot speak for the entire Project Area, especially for those parcels that are at considerable distance from our location and have little or not relationship to our site, we do believe that the private sector can meet most if not all of the typical public goals and objectives if we are given the time to work together on a phased plan to re-develop the sites under our control.

We appreciate this opportunity to share with you some of our thoughts, concerns, and suggestions. We would appreciate that our input be made available to those who are going to be in the decision making process on the Specific Plan. Public hearing time is precious and we certainly do not want to continually address the same issues in the public forum.

One thing that we would highly recommend is that somehow the other property owners within the Specific Plan boundaries be drawn into the dialog and that the other stakeholders such as small local business owners and area residents express their input. We are a neighborhood center, our life blood is the trade and support of the local residents and business owners.

Thank you again for all your considerable time and effort on behalf of this significant planning project.



Howard L. Abel

Response 1

The commenter is addressing the proposed Red Hill Avenue Specific Plan. However, the comment letter does not raise any environmental issues and thus does not constitute a comment under CEQA to which a response must be provided.

Response 2

The concerns of the commenter are noted. The Program EIR evaluates the potential environmental effects associated with the addition of 500 dwelling units and 325,000 square feet of non-residential uses to the Specific Plan area which extends from Bryan Avenue to the northeast to Walnut Avenue at the southwest. As addressed in the Program EIR, the EIR does not evaluate in site-specific development proposals, including potential residential development of the vacant parcel on the west side of Red Hill Avenue north of I-5. The Specific Plan identifies parking requirements. As it relates to parking, Chapter 4, Land use and Development Standards, of the proposed Specific Plan includes off-street parking standards for residential uses and non-residential uses; see Table 4-4.

Response 3

The commenter is addressing the development standards set forth in the proposed Red Hill Avenue Specific Plan. However, the comment letter does not raise any environmental issues and thus does not constitute a comment under CEQA to which a response must be provided.

Response 4

The comments and concerns of the commenter regarding the proposed Specific Plan are noted and will be provided to City decision-makers.

Letter C-10 **Jerry Marcil**
February 5, 2018

Comment Letter C-10

Demkowicz, Erica

From: Gerald Marcil <jermarcil@aol.com>
Sent: Monday, February 05, 2018 1:51 PM
To: Demkowicz, Erica
Cc: tarahelang@yahoo.com; David Delgado
Subject: CEQA Red Hill Avenue

To: Tustin Planning Dept.
From: Jerry Marcil
Re: CEQA Red Hill Avenue

Dear City Planner,

I own the property at 14445 Red Hill Ave (Waterstone Garden Apts) and 14251-351 Browning Ave (Rancho Sierra Vista) a total of 117 apt. units. I am stunned you want to put another 500 units into this neighborhood. This is already a densely populated corridor with plenty of traffic. Five hundred more units next door means 1,800 more people (500x 3.6 people per unit assuming 2 BDM units).

There is no way that adding that many people to this neighborhood is going to increase the quality of life of the people already living there. It just means more cars, more noise, more pollution, more people in the schools and parks. I am speaking on behalf of myself and my 400 tenants.

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Best, Jerry Marcil
310-791-2000
cc: Tarah Lang, David Delgado

Response 1

As addressed in Section 4.10, Population and Housing, of the Program EIR, the City has an average household size of 3.04 persons (Department of Finance, 2017). Assuming 3.04 persons per dwelling unit, the Specific Plan has the potential to generate 1,520 residents at buildout. The estimated population increase of 1,520 new residents is within the forecasted population increase by the Southern California Association of Governments for the City of Tustin of 5,700 residents between 2012 and 2040 (see Program EIR Table 4.10-1) and would represent approximately 26.6 percent of the expected growth. It is anticipated that the implementation of the Specific Plan would occur over a multi-year timeframe based upon market conditions. For analysis purposes, the Program EIR assumes a buildout year of 2035.

The Program EIR evaluates the potential environmental impacts associated with the introduction of additional residential and non-residential development to the Specific Plan area, including the issues noted by the commenter: traffic, air quality, schools, and parks. With respect to these issues, mitigation is provided to mitigate impacts to the degree feasible. The Program EIR finds that traffic and air quality impacts would have significant unavoidable impacts. Impacts to schools and parks would be less than significant.

Letter C-11 **Tim Mcc**
February 23, 2018

Comment Letter C-11

From: Tim Mcc [mailto:timarteffect@gmail.com]
Sent: Thursday, February 22, 2018 7:24 PM
To: Demkowicz, Erica
Cc: Reekstin, Scott
Subject: Re: RE; Public Comment - Red Hill Avenue Specific Plan

Yes, I will.

The pamphlets I had gotten in the past were just what you all had the workshop for, understandable. But I wrote that comment beforehand, and the most recent invitation to the center did not have the diagram attached, I was not aware that the areas aside from the street were discussed Tuesday, the verbage led me to believe it was the very much larger zone off of barranca Warner leading towards edinger.

The other thing I picked up was, that your presentation had much to do with the housing and rebuilding of the 3 acre lot by the church lot and going back, was vaguely discussed. I hope for the best!

Bottom line is that my pov of the air base was that 1/2 was conserved, with the residential outweighing the major commercial lots. Perfect placing. I didn't stand up to say it, but was still interested to just listen. My reference as to why my "ratio" was a good one, is the way my home town by the beach overdid residential in a small area by 5 points and golgenwest in Huntington Beach. Also in fountain valley the City must have laid in on contracting that land for the new 40 foot high industrial work, which is a big wager to succeed, next to newhope-

My final inquiry would have been to utilize less space for commercial in the air field, and get technical and labor usage with small lots of shops in a row, willing small business owners can handle it, repair shops, furniture, landscaping, law offices, etc. (Because #1 on your slideshow was options and shopping ease) essential

1

outweighs luxury to 100% of middle class America and still, I say 75% of the "new" middle class. Pay it forward! The reasoning is what is important to this generation is what they learned and will pass on, to survive and live what they were promised by hard work alone, I have to support small businesses above all, the way our economy is moving forward.

Thanks again.

cont'd
1

Response 1

The opinions of the commenter are noted. However, the comments do not raise any environmental issues and thus do not constitute a comment under CEQA to which a response must be provided. No further response is required.

Letter C-12 Qantas Corman
March 7, 2018

Comment Letter C-12

From: Qantas Corman [mailto:qantascorman@hotmail.com]
Sent: Wednesday, March 07, 2018 10:40 AM
To: Demkowicz, Erica
Subject: Red Hill Avenue Specific Plan

Ms. Demkowicz,

I was at the Red Hill Specific Plan workshop a couple weeks ago, I don't know if you are still taking comments but, if so, mine is as follows:

I live close to Red Hill, not in the plan area but I drive through there a few times a day and shop at a variety of stores within the plan area. I'm excited to see effort being made to improve the area, it has great potential for Tustin. I'm in real-estate development and I've seen the benefit of allowing greater density on a site. The increased density gives a property owner a financial incentive to improve their site through some form of redevelopment. Adding residential as an option for mixed-use is excellent at complimenting the retail. If the vacant site at 13841 Red Hill and the large, older shopping center across the street are developed then that will be a catalyst for additional improvements within the area. Keep up the great work!

1

Qantas Corman
4340 Von Karman, Suite 110
Newport Beach CA 92660
949-325-3025

Response 1

The commenter's support for the Project is noted. No further response is required.

Letter C-13 **Susan Ellenberg**
February 6, 2018

Comment Letter C-13

From: Susan Eilenberg [mailto:susan_ei@pacbell.net]
Sent: Tuesday, February 06, 2018 6:54 PM
To: Demkowicz, Erica
Subject: RE: RE; Red Hill Avenue Specific Plan Update

Hi Erica,
It was a pleasure talking with you today at the City Hall when I popped in! Thank you so much for taking the time to share the very good intentions of Tustin to plan and help make our ugly Red Hill corridor more attractive. You clearly know your subject and make me feel better that the intentionality of this plan is to encourage investment and improve the area.

If the city is able to show some of the developers proposed designs, I'd sure like to see some at the Feb 20th workshop. A picture is worth a 1000 words.

Regards,
Susan Eilenberg
14102 Woodlawn Ave
Tustin, CA 92780

From: Demkowicz, Erica [mailto:EDemkowicz@tustinca.org]
Sent: Thursday, February 1, 2018 3:55 PM
To: Demkowicz, Erica <EDemkowicz@tustinca.org>
Cc: Binsack, Elizabeth <EBinsack@tustinca.org>; Willkom, Justina <JWillkom@tustinca.org>; Reekstin, Scott <SReekstin@tustinca.org>
Subject: RE: Red Hill Avenue Specific Plan Update

Please find the attached Notice of Availability (NOA) for the Red Hill Avenue Final Draft Environmental Impact Report and information regarding Community Workshop #3 that will be held on February 20, 2018.

Regards,

Erica H. Demkowicz, AICP
Senior Planner
City of Tustin - Community Development Department
300 Centennial Way
Tustin, CA 92780
(714) 573-3127
edemkowicz@tustinca.org

Response 1

The commenter notes that it is the intent of the Specific Plan to improve the attractiveness of the Specific Plan area to encourage investment and improve the area. The opinions of the commenter are noted. No further response is required.

Letter C-14 WTM Tustin Investors and Lake Union Investors

M. Katherine Jensen, Rutan & Tucker

March 16, 2018



Comment Letter C-14

M. Katherine Jensen
Direct Dial: (714) 641-3413
E-mail: kjensen@rutan.com

March 16, 2018

**VIA E-MAIL AND
FEDERAL EXPRESS**

Mayor Al Murray and
Honorable Members of the City Council
City of Tustin
300 Centennial Way
Tustin, CA 92780

Chairman Ryder Smith and
Honorable Members of the Planning Commission
City of Tustin
300 Centennial Way
Tustin, CA 92780

E-mail: CityCouncil@tustinca.org

E-mail: cityclerk@tustinca.org

Erica Demkowicz, Senior Planner
City of Tustin
300 Centennial Way
Tustin, CA 92780

E-mail: edemkowicz@tustinca.org

Re: Red Hill Avenue Specific Plan

Dear Mayor Murray, Chairman Smith, Honorable City Council Members and Planning Commissioners and Ms. Demkowicz:

Rutan & Tucker, LLP represents WTM Tustin Investors, LP, and Lake Union Investors, LP, with regard to their property interests located at 13852 Red Hill Avenue, in Tustin. Specifically, Rutan has been requested to submit these comments and questions regarding the proposed Red Hill Avenue Specific Plan (“Specific Plan”) and its potential effects on our clients’ property interests. The owners of the adjacent properties located at 13742, 13802, 13822, 13872 Red Hill Avenue and 1571 El Camino Real, Mayflower Properties, L.P., and Howard L. Abel, Trustee of the Howard L. Abel Family Trust, have asked to join in the comments contained in this letter. Together, the property owners are referred to in this letter as the “Property Owners” or the “Owners.”

In a nutshell, while the Property Owners applaud the City’s effort to enhance the Red Hill Avenue corridor’s aesthetics and accessibility, the Owners are greatly concerned that the Specific Plan will (1) create uncertainty as to what will be expected, of whom, and when; and (2) overburden any private voluntary efforts to upgrade the commercial businesses on the west side of Red Hill Avenue between El Camino Real and San Juan Street. The Owners are concerned that the Specific Plan, as drafted, may actually impede the goal of improving the shopping, dining and commercial services options for Tustin residents. The Owners have a vested interest in advancing



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that goal and are concerned that approval of the Specific Plan, as drafted, will trigger burdensome and infeasible on-site and off-site improvements.

The following are the Owners' primary concerns, questions, and comments at this juncture.

1. What Level of Improvements/Upgrades to Existing Structures Will Trigger Application Of The Specific Plan Requirements?

The Specific Plan attempts to describe what will trigger its application in several sections. The descriptions are unclear and inconsistent. On page 4-1, it states that the new standards "shall apply to all new development, including additions to buildings, and changes in use...." "New development" and "changes of use" are not defined in the document.

On page 5-1, the Specific Plan states that the new Design Criteria will be utilized during the City's design review process, and that the Design Criteria apply to all parcels within the Specific Plan area. The following page (page 5-2) attempts to define projects that are subject to design review. It states that "at a minimum" this includes new construction, zoning applications that "affect" existing exterior elevations, "exterior remodels," "new signage," any "change in use and/or classification of use of an existing tenant space," or "any change in the intensification of use of an existing tenant space." Again, no definitions are provided. Additionally, this description of design review differs from the scope of design review described in Section 9272 of the City's Code, which applies to "the issuance of *any building permit*, including new structures or *major exterior alterations* or enlargement of existing structures." (Emph. add.)

In the section on "Nonconforming Uses, Structures, and Parcels" on page 4-29¹, the Specific Plan provides yet another different description of when the new standards would apply to existing structures. It lists the triggering requirements as "new construction," a "zoning application that affects the exterior elevation," a "change in use," and an "expansion or new development." It then references Section 9273 of the City's Code for "specific standards and provisions." However, the description does not track the City Code, which allows for certain changes in use, provided the new use is in the same or a more restrictive classification. The City Code also provides certain exemptions when nonconformity is the result of right-of-way acquisitions. How will that affect properties that must provide additional road right-of-way under the terms of the Specific Plan?

Chapter 6 has an additional description of what will trigger the application of the new Specific Plan standards. Page 6-1 says that existing uses "shall be permitted to continue and need not comply with the new standards" subject to compliance with City Code Section 9273. It goes on to say that, when "land uses intensify or change, existing structures are modified, additional

¹ This paragraph also contains a typographical error. The reference to 5.3.1 should be 5.1.3.



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square footage or new development is proposed, conformance with regulations and design criteria outlined in this Specific Plan will be required.” It subsequently refers to findings that have to be made for “new development projects.” (Pages 6-5 to 6-6.)

The Owners request two things: (1) that there be a single, consistent description of what type of development project will trigger the application of the new requirements; and (2) that the City make it clear that tenant improvements and minor building modifications necessary for re-tenanting an existing building for a permitted use do not trigger application of the new standards. In such situations, the building is not being enlarged, and the uses are within the scope of the existing entitlements. Without this clarification, re-tenanting existing buildings will be cost prohibitive. This will lead to buildings remaining vacant, attracting vandalism and resulting in disrepair and blight. Vacant buildings produce nothing for the City, its residents or the Owners. If, when tenants vacate, buildings cannot be efficiently reoccupied with simple over-the-counter building permits for exterior and interior tenant improvements, the effect will be the direct opposite of what the City is trying to achieve with this Specific Plan.

2. Excessive Landscape Coverage Requirements

Currently, the City’s Zoning Code requires that 5% of the parking area be landscaped. This is typical. The Specific Plan requires that 10% of the gross lot size be landscaped. If new development were proposed on my clients’ site, or even a simple façade remodel of the existing building, this requirement would translate into more than 10,008 sq. ft. of landscaping (10 % of the 100,088 gross lot sq. ft.). Applying the City’s current requirements to that same property results in a requirement of only 3,158 sq. ft. of landscaping (5% of the 63,174 sq. ft. of parking area). As proposed, this is well over a 300% increase in landscape coverage requirements. Additionally, the Specific Plan calculation must also be based upon the gross lot size, and landscape within the required 18 foot parkway is not to be counted towards meeting the 10% requirement. My clients have extensive experience with development and ownership of shopping centers within California, and have never been subject to landscape requirements as high as what is proposed here. Given the drought and ongoing maintenance costs, such a drastic increase in the landscaping coverage requirement is excessive. Moreover, given the numerous additional space-consuming requirements of the Specific Plan, the proposed increase is clearly unreasonable. The Property Owners request that the percentage requirement be dropped, and that the calculation be based upon the size of the parking area rather than the gross lot size.

3. Drive-Thru Restaurants

The proposed treatment of drive-thru restaurants and drive-thru uses is incomplete and the policies are internally inconsistent. The policies do not reflect the desires of Tustin’s residents. Table 4-1 on page 4-5 has no letter in column two, next to the Drive-Thru category of land uses.

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All other uses are either marked as P – Permitted or C – Conditionally Permitted. We request that a “P” be placed in column two, next to the Drive-Thru category.

Page 5-24 states that “a proliferation of drive thru businesses is not encouraged in the Specific Plan area.” What does this mean? Given the existing approved uses, what areas is this “discouragement” intended to cover? What is the rationale for attempting to limit them, provided that their operation does not impede traffic flow? In my clients’ meeting with City Staff, the issue was explained as a need to reduce curb cuts. That can certainly be accomplished without essentially banning drive-thru facilities.

Such businesses are only proposed in areas where consumer demand is present. Drive-thru restaurants and business provide convenience and variety to customers.

4. Height Limitation on Light Poles

Given that the overall “Mixed-Use” designation consists of both Commercial/Office and Mixed-Use components (per page 3-3), it is somewhat unclear whether certain of the standards identified for “Mixed Use” would apply to traditional Commercial shopping centers. For example, it is unclear whether the standards contained in 4.4.3 starting on page 4-15 are intended to cover both components of the Mixed-Use designation. This should be clarified. If the intention is to apply the standard to commercial shopping centers, the Property Owners must object to item 10.a.(i), which would limit the height of such poles to 16 feet. Currently, the poles throughout the Red Hill Plaza Shopping Center are 30 feet in height. Three times as many poles would be required if the height were limited to 16 feet. This would be both expensive and unsightly. We are assuming that the lower heights were intended just for true Mixed Use projects, but would like that confirmed.

5. Undergrounding Overhead Utility Lines

On page 3-35, there is a reference to the overhead utility lines along Red Hill Avenue being undergrounded “as part of future development.” Unlike several of the other requirements, the Specific Plan does not state who would be responsible for this undergrounding or under what circumstances the undergrounding would be completed. In a meeting with City Staff, the Owners were told that there is \$897,794 in the City’s Rule20A funds earmarked for this undergrounding project. These Rule20A funds were assumed in the recent fee calculations Staff used to determine the deposit amount required to be paid by Del Taco, as part of its new building development, to cover its share of the undergrounding and future signal modifications. The Owners do not wish to unfairly bear the burden of this obligation. This needs to be clarified, and the Rule20A funds and the established prorata calculations should be included in the Specific Plan.

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6. Parking

The Specific Plan indicates that each parcel must be self-parked. For larger shopping centers with multiple parcels, such as those that exist on the east side of Red Hill Avenue, parking requirements are typically satisfied through the use of Reciprocal Easement Agreements ("REAs"). This makes sense since the goal is to encourage customers to visit as many businesses as possible during a single stop. We request that the text of the Specific Plan expressly acknowledge and permit the use of REAs to bridge parcels together for reciprocal parking.

In addition, it must be remembered that space is finite, and imposing requirement upon requirement is a zero-sum game. Land used for landscaping and right-of-way cannot be used for parking. Given that the City would like to acquire an additional 10 feet along Red Hill Avenue at some point in the future, my clients would like assurances that, pursuant to Tustin Municipal Code Section 9273(f), if parking spaces are lost, the resulting parking condition will be considered exempt from the City's nonconforming use regulations.

7. Permitted Land Uses

As noted above, because "Mixed Use" is used to describe all the private property within the specific plan, my clients would like assurance that freestanding retail will remain a permitted land use in this area, and the buildings within the shopping center on the east side of Red Hill Avenue will not become non-conforming uses.

We note that grocery stores are not expressly identified in Table 4-1. We request that you make them a permitted use.

8. Public Improvements and Dedications

On page 3-7, there is a reference to "dedications" as "development projects are processed to obtain the full 120-foot right-of-way." We would like clarification that simply re-tenanting an existing structure with standard tenant improvements will not trigger this obligation.

In addition, we would like assurances that the referenced traffic signal will be the obligation of the new residential development.

What is the "new private development" (page 3-20) that will have to install (or bond) for sidewalks and new landscape improvements between the property line and the curb? Again, this obligation should not be triggered by the reoccupation of an existing building.

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A water line upgrade from 6" to 12" is shown along the portion of Red Hill Avenue in front of my clients' property on Exhibit 3-12 on page 3-36. Please confirm that the responsibility for this upgrade will rest with the residential developer.

9. Existing Shopping Center Agreements and Long Term Leases

When the Owners of the Red Hill Plaza shopping center purchased their interests, they acquired the property subject to the existing shopping center CC&Rs, easements and leases. These documents are legal instruments which are recorded on the property and dictate how the property can be used, where development can occur and what types of tenant uses can take place. The recorded CC&Rs on this shopping center are perpetual in nature and all of the benefits, rights and restrictions called for in the documents have been conveyed to the neighboring Owners and the shopping center tenants though guarantees in their leases, all of which are staggered and long term in nature. The new Specific Plan requires all property within the plan to become Mixed Use; however, the recorded CC&Rs and long term leases on this property prohibit any kind of mixed use development from occurring. This puts the Owners in a bind. On one hand, they are not permitted to develop mixed use on site due to the long term recorded CC&R documents. On the other hand, the Specific Plan renders their existing buildings as legally non-conforming and triggers exactions and cost burdens that make it infeasible for the Owners to simply remodel a storefront or re-tenant an empty unit. It does not appear that any of the recorded CC&R burdens upon the land or the long term nature of the tenant leases were taken into account in the drafting of this Specific Plan. This Specific Plan, rather than promoting investment in the community, is so restrictive with the existing uses that it will prevent the Owners from investing in their asset and actually, to the contrary, promote vacancies and additional blight. This is not just an issue for the Red Hill Plaza Shopping Center. These underlying issues are pertinent to all of the shopping centers included within the Specific Plan area.

10. Concerns Regarding Residential Development on North Side of Red Hill Avenue

The parking requirements for the proposed residential uses at this location appear low. There is a serious concern that the shopping center parking area will be used by residents, particularly if a mid-block traffic signal is installed. Parking at Red Hill Plaza is for the exclusive use of customers only, not for overnight parking, and is subject to tow. My clients have had this issue at other properties and it becomes a nuisance for the owners of the property, as well as for the City who ultimately receives the majority of the towed car complaints. What can be done to prevent this from happening?

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11. Miscellaneous Clarifications

- Please confirm that the General Development Standards starting mid-way down on page 4-15 and through page 4-19 are for mixed use projects only.
- The heading and land use type descriptions on Table 4-4 on page 4-21 are unclear. Can you confirm whether the "Non-Residential" is intended to include Commercial development that is not part of a mixed-use project?

We appreciate the opportunity to comment on the Specific Plan and we thank staff for taking the time to meet to discuss this matter. If possible, we would like to schedule a further meeting to discuss the concerns expressed in this letter. Please notify both me and my clients of all upcoming hearings and actions regarding the Specific Plan.

Very truly yours,

RUTAN & TUCKER, LLP

A handwritten signature in black ink that reads "M. Katherine Jenson".

M. Katherine Jenson

MKJ:lr

cc: Tom O'Meara (via e-mail)
Mick Meldrum (via e-mail)
Howard Abel (via e-mail)
David E. Kendig, City Attorney (via e-mail: dkendig@wss-law.com)

Response

The commenter asks for clarification and consideration of modifications of proposed development standards set forth in the proposed Red Hill Avenue Specific Plan. These comments and questions are forwarded to the City's decision-makers for their consideration. However, the comment letter does not raise any environmental issues and thus does not constitute a comment under CEQA to which a response must be provided.

4 NATIVE AMERICAN TRIBAL CONSULTATION

On February 6, 2018, Andrew Salas, Chairman, of the Gabrieleño Band of Mission Indians – Kizh Nation, requested consultation with the City of Tustin on the Red Hill Avenue Specific Plan Project, in accordance with both Senate Bill (SB) 18 (*California Government Code* § 65352.3) and Assembly Bill (AB) 52 (Chapter 532, Statutes of 2014). The City of Tustin entered into consultation with the Gabrieleño Band of Mission Indians – Kizh Nation and participated in a conference call on March 7, 2018. The following individuals participated in the call:

Andrew Salas, Chairman, Gabrieleño Band of Mission Indians – Kizh Nation

Dana Ogden, City of Tustin

Erica Demkowicz, City of Tustin

Scott Reekstin, City of Tustin

Dana C. Privitt, AICP, Consultant, Kimley-Horn and Associates

No tribal cultural places or tribal cultural resources were identified by Mr. Salas during the consultation. However, Mr. Salas noted the importance of Red Hill, a village or gathering place, located in the hillsides northeast of the Specific Plan area. Following the conference call, Mr. Salas provided the City with additional documentation including a map showing the location of the Specific Plan area in relationship to tribal cultural resources: traditional trading routes, the Kizh Gabrieleño village of Katuktu, and the red hills known by the Spanish as Cerrito de las Ranas. It is noted that these tribal cultural resources are outside of the Specific Plan area. The nearest resource, a segment of a trading route is south of Edinger Avenue and generally traverses from east-to-west.

Mr. Salas requested that Native American monitoring be required. In response to this request, the City has proposed a modification to MM 4.3-1.

MM 4.3-1 The State CEQA Guidelines (14 CCR §15126.4[b][3]) direct public agencies, wherever feasible, to avoid damaging historical resources of an archaeological nature, preferably by preserving the resource(s) in place. Preservation in place options suggested by the State CEQA Guidelines include (1) planning construction to avoid an archaeological site; (2) incorporating the site into open space; (3) capping the site with a chemically stable soil; and/or (4) deeding the site into a permanent conservation easement. ~~Prior to issuance of any grading or building permits and/or action that would permit project site disturbance (whichever occurs first) for any development projects within the Red Hill Avenue Specific Plan area, the applicant shall provide a letter to the City of Tustin Community Development Department, or designee, from a qualified professional archeologist meeting the Secretary of Interior's Professional Qualifications for Archaeology as defined at 36 CFR Part 61, Appendix A stating that the applicant has retained this individual and that the archeologist shall provide on call services in the event archeological resources are discovered. The archeologist shall be present at the pre-grading conference to establish procedures for archeological resource surveillance. If unknown cultural resources are discovered during the development of any project within the Specific Plan area, all activity within 50 feet of the area of discovery shall cease and the City shall be~~

immediately notified. The archeologist shall be contacted to flag the area in the field and determine if the archaeological deposits meet the CEQA definition of historical (State CEQA Guidelines § 15064.5(a)) and/or unique archaeological resource (Public Resources Code [PRC] § 21083.2(g)).

If the find is considered a “resource” the archaeologist shall pursue either protection in place or recovery, salvage, and treatment of the deposits. Recovery, salvage and treatment protocols shall be developed in accordance with applicable provisions of PRC Section 21083.2 and State CEQA Guidelines Sections 15064.5 and 15126.4. If unique archaeological resources cannot be preserved in place or left in an undisturbed state, recovery, salvage, and treatment shall be required at the applicant’s expense. All recovered and salvaged resources shall be prepared to the point of identification and permanent preservation by the archaeologist. Resources shall be identified and curated into an established accredited professional repository. The archaeologist shall have a repository agreement in hand prior to initiating recovery of the resource. Excavation as a treatment option will be restricted to those parts of the unique archaeological resource that would be damaged or destroyed by Specific Plan implementation.

Prior to issuance of a grading permit for grading of 2 feet or more in depth below the natural or existing grade, the applicant/developer shall provide written evidence to the City Planning Division that a qualified archaeologist has been retained by the applicant/developer to respond on an as-needed basis to address unanticipated archaeological discoveries and any archaeological requirements (e.g., conditions of approval) that are applicable to the project. The applicant/developer is encouraged to conduct a field meeting prior to the start of construction activity with all construction supervisors to train staff to identify potential archaeological resources. In the event that archaeological materials are encountered during ground-disturbing activities, work in the immediate vicinity of the resource shall cease until a qualified archaeologist has assessed the discovery and appropriate treatment pursuant to CEQA Guidelines Section 15064.5 is determined.

If discovered archaeological resources are found to be significant, the archaeologist shall determine, in consultation with the City and any local Native American groups expressing interest following notification by the City, appropriate avoidance measures or other appropriate mitigation. Per CEQA Guidelines Section 15126.4(b)(3), preservation in place shall be the preferred means to avoid impacts to archaeological resources qualifying as historical resources. Consistent with CEQA Guidelines Section 15126.4(b)(3)(C), if it is demonstrated that confirmed resources cannot be avoided, the qualified archaeologist shall develop additional treatment measures, such as data recovery, reburial/ relocation, deposit at a local museum that accepts such resources or other appropriate measures, in consultation with the implementing agency and any local Native American representatives expressing interest in prehistoric or tribal resources. If an archaeological site does not qualify as an historical resource but meets the criteria for a unique archaeological resource as defined in Section 21083.2, then the site shall be treated in accordance with the provisions of Section 21083.2.

5 CLARIFICATIONS AND REVISIONS

This section includes recommended clarifications and revisions to the EIR. This section is organized by respective sections of the EIR. Deleted text is shown as ~~strikeout~~ and new text is underlined.

Section 4.2, Air Quality

A typographical error in the numbering of the mitigation referenced on page 4.2-16 of the Draft Program EIR. Page 4.2-16 is revised and incorporated into the Final EIR as follows:

Therefore, implementation of MM 4.2-~~54~~ is required to ensure a project-specific Health Risk Assessment (HRA) is conducted for future residential uses located within 500 feet of I-5. Implementation of MM 4.2-~~54~~ would reduce exposure of sensitive receptors to substantial pollutant concentrations to a less than significant level.

Section 4.3, Cultural Resources

MM 4.3-1 is revised and incorporated into the Final EIR as follows:

MM 4.3-1 The State CEQA Guidelines (14 CCR §15126.4[b][3]) direct public agencies, wherever feasible, to avoid damaging historical resources of an archaeological nature, preferably by preserving the resource(s) in place. Preservation in place options suggested by the State CEQA Guidelines include (1) planning construction to avoid an archaeological site; (2) incorporating the site into open space; (3) capping the site with a chemically stable soil; and/or (4) deeding the site into a permanent conservation easement. ~~Prior to issuance of any grading or building permits and/or action that would permit project site disturbance (whichever occurs first) for any development projects within the Red Hill Avenue Specific Plan area, the applicant shall provide a letter to the City of Tustin Community Development Department, or designee, from a qualified professional archeologist meeting the Secretary of Interior's Professional Qualifications for Archaeology as defined at 36 CFR Part 61, Appendix A stating that the applicant has retained this individual and that the archeologist shall provide on-call services in the event archeological resources are discovered. The archeologist shall be present at the pre-grading conference to establish procedures for archeological resource surveillance. If unknown cultural resources are discovered during the development of any project within the Specific Plan area, all activity within 50 feet of the area of discovery shall cease and the City shall be immediately notified. The archeologist shall be contacted to flag the area in the field and determine if the archaeological deposits meet the CEQA definition of historical (State CEQA Guidelines § 15064.5(a)) and/or unique archaeological resource (Public Resources Code [PRC] § 21083.2(g)).~~

~~If the find is considered a "resource" the archeologist shall pursue either protection in place or recovery, salvage, and treatment of the deposits. Recovery, salvage and treatment protocols shall be developed in accordance with applicable provisions of PRC Section 21083.2 and State CEQA Guidelines Sections 15064.5 and 15126.4. If unique archaeological resources cannot be preserved in place or left in an undisturbed state, recovery, salvage,~~

~~and treatment shall be required at the applicant's expense. All recovered and salvaged resources shall be prepared to the point of identification and permanent preservation by the archaeologist. Resources shall be identified and curated into an established accredited professional repository. The archaeologist shall have a repository agreement in hand prior to initiating recovery of the resource. Excavation as a treatment option will be restricted to those parts of the unique archaeological resource that would be damaged or destroyed by Specific Plan implementation.~~

Prior to issuance of a grading permit for grading of 2 feet or more in depth below the natural or existing grade, the applicant/developer shall provide written evidence to the City Planning Division that a qualified archaeologist has been retained by the applicant/developer to respond on an as-needed basis to address unanticipated archaeological discoveries and any archaeological requirements (e.g., conditions of approval) that are applicable to the project. The applicant/developer is encouraged to conduct a field meeting prior to the start of construction activity with all construction supervisors to train staff to identify potential archaeological resources. In the event that archaeological materials are encountered during ground-disturbing activities, work in the immediate vicinity of the resource shall cease until a qualified archaeologist has assessed the discovery and appropriate treatment pursuant to CEQA Guidelines Section 15064.5 is determined.

If discovered archaeological resources are found to be significant, the archaeologist shall determine, in consultation with the City and any local Native American groups expressing interest following notification by the City, appropriate avoidance measures or other appropriate mitigation. Per CEQA Guidelines Section 15126.4(b)(3), preservation in place shall be the preferred means to avoid impacts to archaeological resources qualifying as historical resources. Consistent with CEQA Guidelines Section 15126.4(b)(3)(C), if it is demonstrated that confirmed resources cannot be avoided, the qualified archaeologist shall develop additional treatment measures, such as data recovery, reburial/ relocation, deposit at a local museum that accepts such resources or other appropriate measures, in consultation with the implementing agency and any local Native American representatives expressing interest in prehistoric or tribal resources. If an archaeological site does not qualify as an historical resource but meets the criteria for a unique archaeological resource as defined in Section 21083.2, then the site shall be treated in accordance with the provisions of Section 21083.2.

Section 4.8, Land Use and Planning

Table 4.8-1, *General Plan Consistency Analysis*, has been updated and incorporated into the Final EIR to correct policy references for COSR Policy 1.7 and to correct the reference to SC 4.4-1 as MM 4.4-1.

Table 4.8-1 - General Plan Consistency Analysis	
Applicable City of Tustin General Plan Goals and Policies	Project Consistency
Conservation/Open Space/Recreation Element	
COSR Policy 1.7: Create the maximum possible opportunities for bicycles as an alternative transportation mode and recreational use.	Consistent: See responses to COSR-CIR Policy 6.1 and CIR Policy 6.41.1. <u>As previously addressed, the Specific Plan complies with the City of Tustin’s Master Bikeway Plan, which shows the entire extent of Red Hill Avenue within the City limits as a designated or a potential Class II bike lane.</u>
COSR Goal 8: Conserve and protect significant topographical features, important watershed areas, resources, and soils.	
COSR Policy 8.3: Encourage the practice of proper soil management techniques to reduce erosion, sedimentation, and other soil-related problems.	Consistent: See response to COSR Policy 8.2. Additionally, MM SC <u>SC</u> 4.4-1 requires geotechnical evaluations for development projects in the Specific Plan area to identify appropriate engineering design measures to reduce potential impacts. Studies must be done as needed to evaluate slope stability, soil strength, position and adequacy of load-bearing soils, the effect of moisture variation on load-bearing capacity, compressibility, liquefaction, differential settlement, and expansiveness. Please also refer to Section 4.7, <i>Hydrology and Water Quality</i> . Construction activities could loosen on-site soils or remove stabilizing vegetation and expose areas of loose soil. These areas, if not properly stabilized during construction, could be subject to increased erosion and siltation runoff. Projects would be required to comply with applicable State and local regulations.
COSR Policy 8.5: Review applications for building and grading permits, and applications for subdivision for adjacency to, threats from, and impacts on geological hazards arising from seismic events, landslides, or other geologic hazards such as expansive soils and subsidence areas.	Consistent: Mitigation Measure <u>Standard Condition</u> 4.4-1 requires geotechnical evaluations for any development project in the Specific Plan area to identify appropriate engineering design measures to reduce potential impacts from seismic events and other geologic hazards.

Section 4.12, Recreation

MM 4.12-1 is revised and incorporated into the Final EIR as follows:

MM 4.12-1 For residential projects not subject to City of Tustin Subdivision Code (Article 9, Chapter 3, ~~Part 3,~~ Section 9331 of the Tustin City Code), prior to the issuance of building permits, applicants shall pay to the City of Tustin a parkland development fee prior to the issuance of building permits dedicate parkland or pay a park fee, on a per unit basis, reflecting the value of land required for park purposes. The ~~value of the~~ amount of such fee shall be based upon the fair market value of the amount of land which would otherwise be required for dedication, according to the following standards and formula.

Standards and Formula for Land Dedication:

The public interest, convenience, health, welfare, and safety requires that three (3) acres of usable park land per one thousand (1,000) potential population be devoted to local park and recreational purposes.

The minimum amount of land that would be otherwise be required for dedication shall be computed by multiplying the number of proposed dwelling units by the Parkland Acres per Dwelling Unit in accordance with the appropriate density classification in the following table:

<u>Dwelling Units per Gross Acre</u>	<u>Average Persons per Dwelling Unit</u>	<u>Parkland Acres per Dwelling Unit</u>
<u>0-7</u>	<u>3.39</u>	<u>.0102</u>
<u>7.1-15</u>	<u>2.85</u>	<u>.0086</u>
<u>15.1-25</u>	<u>2.24</u>	<u>.0067</u>
<u>25.1 & Above</u>	<u>As determined by CDD based upon proposed product type</u>	<u>To be calculated to achieve three (3) acres/ 1,000 population</u>
<u>Mobile Home Parks</u>	<u>2.24</u>	<u>.0067</u>

These density ranges, average persons per dwelling unit and/or parkland acreage per dwelling unit shall be used to achieve a parkland dedication rate of three (3) acres of parkland per one thousand (1,000) persons.