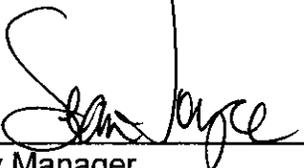


# REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE: July 11, 2006

TITLE: IRVINE BUSINESS COMPLEX (IBC) RESIDENTIAL MIXED USE VISION PLAN AND OVERLAY ZONE STRATEGY

  
\_\_\_\_\_  
City Manager

  
\_\_\_\_\_  
Director of Community Development

## RECOMMENDED ACTION

1. Receive staff report.
2. Receive public input.
3. City Council comments and questions.
4. Direct staff to:
  - Prepare an Environmental Impact Report on the Draft Overlay Zoning Code and Draft IBC Vision Plan, which embody and represent the Council's expectations for current and future residential development in the IBC. The Environmental Impact Report shall also analyze a Town Center concept and anticipated infrastructure Improvements.
  - Prepare a scope of work on the Environmental Impact Report for the Draft Overlay Zoning Code, Draft IBC Vision Plan, Town Center concept, and anticipated infrastructure improvements, for presentation to the City Council within six months.
  - Explore development agreement opportunities for all residential General Plan amendments and zone changes to allow for funding of potential improvements in the IBC area.
5. Introduce for first reading and read by title only an ordinance entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA ADDING CHAPTER 8 TO DIVISION 7 OF TITLE 2 OF THE IRVINE MUNICIPAL CODE DESIGNATING CERTAIN POWERS OF COMMUNITY FACILITIES DISTRICTS FORMED PURSUANT TO THE MELLO-ROOS ACT

## **EXECUTIVE SUMMARY**

Staff has developed a Vision Plan and new development standards to address the market transition of the Irvine Business Complex (IBC) from office and commercial uses to a residential and mixed use environment (CC Attachment 1, IBC Location Map). The Vision Plan represents a policy document to create a neighborhood framework for the IBC, while a proposed overlay zone creates development standards for new residential and mixed use development to ensure proper integration of these uses into the planned neighborhood framework.

The Vision Plan and Overlay zone have been designed to implement the goals adopted by the City Council on April 13, 2005 as follows:

1. Protect Existing Job Base within the IBC

- Establishes Mature Industrial district in which residential uses are prohibited
- Retains zoning rights for existing commercial & industrial uses
- Requires a pre-application review to determine land use compatibility with surrounding businesses prior to submittal of a formal discretionary application
- Establishes a presumptive 200-foot buffer zone around existing key businesses in which residential units are prohibited

2. Develop Mixed Use Cores

- Identifies potential locations both north and south of the I-405 Freeway which will provide for a centralized mixed use core for the benefit of residents of the IBC

3. Provide Transportation Pedestrian & Visual Connectivity

- Requires creation of new roads within project sites to improve neighborhood circulation
- Maintains existing roadway capacity
- Enhances streetscape along major roadways
- Provides for completion of sidewalk links
- Provides for additional transit alternatives not currently available with the IBC

4. Create Usable Open Space

- Provides financial mechanism for the potential creation of a "creek walk" along west bank of San Diego Creek
- Provides for additional pedestrian and bicycle route connections to existing trails

- Tailors requirements for neighborhood and community parks to the unique needs of the IBC area

5. Develop Safe, Well-Designed Neighborhoods

- Creates presumptive design standards for a variety of building types and building frontages along streets
- Creates standards based on public safety requirements and airport proximity concerns

The goals adopted by the Council in April 2005 acknowledge the growing market demand for residential uses in the IBC, and that residential uses would result in a direct benefit of creating a live/work environment in which a greater percentage of workers could live in the IBC, thereby reducing traffic impacts on the local and regional roadway networks.

The draft Vision Plan and draft Development Code set forth numerous design related criteria that staff will use as a basis for review of forthcoming IBC residential projects, and identifies a number of physical improvements to enhance livability and pedestrian activity in the IBC area. The overlay zone consists of establishing distinctly different districts within the IBC which promote residential, mixed use residential, and includes the requirement for an industrial adjacency analysis to determine impacts of current adjacent uses on the proposed projects. Finally, costs for infrastructure improvements can be funded through execution of a development agreement for new residential development projects within the IBC.

Staff is recommending that the Council indicate whether the draft Vision Plan and Development Code accurately reflect the Council's policy objectives for the development of the IBC, so that staff has a precise understanding of the program for which it will conduct an environmental review – a process that could potentially take up to two years to complete. Staff is also recommending that the Council authorize staff to actively pursue options for generating the funds necessary to implement the area wide improvements, including initiating development agreement discussions with pending and future residential applicants. Staff is also recommending establishment of a Community Facilities District (CFD) to create a financing mechanism that will facilitate the funding of those area-wide improvements.

While CFD funding of the construction of the majority of these projects is clearly permitted by the California Mello-Roos Community Facilities District Act of 1982 (the Act), certain municipal services, such as transportation systems and certain ongoing operations and maintenance costs are not permissible. The addition of Section 2-7-801 of the Irvine Municipal Code will address these issues by providing City Council with increased powers, thereby expanding their authority and available funding options. The

City Attorney, in accordance with Irvine's status as a Charter City, has prepared a draft ordinance to enable the City Council to expand their powers relative to CFD funding.

## **BACKGROUND**

Since 2004, the City has been considering options for addressing the large influx of new residential development applications within the IBC (CC Attachments 2 and 3, List and Map of IBC Approved/Pending Residential Projects). At the regular City Council meeting of May 25, 2004, the City Council gave the following direction to staff:

- Establish urban residential development standards for the IBC.
- Establish parameters to create an IBC residential overlay district.
- If determined to be appropriate and feasible, increase the residential unit cap specified in the General Plan and Zoning Code to the maximum currently permitted within the trip budget for the IBC.

Since that time, a coordinated team of staff representatives, and the urban design consulting firms of EDAW and MP Architects have been working to prepare proposed policies and development standards to implement the City Council's direction for its consideration. The purpose of this report is to present the results of that effort.

In April 2005, after a year of public workshops and coordination with EDAW, staff presented the City council with a scope of work for developing a residential/mixed use strategy (see CC Attachment 4, City Council Staff Report, April 13, 2005). The program identified five goals for this work effort:

- Protect Existing Job Base within the IBC
- Develop Mixed Use Cores
- Provide Transportation Pedestrian & Visual Connectivity
- Create Usable Open Space
- Develop Safe, Well-Designed Neighborhoods

The Council approved the staff-recommended scope of work, with the following direction:

- Prepare an Ordinance to include a vision statement, principles, development standards and guidelines
- Create the development standards and design guidelines and parameters for potential development agreements for residential projects within the IBC
- Direct staff to de-emphasize the residential overlay district boundary concept at this time
- If warranted, a residential overlay district boundary can be recommended by staff after development of design standards

The Council also directed staff to retain an additional urban design firm that could assist with development of “visionary” ideas for the IBC. For this purpose, staff contracted with MP Architects, a noted architectural firm with extensive experience in re-imagining urban areas to be more livable and sustainable.

To initiate this work program, staff hosted a public design workshop, or “charrette,” from July 5 through 9, 2005. The charrette was facilitated by Stefanos Polyzoides from MP Architects. Polyzoides lead a team of designers and other specialists. Staff from EDAW also assisted with the charrette effort. The charrette served two purposes. The first was to create a set of new residential development standards that could be implemented in the short term to address the large number of new and anticipated residential applications in the IBC. The second was to address larger area wide improvements necessary to help implement a more residential-friendly environment in the IBC.

Based on input from the charrette, staff, EDAW, and Polyzoides developed a Draft IBC Mixed Use (IBCRMU) Overlay Zone and a framework for an IBC Vision Plan, and released this information for public review in October 2005. Following two joint Planning Commission/Community Services Workshops, two stakeholder workshops, and several technical meetings with IBC stakeholders between October and December, staff released the full Vision Plan and a revised draft code on January 17, 2006. Since that time, a subcommittee of City Council members (consisting of Councilmembers Agran and Choi) and Planning Commissioners (consisting of Commissioners Cosgrove and Probolsky) have met with representatives of the IBC development community to discuss their concerns regarding the Draft Vision and Code, and the results of this discussion are reflected in the latest version of the Draft Vision and Code (CC Attachments 5 and 6).

## **PROJECT DESCRIPTION**

The Vision Plan outlines a comprehensive strategy and guiding urban design framework for future IBC development. The Vision Plan calls for creating sustainable urban neighborhoods within a framework of new streets, open spaces and town centers; a new approach different from that which has traditionally been considered within other residential areas of Irvine, as outlined in Issue 2 of this report.

The IBCRMU Overlay Zone implements this vision by establishing districts and development standards that are intended to provide for the methodical and deliberate transition of certain portions of the IBC from exclusively industrial and/or office areas into pedestrian-oriented districts that accommodate a mixture of retail, office, and residential uses while protecting existing businesses, as outlined in Issue 3.

The Vision Plan also identifies infrastructure improvements to create a residential neighborhood framework, as discussed in Issue 4 of this report. The infrastructure and

operational funding program is proposed to be implemented through establishment of a community facilities district for new residential properties, and the exploration of development agreement opportunities with each new residential development project, allowing for a per-unit distribution of allocation of capital costs for construction of improvements and annual assessments for operations and maintenance of these improvements.

## **ENVIRONMENTAL DETERMINATION**

A Draft Negative Declaration on the proposed Vision and Code was prepared and released for public review in January 2006 (CC Attachment 7). Staff received numerous comments on the Draft Negative Declaration (CC Attachment 8), the majority of which stressed the need for an Environmental Impact Report to address the change in character of the IBC area with the introduction of residential development.

In response to these concerns, staff is recommending that the Council direct staff to prepare a scope of work for an Environmental Impact Report for the Draft Vision Plan and Overlay Zoning Code (See discussion in Issue 6 below), and present the scope to the Council within the next six months. In the meantime, staff is continuing to process a number of current applications for residential development, and is preparing of an Environmental Impact Report for each project.

## **PROJECT ISSUES**

### **Issue 1: Relationship to Pending Projects**

The Planning Commission has consistently expressed concerns with the continued influx of residential development in the IBC without a comprehensive and consistent means of planning for this transition of uses. There has also been much discussion regarding the status of pending applications for residential development within the IBC, and whether these pending projects would be subject the proposed Overlay Zone.

Staff has prepared the Vision Plan and Overlay Zone to address the issues identified by the Planning Commission, City Council, and IBC Stakeholders throughout this planning process. Timing is a critical component of this strategy. As more and more applications for residential development are filed, the opportunity for those projects to be developed without the benefit of this strategy increases. The longer the planning process takes and before the new standards are in place, the greater the potential that the majority of residential units to be developed in the IBC will have been processed for review and consideration by the City Council, thereby rendering this strategy effort ineffective.

A total of 3,628 units currently exist in the IBC as outlined in the table below.

<b>Existing Units</b>	
<b>Project Name</b>	<b>Unit Count</b>
Charter Apts.	403
Villa Siena	1,442
Toscana	563
Metropolitan	261
Watermarke	535
Irvine Inn	192
Marquee at Park Place	232
<b>Total</b>	<b>3,628</b>

An additional 3,763 units have been approved but are either not yet constructed or are currently under construction, as outlined in the table below.

<b>Approved Projects (not yet constructed or currently under construction)</b>	
<b>Project Name</b>	<b>Unit Count</b>
2801 Kelvin	248
Lofts at Von Karman	115
Campus Center Apartments	404
The Plaza (Phases III & IV)	105
Central Park	1,380
2801 Alton	179
The Carlyle	156
Met Life Apartments	481
Essex Apts.	132
RD Olson/Legacy	290
The Plaza (Phases I & II)	202
17421 Murphy @ Kelvin (Granite Ct. affordable)	71
<b>Total</b>	<b>3,763</b>

Staff is currently processing 19 new residential projects, consisting of a total of 6,610 units, as outlined in the table below. With 3,628 existing units and 3,763 approved units, the total number of units in the IBC could potentially reach 14,001 within the next few years.

These pending projects are all in various stages of the review process. At this point, only three of the 19 pending applications have been deemed complete. Eight of these applications have had a General Plan amendment scoping session at the City Council level (The Bosa II project is vested under the Park Place Development Agreement and therefore does not require a separate scoping session). The remaining projects are scheduled for a joint scoping session on this Council agenda. Of the pending projects,

only Avalon Bay and 2323 Main have received public hearings before the Planning Commission. It is anticipated that the remainder of these applications will be scheduled for public hearings later this year or early 2007. A more detailed summary and map of all IBC residential projects are provided as Attachments 2 and 3.

<b>IBC Pending Residential Projects</b>				
<b>Project</b>	<b>Units</b>	<b>Date GPA Application Submitted</b>	<b>GPA Scoping Session</b>	<b>Status/Notes</b>
2323 Main @ Von Karman	445	3/2/2005	7/12/2005	PC denial 6/15/06, scheduled for Council action 7/25/06
2701 Alton (Avalon Village) @ Jamboree	280	7/22/2004	11/9/2004	PC approval 6/1/06, scheduled for Council action 7/25/06, includes 23 affordable units
18883 Von Karman (Martin St. Condos)	82	11/9/2004	2/22/2005	End of process. Draft EIR prepared - circulation in early June
2851 Alton	170	3/17/2005	7/12/2005	Nearing end of process. Draft EIR almost complete - Circ. in April
16901 Jamboree (Nexus residential)	146	9/2/2005	7/11/2006	Mid process. Preparing EIR documents
Irvine Crossings (Von Karman/Gillette)	686	11/6/2003	11/9/2004	Mid process.
1929-2031 Main (Olen E)	321	2/22/2005	7/12/2005	Early in process GPA/ZC/CUP under review. No EIR consultant on-board
2801-2823 McGaw @ Jamboree (Olen D)	280	2/22/2005	7/12/2005	Early in process GPA/ZC/CUP under review. No EIR consultant on-board
2132-2168 Michelson @ Dupont (Olen A)	317	2/22/2005	7/12/2005	Early in process GPA/ZC/CUP under review. No EIR consultant on-board
18872 Bardeen & Teller (Irvine Tech Center)	1,000	9/8/2005	7/11/2006	Early in process. No EIR consultant on-board
16542 Millikan	250	2/1/2006	7/11/2006	Early in process. No EIR consultant on-board
17150 Von Karman (Kilroy)	475	11/16/2005	7/11/2006	Early in process. No EIR consultant on-board
2500 Main/17872 Cartwright (Metropolis)	452	4/19/2006	7/11/2006	Early in process - General Plan Amendment & Zone Change in first Screencheck review
18691 Jamboree (The Village)	264	5/2/2006	7/11/2006	Early in process - General Plan Amendment & Zone Change in first Screencheck review
Mountain Vista Condos	190	6/5/2006	7/11/2006	Just submitted
16952 Millikan (Park Ave Apts.) Trammel Crow	187	6/5/2006	7/11/2006	Just submitted
2802 Kelvin (IAC Project) Pre -- app	185	5/9/2006	7/11/2006	Just submitted
2900 McCabe	314	n/a	n/a	Pre-application - No GPA/ZC submitted
Bosa II	566	n/a	n/a	CUP pending PC approval 7/06, Vested under existing Development Agreement
<b>Total Units</b>	<b>6,610</b>	<b>total units</b>	<b>(6,201 total market rate and not vested under DA)</b>	

While the City Council previously directed staff to continue processing projects currently in process, staff is concerned that if the Planning Commission and City Council recommend that current applications be processed without regard for the proposed development standards and without exploration of development agreement options, the opportunity to create an organized master planned, mixed use urban district within the IBC may be lost, or severely compromised. Of the 19 pending projects, a total of nine new applications comprising 3,149 new units have been submitted since the Council gave its direction on April 13, 2005.

Staff is therefore recommending that, while the appropriate environmental documentation for the Vision Plan and Overlay Zone is being prepared, the Council provide an indication that the Vision Plan and Overlay Zone accurately and comprehensively represent the Council's expectations for pending and future residential and mixed use development in the IBC.

## **Issue 2: IBC Vision Plan**

### **a. Background**

#### **i. Existing Conditions in IBC**

The IBC has traditionally been home to a wide range of office, and industrial and commercial uses ranging from specialty pharmaceutical, health care and medical products, clothing manufacturers and other commercial and financial institutions. As a result of the close proximity to the airport, other service industries have developed, including hotels and restaurants. Several companies, like Allergan, St. John Knits, and Taco Bell have located their company headquarters within the IBC, some of which date back prior to the City of Irvine incorporation in 1971. To accommodate the heavy volume of traffic associated with these uses, existing streets within the IBC are designed to accommodate high speed through traffic, especially on the major arterials. These wide streets make it difficult for pedestrians and bicycles to cross and would not be classified as "urban" in character. Many streets within the IBC do not have sidewalks and on-street parking is not permitted in a majority of the complex. The large scale of the blocks and width of the streets have restricted pedestrian connectivity. As a result, accessibility and pedestrian movement is very difficult.

## **ii. Increased Housing Demand**

A number of factors which have created an impetus for the IBC to transition from a predominantly low density office and industrial park to an urban, mixed-use center. These factors include:

- A strong residential market demand combined with a lack of available land in the region for new housing;
- An existing stock of aging, low density tilt-up industrial buildings; and
- A key location at the confluence of several freeways and regional circulation systems.

In response, new residential development has been “inserted” into an existing industrial community with no overall master plan guidance. A resulting ‘island mentality’ has developed with gated and/or inward focused residential complexes with little or no relationship to surrounding streets and buildings.

There are currently no public neighborhood parks or recreation facilities within the IBC. The Bill Barber Marine Corps Memorial Park, located adjacent to the IBC, serves the area for Community Park outdoor recreation facilities. A number of private, internal recreation facilities have been developed as a part of the new residential developments within the IBC. These facilities are predominantly gated or are indoor facilities with no public access or city-wide public recreation value.

## **iii. Resident Survey**

Alfred Gobar Associates conducted a survey of the residents within the IBC in August 2006 (CC Attachment 9, Resident Survey Results). All IBC residents currently reside in higher density apartment and condo-style dwellings. The characteristics of these existing households are seen to predict fundamental demographic traits (household size, number of cars, number of children, etc.) of future residents expected to reside in new, higher density housing planned in the IBC area.

Characteristics of special note found through the survey are as follows:

- There is a substantially greater proportion of one- and two-person households in the IBC area than in the rest of the City.
- There is substantially smaller proportion of children under 18 years of age (only 11% of residents are under 18 compared to 25% City-wide).
- The number of workers per household is slightly less in the IBC area than is true for the City but only due to a substantially greater proportion of a one-person households in the IBC.

- The proportion of IBC residents that work inside the IBC area is comparable to the proportion of Irvine residents that work inside the City.
- All households in the IBC area own at least one vehicle but a significantly smaller share of households own two or more vehicles than is true for the City overall.
- Driving to work alone remains the dominant method of commuting to work, even for IBC residents that also work in the IBC area.

## **b. Vision Plan Concepts**

The purpose of the Vision Plan is to address the opportunities and constraints discussed above develop an urban design framework to guide future development in the IBC, pursuant to the City Council direction. This Vision Plan provides for a dynamic mix of uses, with urban housing integrated through a carefully planned network of mixed-use cores, new streets, landscape improvements, pedestrian walkways and urban open spaces. In order to achieve a balanced urban environment, the IBC needs walkable districts where people can work, live and play; feeling a part of an evolving and vibrant cosmopolitan city. This requires a mix of uses and places that are active both day and night, drawing together diverse community segments both business and residential. This IBC Vision Plan will serve as a guide for public improvements within the complex, including conceptual park locations, a proposed new street network and improvements to the streetscape design, through the concepts outlined in this section.

### **i. Provide Housing Opportunities**

New residential development will provide a range of housing choices including rowhouses, live-work units, courtyard housing, commercial blocks, podiums, liners and towers while still retaining the mature industrial development and its associated job base. In addition, a funding mechanism will be established to provide for implementation of the community-oriented pedestrian and infrastructure improvements outlined in section 4 of this report to increase walkability within the IBC.

### **ii. Create New Streets and Smaller Blocks**

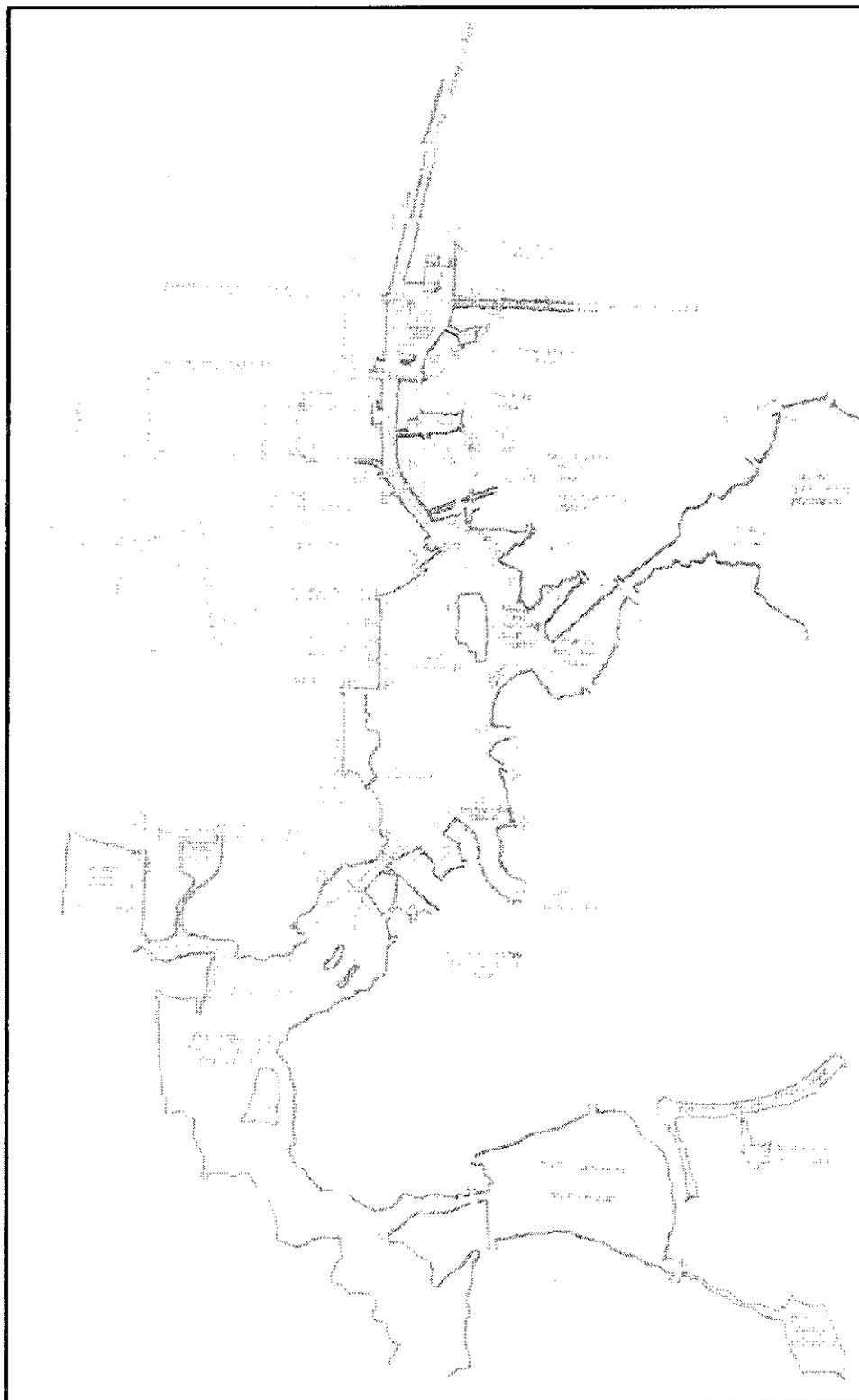
A key consideration for the future of the IBC is the introduction of new streets, reducing the size of the blocks to a pedestrian scale. Walkable neighborhoods have smaller block sizes. While the existing arterial road system needs to continue to function as planned to move vehicles through the IBC, the new streets will connect to the arterials at key locations. New street cross sections are outlined in the Vision Plan and Overlay Zone that keep ultimate curb locations as planned under existing policies and requirements but move the

sidewalk away from the curb into the required setback area. Landscape parkway or wide sidewalks with tree wells will be provided.

The new guidelines and standards in the Vision and IBCRMU Overlay Zone will create buildings that are more human-scaled and require the introduction of new connector streets creating smaller blocks providing more choice and greater variety of pedestrian-friendly experiences.

**iii. Develop a Pedestrian Linkage System**

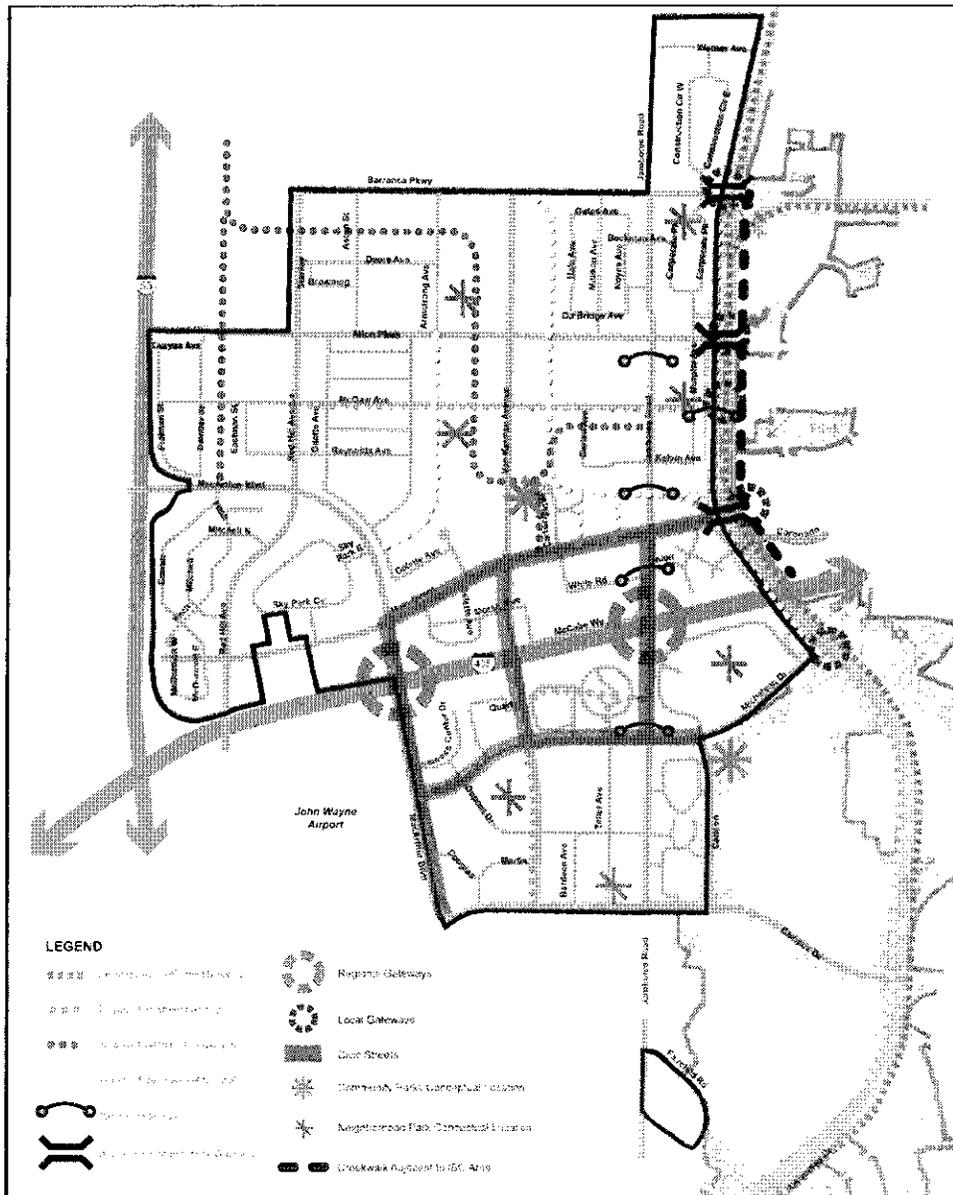
A system of pedestrian linkages, parks and urban open spaces will link to the San Diego Creek and San Joaquin Freshwater Reserve (see diagram on next page). A pedestrian "Creekwalk" system is envisioned adjacent to the San Diego Creek that will ultimately provide a trail connection to the Great Park from the IBC and Civic Center (CC Attachment 10).



**Local Trails and Open Space Network**

**iv. Vision Framework Plan**

The Vision Framework Plan (see next page) provides the land use and urban design structure by which new residential development will be organized. The Vision Plan is a summary exhibit of the key elements and attributes to ensure the development of high quality, sustainable neighborhoods and mixture of uses which will achieve and maintain the highest economic value within the long-term like the Land Use Element of the General Plan. The Regulating Plan in the IBCRMU Overlay Zone implements the Framework Plan.



**IBC Vision Framework Plan**

### **c. Vision Plan Elements**

The following five Vision Elements organize the Vision Plan and includes key principles identified during public meetings. Following the introduction of each Vision Element are the key components that implement the Vision Plan and the implementation methods outlined in the Overlay Zone, where applicable.

#### **i. Protect Existing Job Base**

In order to maintain long-term property value and economic health, the IBC will not only attract new office, retail and residential uses but will protect those businesses that wish to remain and possibly expand. As market strength shifts between uses over time, the value of all uses will be enhanced by a fully integrated and mixed-use district approach. New residential neighborhoods must co-exist with mature industrial uses for the balanced community concept to succeed.

Key principles are:

- Preserve a core area to protect the existing job base and provide for future job growth.
- Discourage random, incremental residential encroachment into the core employment area.
- Provide housing opportunities for the local and regional employment base that support and complement commercial and industrial uses in the IBC.
- Maintain existing zoning rights for all property owners.
- Create residential design criteria that protects industrial operational flexibility.

The Overlay Zone allows all property owners to maintain their current zoning if that is their preference. The Mature Industrial District designation also protects a number of existing key businesses. A buffer has been proposed that precludes residential development within 200 feet of a protected business. Specific criteria have been developed in the Overlay Zone to provide incentives for new housing to cluster around existing residential developments rather than being scattered throughout the IBC. The Industrial Adjacency Assessment requirement established in the Overlay Zone requires a compatibility assessment of all properties within 500 feet of the proposed residential project site. Adjacent property owners will be notified by the City of proposed residential development during the pre-application process.

## **ii. Develop Mixed Use Districts**

The development of mixed-use districts within the IBC will help stimulate and reinforce the integration of uses and provide housing adjacent to local services and jobs within a walkable environment, a combination which does not currently exist within the City of Irvine.

Key principles include:

- Identify preferred location for mixed-use cores of higher density commercial and residential development.
- Create pedestrian activity centers within and around the cores with services, food, child care and transit within walking distance of residences and employment.
- Provide incentives for mixed-use and the inclusion of retail and other support services within core areas.

Both the Urban Neighborhood and Multiple Use Districts encourage mixed-use within ground floor commercial, urban parks and street landscape treatments. Several specific neighborhoods, including Dupont Drive west of MacArthur, and a potential "Main on Main" neighborhood at White and Cartwright Roads, have been proposed for a more intensive, higher density mixed-use "Town Center," the locations for which are proposed to be further analyzed along with other potential Town Center locations as a subsequent step in the IBC planning process.

## **iii. Provide Transportation, Pedestrian and Visual Connectivity**

The Vision Plan suggests a more 'pedestrian oriented, urban living experience' within the emerging residential and mixed-use districts of the IBC. In the long-term, it is hoped that the need to drive within the IBC will be somewhat reduced. To achieve this, it is essential that each new development makes a positive contribution toward an expanded and connected street system, comfortable and secure walking paths and expanded transit opportunity. Attractive buildings, 'eyes on the street' residential design and integrated open space will also encourage an enhanced pedestrian and vehicular experience.

New neighborhoods will utilize smaller blocks and more interconnected street networks; attempting a transition from large-scale super blocks to sustainable urban residential neighborhoods.

Key principles include:

- Enhance project relationships to transit systems, including Metrolink, OCTA buses and UCI shuttles.
- When practical, introduce additional local streets within and between parcels to improve vehicular, emergency and pedestrian access.
- Provide pedestrian linkages that facilitate improved resident access to local services, recreation facilities, the City's trail network and transit access.
- Create attractive, safe (eyes on the street) and well landscaped pedestrian environments.
- Visually unify and integrate the facilities and uses within the IBC through the use of gateway elements, streetscape, lighting, special paving and landscape treatments.
- Provide linkages and support facilities to promote use of city and regional bicycle trail systems.

#### **iv. Create Useable Open Space**

Higher density neighborhoods need parks and urban space to offset building intensity and provide space for informal activities. The vision is to create a system of new public parks, urban plazas, open spaces, and private or public recreation areas that are interconnected by streets, bikeways, and trails for every resident, worker and visitor to enjoy. Well crafted and programmed public space encourages people gathering and neighborhood events.

Key principles are:

- Contribute fees to a community park system that serves new residents and provides active playfield and sports facilities.
- Provide urban open space within each project that provides "walk to" park area for residents.
- Provide semi-private recreational open space for use by neighborhood residents in meeting recreation, health and wellness needs.
- Provide private open spaces in the form of patios, courtyards and balconies for most dwellings.
- Provide landscape throughout a project by providing sufficient planting spaces around buildings and in internal spaces.

### Regional Open Space

The San Diego Creek and the San Joaquin Freshwater Marsh, which lie adjacent to the IBC, are part of the wider open space system within the IBC. This open space system is a mosaic of habitats ranging from wetlands and coastal sage scrub, and includes an important ecologically diverse ecosystem.

This open space system then connects with the Santa Ana Mountains along several open space corridors, including Peter's Canyon Wash and Jeffrey Open Space Trail (the 'Mountains to the Sea' trail), and the Upper Newport Bay Nature Reserve and Ecological Reserve to the Pacific Ocean (see diagram on next page). This extensive open space system offers a comprehensive network of 32 miles of off-road and 126 miles of on-road trails for hiking, biking with some equestrian use.

As part of this Vision, the open space system provides a unique resource on the doorstep of the residents and businesses of the IBC. An opportunity exists to provide an interconnected system of streets, bikeways and trails, connecting the new streets, parks and urban plazas within the IBC to the wider system of City open space.

### Parks and Public Spaces

Parks in the City of Irvine are provided at 5 acres per 1,000 population. Within the IBC, Community Parks dedication shall only be provided through payment of in-lieu fees at the required 2 acres per 1,000 population. Neighborhood Parks in the City of Irvine are provided at 3 acres per 1,000 population. However, in order to provide needed public facilities within the IBC, a change in the park dedication distribution is needed. The public/private distribution of Neighborhood Park land within the IBC is proposed to be allocated as follows:

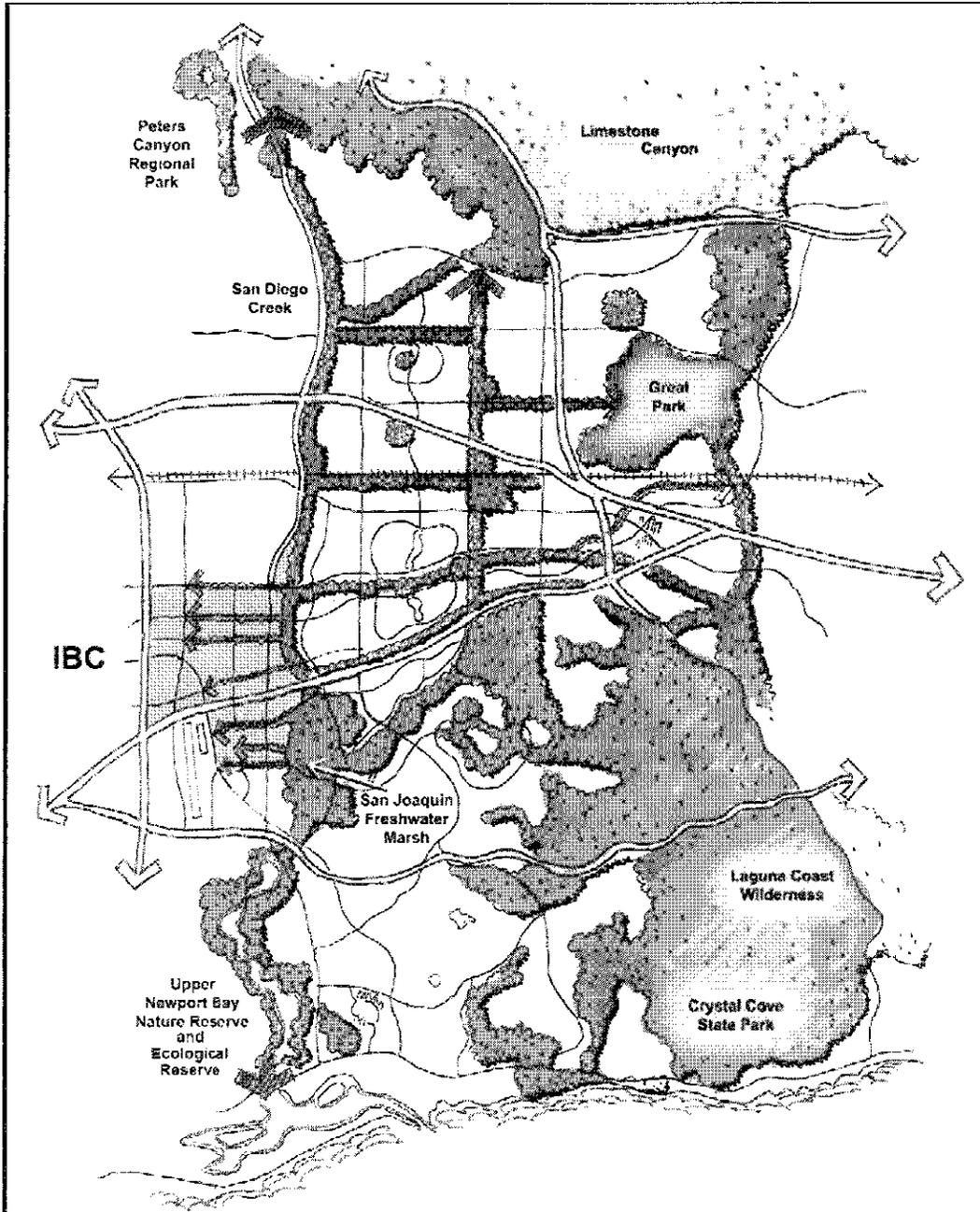
- Public: 2 acres
- Private: 1 acre

The following new parks and recreation facilities are recommended to be provided in the IBC:

- Two new Community Parks: one north and one is south of the I-405 freeway.
- At least seven new Neighborhood Parks to provide a local park within one-half mile of every resident.
- A network of urban open space as part of the proposed development within the built fabric of the city.
- Several "special use facilities" within the IBC, to serve both the residents and businesses within one mile. Some facilities could be located within the

Neighborhood parks or urban plazas. Facilities could include a dog park, performing arts center or art park.

- At least two community/civic buildings within the IBC to serve the needs of the IBC community. Facilities could include a library and a community building with meeting rooms and theater or gallery space.



**Regional Trails and Open Space Network**

### San Diego Creek 'Creekwalk'

Although the San Diego Creek corridor provides open space and trail linkages through much of the city, it has been underutilized in the IBC area as a visual, day use and recreational amenity. An opportunity exists to create a new vision for a 'Creekwalk' along the Edison Company power line property adjacent to San Diego Creek, providing an exciting walking, biking and passive/active recreational amenity connecting into the existing and enhanced system of landscaped streets and the anticipated system of Citywide open spaces (CC Attachment 10, Creekwalk concept). Access to the 'Creekwalk' would be provided at the existing enhanced 'gateway bridge's across the San Diego Creek, as well as at future connecting east-west street – most notably McGaw Street. The provision of a new 'Creekwalk' could enhance new creekside development opportunities along the eastern boundary of the IBC to the benefit of both adjacent landowners and the City as a whole. New development adjacent to the proposed Creekwalk is anticipated to provide front door entrances to the residences and/or commercial uses. Riverfront restaurants and neighborhood serving commercial uses are also anticipated – taking advantage of the views and access to the new open space. Building heights are anticipated to be varied, high-rise towers are anticipated to take advantage of the views.

It should be noted that the Edison Company currently has lease options with developers for recreational vehicle and self storage uses on the two portions of property being considered. Further, staff has only entered into preliminary discussions with representatives of the Edison Company regarding the Creekwalk concept. It has not been determined what level of improvements may be permitted given that there is an active overhead power line present on the site.

#### **v. Develop Safe, Well Designed Neighborhoods**

A major goal of this Vision Plan is to create long lasting and enduring neighborhoods that maintain their value and socioeconomic vitality. The Vision Plan and the Overlay Zone should provide a strong and appropriately scaled framework of urban districts, blocks, streets, parks and urban open spaces. Only by providing these essentials can a truly rich, sustainable urban community be achieved. The new Vision Plan will regulate the building form and encourage a diverse mix and variety of urban living choices; lofts, apartments, flats, townhouses, court housing, podium, as well as high-rise living. The residential uses must be compatible with the existing businesses within the IBC. The vision attempts to set the framework to create a high quality living environment for both businesses and residents.

Key principles, which are incorporated into the Vision Plan as design guidelines, include:

- Build sustainable and energy efficient residential buildings.
- Create a pedestrian friendly walking environment that is attractive, safe and engaging.
- Provide visually rich and engaging street scenes along designated local and collector roads, encouraging pedestrian use and adding aesthetic value to neighborhoods.
- Visually differentiate and emphasize retail in the mixed-use residential developments.
- Implement appropriate landscape and building treatments along arterial roadways.
- Buffer existing industrial uses from the new residential developments.
- Encourage variation in building heights and housing types (wrapped, podium, and towers) to avoid massive “project” appearance.
- Design buildings with articulated massing and roof forms to avoid an institutional character and feel.
- Incorporate architectural detailing that leads to a sense of quality, diversity and authenticity in design.
- Design roofs that are attractive when seen from both the ground and taller buildings.
- Buffer and blend parking structures into the neighborhood so that they are not visually obtrusive or detract from the quality of the pedestrian environment.
- Provide parking solutions, such as reduced parking rates for mixed use development, that are incentives for creative site planning and neighborhood design.
- Create a safe living and work environment.

### **Issue 3: IBC Residential Mixed Use Overlay Zone**

#### **a. Purpose and applicability of code**

The IBCRMU Overlay Zone establishes districts and standards that are intended to provide for the methodical and deliberate transition of certain portions of the IBC from exclusively industrial and/or office areas into pedestrian-oriented districts that accommodate a mixture of retail, office, and residential uses while protecting existing businesses. The Overlay Zone further implements the Council-adopted vision statements through the following objectives:

- Develop an urban framework to ensure the appearance, location and scale of buildings compliments the character of the area in which they are located. The Overlay Zone establishes two new districts in which mixed-use is encouraged, and a third district in which residential would not be permitted.

- Ensure compatibility with existing and proposed business within the IBC. The Overlay zone requires an Industrial Adjacency Assessment for any new residential development within 500 feet of an existing industrial use. The purpose of the Industrial Adjacency Assessment is to identify site compatibility issues early in the planning process that may effect a proposal's land use distribution, site planning, and/or architectural design. The draft code lists materials that are typically necessary for staff to evaluate these issues, including a Phase I site assessment, a Health Risk Assessment for cancer and non-cancer risks, and a description of noise, lighting, odors, hazardous materials storage, traffic, and delivery patterns for surrounding businesses. These materials would be reviewed by an-ad hoc committee, with allowances made for input from existing surrounding businesses.

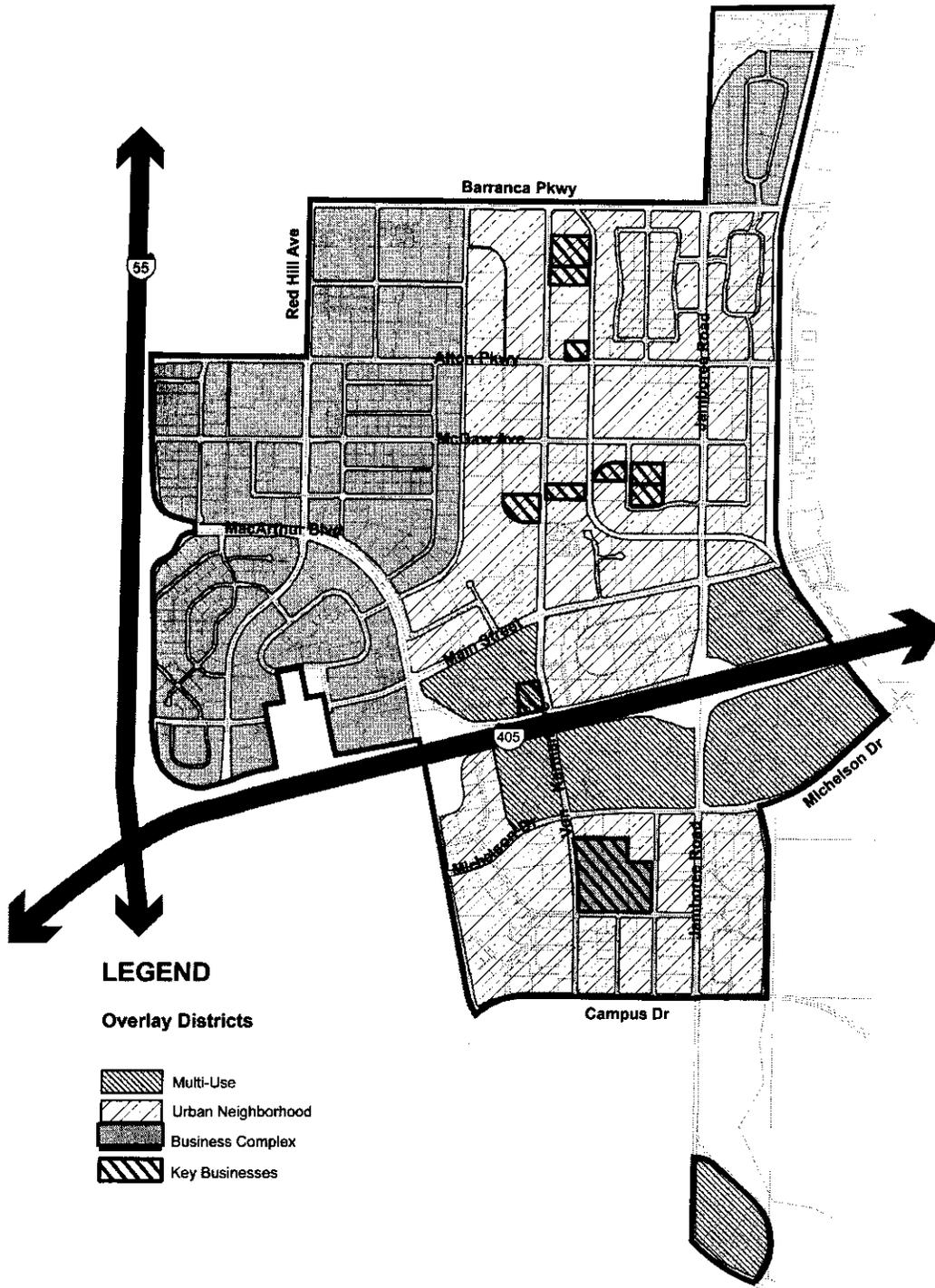
The Overlay Zone applies only to residential and mixed use residential development in the IBC. Any proposed non-residential development is subject to the existing IBC zoning regulations only. New residential development proposed within an existing non-residential development would be subject to the Overlay Zone regulations.

New residential development would still be subject to the existing General Plan Amendment and Zone Change process to change the underlying designations to the applicable residential designations, including the Regulating Plan designation in the Overlay Zone as discussed below.

#### **b. Regulating Plan and Districts**

The Regulating Plan is essentially the zoning map for the IBC overlay zone (see next page). It divides the area within the Overlay Zone into separate districts. These districts allocate architectural types, frontage types, and land uses within the area of the Overlay Zone, as well as providing detailed standards for building placement, height, and profile. The three districts correspond to those outlined in the Vision Plan as discussed in Issue 2 above:

- Urban Neighborhood (UN)
- Multiple Use (MU)
- Business Complex (BC)



**IBCRMU Overlay Zone Regulating Plan**

**i. Urban Neighborhood (UN)**

The UN District incorporates portions of the IBC appropriate for sustainable residential neighborhoods, employment, and mixed-use blocks in buildings of up to seven stories. This district is intended for residential projects to cluster in nodes around local services. Small scattered residential projects are discouraged within the UN District. Mixed-use is encouraged with ground floor uses including residential, retail, offices, and restaurants, and upper floors accommodating offices or residential. New, smaller, non-arterial streets within this district are proposed to be pedestrian-oriented with highly articulated residential frontages. Roadways will be defined by both residential and non-residential building facades and characterized by a lush, dominant landscape.

**ii. Multiple Use (MU)**

The MU District incorporates portions of the IBC where a more contemporary era of development exists and is characterized by a horizontal or vertical mix of land uses within a campus of multiple buildings. Opportunities for future intensification include freestanding residential or ground floor retail, offices, and restaurants, with upper floors accommodating offices or residential. Lodging, entertainment, and civic uses also are encouraged. Street frontages throughout the district shall become more pedestrian-oriented with streetscapes providing continuity and connectivity throughout the campus areas. New streets are encouraged to provide smaller block sizes where possible.

**iii. Business Complex (BC)**

The intent of the Business Complex District is to maintain the existing industrial character of the northwesterly portion of the IBC, consistent with the Council-adopted goal of protecting existing businesses in the IBC. Due to a number of constraints, including the proximity of John Wayne airport and the extent of existing industrial uses, residential uses are not appropriate for this area and are therefore prohibited. Properties in the BC District are subject to the requirements of the underlying IBC base zoning.

**Issue 4: Infrastructure Improvement Costs to Implement IBC Vision Plan**

**a. Proposed Improvements and Costs**

As noted in the introductory sections of this report, the Vision Plan identifies a number of potential physical improvements to enhance livability and pedestrian activity in the IBC area. Infrastructure capital and operational costs have been identified for these improvements, which could be funded through a development agreement mechanism, a community facilities district, other funding sources, or a combination of the above. For reference, a model development agreement form has been included as CC Attachment 11. The City Council/Planning Commission subcommittee identified these improvements as follows:

Improvements	Est. Capital Cost	Est. Annual O & M Costs
IBC Shuttle Operations <sup>1</sup>	\$ -	\$ 2,200,000
Administrative Services	2,000,000	
Jamboree Bridges		
Primary Bridges <sup>2</sup>	13,400,000	20,000
Secondary Bridges <sup>2</sup>	5,300,000	20,000
Michelson Bridge Supplement	6,000,000	10,000
Creekwalk (Main to Barranca)		
Landscaping <sup>2</sup>	6,340,000	850,000
Creek Bridges		40,000
Bridge Expansions	2,700,000	10,000
New Structure	6,500,000	5,000
Sidewalk Completion Program	11,220,000	50,000
Police Services		500,000
Opticom system	670,000	-
Branch Library / Parking Structure <sup>3</sup>	10,400,000	-
<b>TOTAL</b>	<b>\$ 64,530,000</b>	<b>\$ 3,705,000</b>

<sup>1</sup> Capital funding assumed to come from OCTA

<sup>2</sup> maintenance costs of \$8,945/acre and Edison lease rates of \$43,560/acre

<sup>3</sup> Operational funding assumed through County Library

A more detailed description of the proposed infrastructure improvements is provided in CC Attachment 12.

**b. IBC Improvement Costs**

While a development agreement is ultimately a contractual relationship between a developer and the City, staff proposes that the City explore development agreement opportunities with residential and mixed use project developers as the primary means of generating the funds necessary to build the identified improvements. As envisioned, and if agreed to by the developer, a specified per-unit amount would be collected from the developer at the time of building permit issuance. In concert with the development agreement concept, staff recommends the establishment of a new Community Facilities District (CFD) which would allow for a per-unit reimbursement of development agreement costs to the developer.

For purposes of developing the conceptual CFD funding mechanism, staff evaluated a total of 6,021 units in the IBC, representing the number of non-vested market-rate units in process as of June 2006 (out of 6,610 total pending units), excluding the 23 affordable units within the pending Avalon Bay project and the pending 566-unit Bosa II tower already vested under the Park Place Development Agreement. It is anticipated that this new residential development will require approximately \$64.5 million in infrastructure improvements, and an additional approximate \$3.7 million in annual operation and maintenance costs as noted in the table above, and outlined in CC Attachment 13.

As noted through the envisioned development agreement process, public benefit charges for infrastructure will be applied on a per unit basis, and will be payable upon issuance of building permits. The fee would only apply to market rate units; affordable units would be exempt. In order to achieve the \$64.5 million infrastructure threshold, a fee of \$13,000 for each "for sale" market rate unit, \$12,000 for each "for sale" market rate unit with on-site affordable housing, \$6,500 for each "for rent" unit, and \$5,000 for each "for rent" unit with on-site affordable housing will be paid to the City (CC Attachment 13). The cost structure will be adjusted each year for inflation. This public benefit charge structure should assure that sufficient revenues for the proposed infrastructure improvements will be generated.

The annual operations and maintenance costs (\$3.7 million) will be an ongoing annual cost in perpetuity to be paid through the development agreement public benefit by either the purchaser of the unit (in the case of a "for sale" project), or a cost to be paid by the successor management entity (in the case of a "for rent" project). In both cases, a special tax will be established to defray these costs. This amount equates to approximately \$630 annually, or \$53 per month per unit.

**c. Community Facilities District Financing**

As envisioned, each developer that participates in the development agreement process would have the opportunity to be reimbursed payment of the costs noted in Section b above via Community Facilities District (CFD) bond financing. The CFD will levy a Special Tax with two distinct components:

1. A special tax to pay debt service on the capital CFD bonds, which is collected for 30 years (i.e., the life of the bonds)
2. A special tax to cover on-going service/maintenance of the installed facilities, which is collected in perpetuity.

Use of CFD

The Mello-Roos Community Facilities Act of 1982 is a flexible tool placed at the disposal of local governmental agencies to help them finance a wide array of community facilities and services through the levy of a voter-approved special tax. CFD bonds may finance the purchase, construction, expansion, improvement or rehabilitation of any property or facilities, with an expected useful life of 5 years or longer, which a local agency is authorized by law to construct, own, or operate. The Act does not provide for funding of public improvements leased by the CFD or the City, to a non-profit public benefit corporation.

By contrast the services that may be financed are limited, but do include police and fire protection services; maintenance of parks, parkways and open space; and flood and storm protection services, to name a few. The Act does not allow for funding of certain municipal services, such as transportation, or for funding of the ongoing operations and maintenance of certain public facilities.

The Act provides for the formation of a Joint Community Facilities Agreement (JCFA) with other public agencies. It does not provide for the formation of a JCFA with a non-profit public benefit corporation (the OCGP, for example).

Utilizing the City of Irvine's status as a Charter City and with the addition of Section 2-7-801 to the Irvine Municipal Code, the powers of the City Council can be expanded. The additional powers granted include:

- Ability to have the CFD enter into a Joint Communities Facilities District Agreement (JCFA) with a non-profit public benefit corporation;
- Ability to use special taxes or bond funds to fund public improvements leased by the CFD or the City to a non-profit benefit corporation;

- Ability to use special taxes or bond funds to fund costs of all municipal services provided in the CFD (transportation, for example)

Nothing in the Act, nor the addition of Section 2-7-801 compels the City Council to exercise the powers granted. The City Council retains the flexibility to implement the levy of the special tax, the issuance of debt, or any other provision of financing for facilities and services.

Staff is therefore recommending adoption of an ordinance (CC Attachment 14) that would expand the authority of the City Council accordingly, to allow for the creation of a CFD to include assessments for maintenance of IBC improvements already funded through developer payment.

#### CFD Bond Financing

The CFD bond program is anticipated to have the following features:

- The City will form a single District that will eventually encompass all properties within the IBC.
- CFD bonds will be issued after projects are completed.
- Each project/developer will be annexed into the District.
- There will be multiple CFD bond issues, approximately one each year.
- The City will determine when and in what amount the CFD bonds will be issued.
- A special tax rate will be levied based on the square footage of each property.

The special tax rate will be limited to approximately \$1.15 per square foot per unit. However, annual special taxes attributed to IBC infrastructure costs should not exceed or 0.30% of the property value, unless all school district fees/costs have been fully paid.

Preliminary estimates of bond capacity, which assumed 30-year bond issue @ 7.0%, with special taxes based on an average size unit of 1,400 square feet and average home sale price of \$550,000, generated approximately \$72.4 million in net bond proceeds. This amount is sufficient to reimburse developers for all development agreement costs.

#### CFD Services / Maintenance Tax

As proposed, each developer/property owner would agree through the Development Agreement to participate in the CFD Services District, and each property owner would be levied an annual services tax of approximately \$630 per unit, in perpetuity. The amount of the annual services tax will escalate annually in accord to the CPI

index (e.g., Western U.S. All Urban Consumers). The annual services CFD special tax should not exceed 0.115% of the property value.

Current projections estimate that the annual O&M costs will be \$3.7 million at build out, which includes \$2.2 million for the operation of the shuttle and \$500,000 in police services. Assuming a \$630 per unit or 0.115% annual services special tax rate, the City should be able to generate more than \$3.7 million from the 6,000 market-rate units, which should be sufficient to cover on-going O&M costs.

#### Maximum Special Tax

The City's current Local Goals & Policies for CFD financings limit the maximum tax rate for all overlapping debt, including school district CFDs and services CFD to 2.0% all-in. Current property taxes are equal to 1.10%; therefore, additional special taxes levied on property owners in the IBC should not exceed 0.9% or 90 basis points (bps).

As proposed, all developers would participate in the services CFD, which represents approximately the first 11.5 bps in special taxes – based on \$550,000 per unit average home price. Furthermore, the City would levy special taxes for capital and infrastructure up to an amount equal to 0.30% or 30 bps. Thus the City's CFD Special Tax Requirement will be approximately 1.51% (1.10% current tax rate + 11.5 bps for Services CFD + 30 bps for IBC Capital CFD = 1.80%

Assuming that the market will bear a 2.0% all-in tax rate, developers will have the ability to finance school fees, and other development costs with the remaining 50 bps of special tax rate. Based on our preliminary analysis, the additional 20 bps could represent an additional \$90 - \$100 million in bonds.

#### Issue 5: Public Notice and Outreach

Since the City Council initiation of the current IBC work effort on April 13, 2005, staff has done extensive public outreach to encourage public involvement in this process, from the design charrette kickoff in June 2005 through the stakeholder workshops from November 2005 through January 2006, as follows:

- |                                |  |
|--------------------------------|--|
| ▪ IBC Design Charrette Kickoff | June 26, 2005                              |
| ▪ IBC Design Charrette         | July 5-9, 2005                             |
| ▪ Joint PC/CSC Public Meetings | September 7, 2005 &<br>October 19-20, 2005 |
| ▪ IBC Stakeholder Meeting #1   | November 22, 2005                          |
| ▪ IBC Stakeholder Meeting #2   | December 13, 2005                          |
| ▪ IBC Stakeholder Meeting #3   | January 17, 2006                           |

Public notices were mailed to approximately 2,000 residents and stakeholders in the IBC, mailed to surrounding jurisdictions and other affected agencies, published in the Irvine World News and posted on the City's IBC website at [http://www.cityofirvine.org/depts/cd/planningactivities/ibc\\_graphics.asp](http://www.cityofirvine.org/depts/cd/planningactivities/ibc_graphics.asp). Staff has also coordinated with other agencies for input into this process, including IRWD, SCE, UCI, OCFA, and the Orange County Flood Control District.

Following the January 17 stakeholder workshops, The City Council created a subcommittee consisting of Councilmembers Agran and Choi, along with Planning Commissioners Cameron Cosgrove and Adam Probolsky. The subcommittee met with IBC developer representatives during Spring 2006 to address their issues with the draft code and vision. Revised drafts of the Code and Vision Plan were released for public review in May 2006, and staff received a number of comments on these drafts as well as the IBC planning process and the proposed infrastructure improvement costs (CC Attachment 15). The result of the subcommittee and developer group meetings is the draft Vision and code documents presented to the Council in this report (CC Attachments 5 and 6).

#### **Issue 6: Next Steps**

The Vision Plan is one part of a comprehensive strategy to make the IBC a walkable community and is intended to work with the IBC Residential Mixed-Use Overlay District Zone and a new implementation program for needed infrastructure improvements in the IBC. To this end, an environmental impact report (EIR) would allow for a more formal project analysis to implement the Vision Plan, Overlay Zone development standards, and proposed infrastructure improvements defined over the past year. This review would also include a more detailed analysis of potential locations for more intensive higher density Town Center districts within the IBC which were initially considered during this IBC planning process, and would include the potential for increasing IBC vehicle trip caps currently in effect for the IBC area. The EIR would also provide the environmental analysis necessary for the City to adopt the provisions of the Vision Plan and draft Overlay Zone as formal City policies and standards, as well as a formal capital improvement program for the proposed improvements. If directed, staff will commence preparation of a scope of work for the City Council's consideration that will focus on these features, and will present that work effort to the Council within approximately six months from the date of this directive.

## **ALTERNATIVES CONSIDERED**

The City Council has a number of options it could consider as an alternative to the proposed Vision Plan and Overlay Zone.

### **a. Continue As Is**

Another option for the Council to consider would be to allow the GPA/ZC requests for residential development within the IBC to continue as they have been processed in the recent past. Over the past two years or so, eight projects totaling over 3,500 units have been processed through the GPA/ZC on a case-by-case basis. With each case, the Planning Commission and City Council have expressed increasing concern with the lack of coordination and comprehensive planning. Concerns have also been expressed regarding the adequacy of public facilities and services such as schools, parks, trails, and police and fire services. The proposed Vision, Code and funding program represent probably the best opportunity to address these types of issues and the overall quality-of-life concerns for future IBC residents. Therefore, staff would not recommend that the Council support this option.

### **b. Moratorium**

To enact a moratorium, the Council would have to find that an urgency condition exists which justifies suspension of processing of residential applications in the IBC until new development standards and other appropriate regulations and programs are formulated. The prospect of a moratorium was raised in 2004 during the Planning Commission workshops and the joint sessions between the City Council and Planning Commission on this issue. At that time, the Planning Commission and City Council both voiced no support for a moratorium.

### **c. Reinstate Overlay District Boundaries**

During the early IBC planning process in 2004, staff recommended that the Planning Commission adopt an IBC Residential/Mixed-Use Overlay district boundary in accordance with the direction originally provided by the City council to staff. At that time the Planning Commission unanimously recommended that the City Council "de-emphasize" the overlay boundary and perhaps revisit the issue later in the course of formulating the process. Since that time, based on the Council direction in response to this issue, staff has developed the current Vision Plan, which defined the Business Complex District in which residential would not be supported as opposed to in lieu of defining a boundary for an area in which residential would be considered.

## **FINANCIAL IMPACT**

As discussed in Issue 2, the infrastructure improvement costs associated with implementation of the IBC Vision total approximately \$64.5 million. These costs, along with associated operation and maintenance, could be borne by residential and mixed use developers through a development agreement mechanism, as outlined above. Other potential funding sources, such as the utilization of Measure M funds are also being explored by staff. Therefore, the City would not bear a financial responsibility for these improvements. No additional financial impacts are anticipated from implementation of the Overlay Zone, as this only represents a program of new development standards. A fiscal impact analysis is currently required for each new General Plan Amendment, therefore, and new residential development proposals in the IBC will be reviewed for fiscal impacts accordingly.

The addition of Chapter 8 to Division 7 of Title 2 of the Irvine Municipal Code does not in itself have financial impact; however, its addition by the City Council creates the optional ability to finance additional public improvements and facilities through special tax assessments.

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Reviewed by: Michael Haack, Manager of Development Services

## **Attachments**

1. Location Map
2. List of Pending and Approved Projects in IBC
3. Map of Pending and Approved Projects in IBC
4. City Council Staff Report, April 13, 2005
5. IBC Vision Plan
6. IBC Residential Mixed Use Overlay Zone
7. Initial Study/Negative Declaration
8. Public Comments on Draft Negative Declaration
9. IBC Resident Survey, conducted by Alfred Gobar and Associates, dated October 11, 2005
10. IBC Creekwalk concepts
11. Draft Development Agreement form
12. IBC Infrastructure Improvement Descriptions, prepared by RBF
13. Analysis of Improvement Costs per unit and CFD structure, prepared by Public Financial Management, Inc.
14. Draft Ordinance designating certain powers of community facilities districts formed pursuant to the Mello-Roos Act
15. Comments on May 2006 Draft Code and Vision Plan

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John Eudy, Essex Property Trust, 925 East Meadow Drive, Palo Alto, CA 94303

Denise Fejtek, Stantec, 19 Technology Drive, Irvine, CA 92618

Edwin Sundareson, KB Home Coastal, Inc. 3 Jenner, Suite 100, Irvine, CA 92618

Joseph Hanen, Kilroy Realty Corporation, 111 Pacifica, Suite 300, Irvine, CA 92618 (949) 790-7222

Tony Arnest, Shea Homes, 613 Valencia, Brea, CA 92823

Don Leake, Shea Homes, 613 Valencia, Brea, CA 92823

Chris Payne, Avalon Bay, Inc. Chris Payne, Avalon Bay Communities, Inc., 4440 Von Karman, Suite 300, Newport Beach, CA 92660

Michael Finger, Avalon Bay, Inc. Avalon Bay Communities, Inc., 4440 Von Karman, Suite 300, Newport Beach, CA 92660

Bill Halligan, Esq., The Planning Center, 1580 Metro Dr., Costa Mesa, CA 92626

Bill Montgomery, Sares-Regis, 18802 Bardeen Avenue · Irvine, California 92612-1521

Brigg Bunker, Sares-Regis, 18802 Bardeen Avenue · Irvine, California 92612-1521

Stephen Lanni, Sares-Regis, 18802 Bardeen Avenue · Irvine, California 92612-1521

Brad Perozzi, Trammell Crow Residential, 949 South Coast Dr., Ste. 400, Costa Mesa, CA 92626

Jim Taylor, Planning & Design, 4 Tiempo, Irvine, CA 92620

David Miller, Greenlaw, 4425 Jamboree Road, Suite 280, Newport Beach, CA 92660

Matt Wheelright, Standard Pacific Homes, 15326 Alton Parkway, Irvine, CA 92618-2338

R. Darrell Gary, Windstar Communities/Nexus Properties, Inc., 11149 N. Torrey Pines Road, Suite 250, La Jolla, CA 92037

Cindy Nelson, Nexus Development, 1 MacArthur Place, Suite 300, Santa Ana, CA 92707

Garth Erdossy, Nexus Development, 1 MacArthur Place, Suite 300, Santa Ana, CA 92707

Mike Wallace, B Braun Medical, 2525 Mc Gaw Avenue, P.O. Box 19791 Irvine, CA 92623-9791

Don Carter, John Laing Homes, 3121 Michelson, Suite 200, Irvine, CA 92612

Bill Jacobs, Principal Planner

Stephen Higa, Principal Planner

John Ernst, Principal Planner

Tim Gehrich, Principal Planner

**Barry Curtis, Principal Planner**  
**Michael Philbrick, Senior Planner**  
**Pam Davis, Senior Planner**  
**Marika Modugno, Senior Planner**  
**Bill Rodrigues, Senior Planner**  
**Diana Blaisure, Associate Planner**  
**Hernan DeSantos, Associate Planner**  
**Sherman Jones, Associate Planner**  
**Christina Ciampa, Assistant Planner**  
**Steve Weiss, Civic Solutions**  
**Gene Lehotsky, Civic Solutions**  
**Stacy Tran, Civic Solutions**  
**Tim Nguyen, Assistant Planner**  
**Mark Carroll, City Engineer**  
**Barry Greenstein, Senior Civil Engineer**  
**Steve Haubert, Principal Planner, Community Services**  
**Debra Mears, Senior Planner, Community Services**  
**Brian Fisk, Manager of Redevelopment**  
**Mark Asturias, Housing Manager**  
**Jon Toolson, Project Development Administrator**  
**Rick Sandzimier, Project Development Administrator**  
**Rick Handfield, Police Lieutenant**  
**Bruce Ramm, Public Safety**  
**Timor Rafiq, Rafiq. And Associates**  
**Sherry Harton, Manager of Fiscal Services**  
**David Tungate, Budget Officer**





**IBC Residential Project List  
(Pending/Approved/Under Construction)  
Updated: June 15, 2006**

**1. Central Park**

Location: 18311 Jamboree Rd. - Northwest corner of Jamboree Road and Michelson Drive

Site Size: 42.75 acres

Unit Count: 1,380 dwelling units (w/ 90,000 s.f. of office and 19,700 s.f. of retail)  
Affordable Housing Plan pending (expected to provide 15%, or 261 units, as affordable)

Product Type: Mix of condominiums and apartments in a variety of townhouse, mid-rise and high-rise structures

Density: A variety of density ranges internally ranging from 28 du/ac up to 120 du/ac with an overall average density of 47.3 units per acre

Contact: Anders Plett, Lennar Communities, 25 Enterprise, Suite 300, Aliso Viejo, CA 92656 Phone: (949) 349-8313

Status: General Plan Amendment and Zone Change approved August 2004 by City Council. Master Plan for design guidelines and Tentative Tract Map approved July 2004 by Planning Commission. Development Agreement approved by the City Council

Case Files: 00308773-PGA, 00308775-PZC, 00340287-PMPC, 00350096-PTT  
Park Design Case Numbers

Case Planners: Lana Weiss – High Rise, Loop Lofts, Luxury Lofts, Tentative Tract Map, and Master Plan Design Guidelines Modification  
Steve Weiss – Mitigation Monitoring

**Conditional Use Permits for development on Central Park site:**

- a. Description: 15-story-high rise, 240 units  
Case number: 00389690-PCPU  
Status: Submitted May 9, 2005  
Hearing Date: February 2, 2006 & March 2, 2006 (Approved by the Planning Commission)  
Case Planner: Lana Weiss, Civic Solutions
- b. Description: Loop Road Lofts – Lots 9 & 10, 342 units (Four stories over two stories parking)  
Case numbers: 00396013-PCPU & 00396014-PCPU  
Status: Submitted July 25, 2005  
Hearing Date:  
Case Planner: Lana Weiss, Civic Solutions

- c. Description: Luxury Lofts South, 87 units (Four stories over two stories of parking)  
Case number: 00396015-PCPU  
Status: Submitted July 25, 2005  
Hearing Date: 6/15/06  
Case Planner: Lana Weiss, Civic Solutions
- d.. Description: Luxury Lofts North, 87 units (Four stories over two stories of parking)  
Case number: 00396016-PCPU  
Status: Submitted July 25, 2005  
Hearing Date: 6/15/06  
Case Planner: Lana Weiss, Civic Solutions
- e. Description: Mixed Use Lots 1 & 2 (Three buildings consisting of 207 units, 90,000 sq ft of office and 19,700 sq ft of retail)  
Case number: 00410363-PCPU  
Status: Submitted January 18, 2006  
Hearing Date: TBD  
Case Planner: Lana Weiss, Civic Solutions

## 2. Marquee at Park Place

Location: 3131 Michelson - Park Place (Northeast corner of Jamboree and Michelson)  
Site Size: 2.31 acres  
Unit Count: 232 units (bonus units from previous development by Trammel Crow)  
Product Type: Luxury high-rise condominiums in twin 18 story towers over a four level parking structure (2 above grade, 2 below grade)  
Density: 100 units per acre (based on actual project site)  
Actual density (based on overall Park Place acreage): unknown  
Contacts: Eric Martin, BOSA Development California Inc., #500 -1901 Rosser Avenue, Burnaby, and B.C., Canada V5C 6S3 Phone: (604) 294-0666  
Local Sales Office: (949) 251-0325  
Status: Complete and being occupied.  
Case File: 00320556-PPA  
Case Planner: Michael Philbrick, Senior Planner

## 3. MetLife Apartments

Location: 2555 Main St. - Northwest corner of Siglo and Main  
Site Size: 9.78 acres  
Unit Count: 481 market rate units with an approved in lieu fee affordable housing contribution.

Product Type: At grade apartments in a four level over two level configuration  
Density: 49.2 du/ac  
Contacts: Brian Leahey, Lincoln Property Company, 4700 Von Karman, Suite 130,  
Newport Beach, CA 92660 Phone: (949) 756-2525  
Status: General Plan Amendment, Zone Change, Conditional Use Permit and  
Park Plan approved.

Status: Grading and building permits in review.  
Case Files: 00311071-PGA, 00311082-PZC, and 00311084-PCPU, 00311086-PPP  
Case Planner: Steve Weiss, Civic Solutions, Inc.

#### **4. Essex Apartments**

Location: 2552 Kelvin Avenue- Southeast corner of Kelvin Avenue and Derian  
Avenue  
Site Size: 3.07 acres  
Unit Count: 132 units with 15% (20 unit) affordable. Affordable Housing Plan pending  
Product Type: Apartments with a maximum 1,000 sq ft of support retail in a four  
level over two level configuration  
Density: 43 du/ac  
Contacts: John Eudy, Essex Property Trust, 925 East Meadow Drive, Palo Alto, CA  
94303 Phone: (650) 849-1640  
Status: City Council approved Conditional Use Permit, Park Plan and Park Design  
with additional conditions May 15, 2003.  
Status: Grading and building permits in review.  
Case Files: 47198-CPU, 00310007-PPP and 00310010-PPD  
Case Planner: Steve Weiss, Manager, Urban Planning Services, Civic Solutions, Inc.

#### **5. R. D. Olson/Legacy Partners**

Location: 2801 Main Street - Northeast corner of Jamboree Road and Main Street  
Site Size: 5.26 acres  
Unit Count: 290 dwelling units (plus 7,500 square feet of retail space)  
Product Type: Apartments in a four- and five-level configuration  
wrapped around a five level parking structure  
Density: 55.13 units per acres (with 20% on-site affordable housing - 5% very low,  
5% low and 10% moderate)  
Contacts: Eric Rubery, Sapetto Group, 2 Park Plaza, Suite 735, Irvine, CA 92614  
Phone: (949) 252-0841  
Bob Olson, R. D. Olson, Development 2955 Main Street, Irvine, CA 92614  
Phone: (949) 474-2001  
J. J. Abraham, Legacy Partners, 30 Executive Park, Suite 100, Irvine, CA  
92614 Phone: (949) 833-4724  
Status: Under Construction.  
Case Files: 00336385-PGA, 00336383-PZC, 00348543-PCPU, 00348544-PPP

Case Planner: Michael Philbrick, Senior Planner

## **6. The Lofts @ Von Karman**

Location: 18883 Von Karman - Southwest corner Von Karman and Dupont  
Site Size: 1.93 acres  
Unit Count: 115 units (93 base units in the project with 20% (19) affordable qualifying for a 25% density bonus of 22 units) Affordable Housing Plan approved.  
Product Type: Condominiums in a four level configuration over two levels of parking  
Density: 48.2 units per acre (not including density bonus units)  
60.1 units per acre (including density bonus units)  
Contacts: Ian Ellis, West Millennium Homes, 1849 Sawtelle Boulevard, Suite 600,  
Los Angeles, CA 90025 Phone: (310) 473-9925  
Status: General Plan Amendment and Zone Change approved August 26, 2003.  
Conditional Use Permit, Tract Map and Park Plan approved by Planning  
Commission in October 2004.  
Status: Grading permits issued and building permits in review.  
Case Files: 00329751-PGA, 00329743-PZC, 00338458-PCPU, 00337823-PTT

## **7. Campus Center Apartments**

Location: 1000 & 2000 Scholarship - Southeast corner of Jamboree Road and  
Dupont Drive  
Site Size: 6.687 acres  
Unit Count: 341 units with a proposed in lieu fee affordable housing contribution.  
Conditional Use Permit and Park Plan pending  
Product Type: Two apartment buildings, each with four levels of apartments w/ some  
fifth level lofts wrapped around a five-level parking garage; includes a Jr.  
Olympic pool, club room, group theatre room, fitness center, half basket  
ball court, tot lot, bocce ball court and BBQs  
Density: 52 units per acre  
Contacts: Tim Strader Jr., Starpointe Ventures, 19700 Fairchild Road #240, Irvine,  
CA 92612 Phone: (949) 622-0420  
Matt Montgomery, Opus West Construction Co., 2020 Main St., Suite 800,  
Irvine, CA 92614 Phone: (949) 622-2170  
Status: General Plan Amendment, Zone Change approved by City Council on  
8/26/03; Conditional Use Permit, and Park Plan approved by Planning  
Commission on 9/18/03. Grading and building permits issued, under  
construction.  
Case Files: 00329370-PGA, 00329372-PZC, 00330325-PCPU, and 332150-PPP  
Case Planner: Pam Davis, Senior Planner

**8. The Plaza - Irvine: Condominiums (Phase I & II)**

Location: 5000 & 8000 Scholarship - Northeast corner of Jamboree Road and Campus Drive  
Site Size: 5.25 acres  
Unit Count: 202 condominium units  
Square Feet: 132,800 square feet of office and 11, 343 square feet of retail/restaurant uses  
Product Type: Two 13-story residential towers podium style over parking structure with parking levels below grade and at grade.  
Density: 38 units per acre  
Contact: Tim Strader, Jr., Starpointe Ventures, 19700 Fairchild Road #240, Irvine, CA 92612 Phone: (949) 622-0420  
Status: General Plan Amendment and Zone Change approved July 2004 by City Council; Conditional Use Permit and Park Plan approved July 2004 by Planning Commission with approval valid 9/23/04. Grading permits and building permits issued.  
Case Files: 00347271-PGA, 00347273-PZC, 00350902-PCPU, and 00355419-PPP  
Case Planner: Pam Davis, Senior Planner

**9. Watermarke Condominiums**

Location: 1 Watermarke Place - Northwest corner of Campus and Carlson  
Site Size: 10.81 acres  
Unit Count: 535 condominiums  
Product Type: The project consists of two separate four-story buildings which envelope the two six level residential parking structures. The project includes a main recreational complex at the center of the project site, as well as, three passive and four active recreational located throughout the site.  
Density: 50 units per acre  
Contacts: Tim Strader Jr., Starpointe Ventures, 19700 Fairchild Road #240, Irvine, CA 92612 Phone: (949) 622-0420  
Status: Project approved and built  
Case Files: 44757-ZC, 44758-CPU, 46161-TT, and 46162-PP  
Case Planner: Steve Weiss, Manager Urban Planning Services, Civic Solutions, Inc.

**10. 2801 Kelvin Avenue (John Laing Homes)**

Location: Northeast corner of Jamboree Road and Kelvin Avenue  
Site Size: 5.18 Acres  
Unit Count: 248 Condominiums  
Product Type: Townhome and flat condominium units in a podium configuration.  
Density: 47.9 units per acre

Contact: Tim Strader, Jr., Starpointe Ventures, 19700 Fairchild Road #240, Irvine, CA 92612 Phone: (949) 622-0420  
Status: General Plan Amendment and Zone Change approved on September 13, 2005. Conditional Use Permit, Tentative Tract Map, and Park Plan approved on September 1, 2005 with approval effective on 10/27/05. The project is currently being modified from a 5-story project to a 4-story project (while retaining the same unit count of 248) through a modification to the conditional use permit. John Laing Homes is no longer involved.  
Case Files: 00356835-PGA, and 00356837-PZC, 000379238-PCPU, 00379120-PTT, 00379240-PPP  
Case Planner: Michael Philbrick, Senior Planner

### **11. Irvine Crossings**

Location: North of Main Street and West of Von Karman Ave. on old Smith Tool site (no street frontage)  
Site Size: 15.4 acres  
Unit Count: 686 units  
Product Type: Resubmittal in Oct. 2005 after project redesign;  
Density: 45 units per acre  
Contact: Tim Strader, Jr., Starpointe Ventures, 19700 Fairchild Road #240, Irvine, CA 92612; phone: (949) 622-0420  
Status: General Plan Amendment, Zone Change, Conditional Use Permit, Park Plan and Tentative Tract Map applications under review. Tentative hearing dates for Planning Commission and City Council have not been set yet.  
Case Files: 00351742-PGA, 003351745-PZC, 369823-PCPU, 370543-PPP and 00406179-PTT  
Case Planners: Pam Davis, Senior Planner and Sherman Jones, Associate Planner

### **12. Avalon Bay: "Avalon Jamboree Village"**

Location: Northwest corner of Jamboree Road and Alton Parkway  
Site Size: 4.5 acres  
Unit Count: 280 apartment units (257 base residential units and 23 density bonus units)  
Product Type: Four 4-story buildings designed around a parking structure (built to condominium standards for option of selling units in the future).  
Density: 57 units per acre (based on 257 base residential units)  
Contact: Eric Rubery, Sapetto Group, Inc., 2 Park Plaza, Suite 735, Irvine, CA 92614 Phone: (949) 252-0841 x 26  
Status: General Plan Amendment and Zone Change (third screencheck completed; DEIR 45 day review completed). CUP, Map and Park Plan (fourth screencheck in progress). Planning Commission hearing is 6/1/06,

and City Council June 27, 2006.

Case Files: 00369462-PGA, 00369465-PZC, 00385214-PCPU, 00385216-PTT and 00385215-PPP.

Case Planner: Diana Blaisure, Associate Planner

### **13. 2801 Alton Parkway**

Location: Northeast corner of Jamboree Road and Alton Parkway

Site Size: 3.76 acres

Unit Count: 179 condominium units

Product Type: Four-story wrap units around a central, gated parking garage.

Density: 49+/- units per acre

Contact: Tim Strader, Jr., Starpointe Ventures, 19700 Fairchild Road #240, Irvine, CA 92612; Phone: (949) 622-0420

Status: General Plan Amendment, Zone Change, Conditional Use Permit, Park Plan and Tentative Tract Map approved by Planning Commission on June 16, and City Council on June 28, 2005.

Case Files: 00365093-PGA, 00365094-PZC, 00375131-PCPU 00375132-PPP, and 00379598-PTT

Case Planners: Pam Davis, Senior Planner and Kelly M. Koldus, Associate Planner

### **14. Campus Center Apartments Expansion**

Location: Southeast corner of Jamboree Road and Dupont Drive

Site Size: 0.986 acres

Unit Count: Two apartment buildings containing a total of 341 apartment units previously approved under General Plan Amendment 00329370-PGA and Zone Change 00329372-PZC. The expansion consists of a proposal to increase the unit count that was approved by the previous GPA and ZC from 343 to 404 units, an increase of 61 units.

Product Type: Extension of one of the previously approved apartment buildings to accommodate the addition of 63 units (GPA/ZC is 61 units).

Density: 52 units per acre

Contacts: Tim Strader Jr., Starpointe Ventures, 19700 Fairchild Road #240, Irvine, CA 92612; Phone: (949) 622-0420

Status: General Plan Amendment, Zone Change approved 9/27/05; Conditional Use Permit and Park Plan approved 9/01/05 by Planning Commission contingent on Council approval of GPA/ZC.

Case Files: 00367059-PGA, 00367058-PZC and 00375939-PCPU

Case Planner: Pam Davis, Senior Planner

### **15. The Plaza Irvine: Condominiums (Phase III & IV)**

Location: Northeast corner of Jamboree Road and Campus Drive

Site Size: 3.1 acres

Unit Count: 105 condominium units  
Square Feet: 8,000 square feet of retail/restaurant uses  
Product Type: One 13-story residential tower and one four story residential tower both podium style over parking structure with parking levels below grade and at grade  
Density: 48 units per acre  
Contact: Tim Strader, Jr., Starpointe Ventures, 19700 Fairchild Road #240, Irvine, CA 92612; Phone: (949) 622-0420  
Status: General Plan Amendment and Zone Change approved 12/13/05; Planning Commission approved CUP, TT, PP and PD on 9/01/05 contingent on Council approval of GPA/ZC.  
Case Files: 00372849-PZC, 00372848-PGA, and 00381810-PCPU  
Case Planner: Pam Davis, Senior Planner

#### **16. Martin Street Condominiums**

Location: 2301 Martin Street  
Site Size: 2.02 acres  
Unit Count: 82 condominium units  
Product Type: The General Plan Amendment is being proposed to increase the IBC dwelling unit cap from 6,536 to 6,618, an increase of 82 dwelling units. The Zone Change request will be from 5.1 to 5.3C IBC Residential. The overall project proposal is to construct 82 residential condominium units in a four-story building over two levels of parking within the existing parking lot of an existing four-story office building.  
Density: 41 dwelling units per net acre  
Contact: Tim Strader, Jr., Starpointe Ventures, 19700 Fairchild Road #240, Irvine, CA 92612, Phone: (949) 622-0420  
Status: General Plan Amendment, Zone Change, Tentative Tract Map No. 16850, Conditional Use Permit, Transfer of Development Rights, and Shared Parking Agreement are still under review. Planning Commission and City Council hearing dates have not been determined yet. Notice of Preparation prepared and posted for Subsequent EIR.  
Status: Recommendation for Park Plan approval scheduled for the May 17, 2006 Community Services Committee meeting; Recommendation for Tentative Tract Map approval tentatively scheduled for May 24, 2006 Subdivision Committee meeting. Planning Commission and City Council meeting yet to be determined.  
Case Files: 00377519-PGA, 00377523-PZC, 00387974-PTT, 0038382-PPP, and 00387968-PCPU  
Case Planner: Hernan DeSantos, Associate Planner

#### **17. Carlyle @ Colton Plaza**

Location: 2201 Martin (Northeast corner of Douglas and Martin)

Site Size: 3.41 acres  
Unit Count: 156 condominium units  
Product Type: Product type and layout consists of 156 residential condominiums in a four story building over two levels of parking.  
Density: 45.75 units per acre  
Contact: Edwin Sundareson, KB Home Coastal, Inc., 3 Jenner, Suite 100, Irvine, CA 92618 Phone (949) 790-9100, Fax (949) 790-9119  
Status: General Plan Amendment, Zone Change being considered by the City Council on 9/27/05; Conditional Use Permit, Tentative Tract Map and Park Plan approved by Planning Commission on 9/1/05.  
Grading and building permits in review.

Case Files: 00377768-PGA 00377769-PZC, 00379997-PCPU, 00379999-PTT, and 00381118-PPP

Case Planner: Lana Weiss, Civic Solutions/David Law, Senior Planner

**18. 2400 Michelson (Withdrawn)**

Location: Southeast corner of Michelson and Von Karman  
Site Size: 4.02 acres  
Unit Count: 186 condominium units  
Product Type: 5 story residential condominiums situated on three sides of a 6 level parking lot (liner type project).  
Density: 46.27 units per acre  
Contact: Brad Perozzi, Trammell Crow Residential, 949 South Coast Dr., Ste. 400, Costa Mesa, CA 92626 Phone: (714) 966-9353  
Status: General Plan Amendment and Zone Change in for review. City Council scoping session on July 12, 2005. 3<sup>rd</sup> screencheck comments sent to applicant 12/19/05. Planning Commission and City Council hearing dates have not been determined yet. **(This project has been withdrawn)**  
Case Files: 00383785-PGA, 00383881-PZC, 003887554-PTT, 00387443-PCPU and 00387444-PPP  
Case Planner: Genene Lehotsky, Senior Planner, Civic Solutions

**19. 2801-2823 McGaw**

Location: Northeast corner of Jamboree & McGaw  
Site Size: 5.86 acre parcel  
Unit Count: 280 units  
Product Type: Product type and layout consists of 156 residential condominiums in a four story building over two levels of parking. .  
Density: 52 units per acre  
Contact: Jim Graves, Olen Properties, 7 Corporate Plaza, Newport Beach, CA 92660 Phone: (949) 719-7215

Status: General Plan Amendment and Zone Change in for review. City Council scoping session on July 12, 2005. Planning Commission and City Council hearing dates have not been determined yet.  
Case Files: 00383776-PGA, 00383779-PZC and 00414610-PCPU  
Case Planner: Genene Lehotsky, Senior Planner, Civic Solutions

**20. 16552 Von Karman**

Location: Southeast corner of Barranca and Von Karman  
Site Size: 2.0 acres  
Unit Count: 104 apartment units  
Product Type: Product type and layout of project site still under design. To be reviewed with subsequent conditional use permit.  
Density: 52 units per acre  
Contact: Jim Graves, Olen Properties, 7 Corporate Plaza, Newport Beach, CA 92660 Phone: (949) 719-7215  
Status: General Plan Amendment and Zone Change in for review. Planning Commission and City Council hearing dates have not been determined yet.  
Case Files: 00383777-PGA and 00383780-PZC  
Case Planner: Genene Lehotsky, Senior Planner, Civic Solutions

**21. 2132-2168 Michelson Drive**

Location: Southeast corner of Michelson and Dupont  
Site Size: 6.113 acres  
Unit Count: 317 apartment units  
Product Type: Product type and layout of project site still under design. To be reviewed with subsequent conditional use permit.  
Density: 51.86 units per acre  
Contact: Jim Graves, Olen Properties, 7 Corporate Plaza, Newport Beach, CA 92660 Phone: (949) 719-7215  
Status: General Plan Amendment and Zone Change in for review. City Council scoping session conducted July 12, 2005. Planning Commission and City Council hearing dates have not been determined yet.  
Case Files: 00383783-PGA, 00383784-PZC  
Case Planner: Bill Rodrigues, Senior Planner

**22. 1929-2031 & 17809-17819 Gillette**

Location: North side of Main Street between Von Karman & MacArthur  
Site Size: Three adjoining parcels totaling 6.03 acres  
Unit Count: 306 apartment units  
Product Type: Podium style product with four levels of residential above two levels of subterranean and semi-subterranean parking.

Density: 52 units per acre  
Contact: Jim Graves., Olen Properties, 7 Corporate Plaza, Newport Beach, CA 92660 Phone: (949) 719-7215  
Status: General Plan Amendment, Zone Change, Conditional Use Permit in for review. Planning Commission and City Council hearing dates have not yet been determined.  
Case Files: 00383781-PGA, 00383782-PZC, 00414587-PCPU  
Case Planner: Marika A. Modugno, Senior Planner

### **23. 2323 Main**

Location: Northeast corner of Main and Von Karman  
Site Size: 10 acres (gross), 9.1 net acres  
Unit Count: 445 unit condominium development  
Product Type: Condominiums for sale, dispersed within five buildings with a two level subterranean parking structure (Building No. 1 will have eight "live-work" units combining home and office).  
Density: 45 du/acre  
Contact: Tim Strader Jr., Starpointe Ventures, 19700 Fairchild Rd., Suite 240, Irvine CA 92612 Phone: (949) 622-0420  
Status: to Planning Commission 6/1/06 and City Council 6/27/06  
Case Files: 00384482-PGA, 00384487-PZC, 00391008-PCPU, 00391009-PPP and 00394798-PTT.  
Case Planner: Diana Blaisure, Associate Planner

### **24. BOSA II**

Location: Northwest corner of Michelson Drive and San Diego Creek (in Park Place)  
Site Size: 8.95 acres  
Unit Count: 566 unit condominium development  
Product Type: Condominium units (including some townhouse units) in four towers  
Density: 63.2 units per acre  
Contact: Denise Fejtek, The Keith Companies, 19 Technology Drive, Irvine, CA 92618 Phone: (949) 923-6238  
Status: General Plan Amendment approved by Planning Commission approved on March 3, 2005 and by City Council on March 22, 2005.  
Minor Modification approved on March 24, 2005 pending for conversion of office intensity to residential intensity (for 438 units).  
Tentative Tract Map and Park Plan went to Subdivision Committee 5/24/06 and will go to Planning Commission 6/15/2006.  
Case Files: 00383612-PGA, 00352630-PCPM, 00389038-PTT, 00389031-PPP  
Case Planner: Barry Curtis, Principal Planner (for GPA)  
Michael Philbrick, Senior Planner (for Minor Modification, Tentative

Tract Map, and Park Plan)

**25. 2851 Alton**

Location: Northwest corner of Alton Parkway and Murphy  
Site Size: 3.72 acres  
Unit Count: 170 unit condominium development  
Product Type: 4 story units wrapped around a 5 level parking garage  
Density: 46 units per acre  
Contact: Tim Strader Jr., Starpointe Ventures, 19700 Fairchild Rd., Suite 240,  
Irvine, CA 92612 Phone: (949) 622-0420  
Status: General Plan Amendment, Zone Change, Conditional Use Permit, Park  
Plan and Tentative Tract Map applications in for review. Draft EIR is being  
prepared. Planning Commission and City Council hearing dates have not  
been determined yet.  
Case Files: 00385620-PGA, 00385623-PZC, 00393319-PCPU, 00393324-PPP,  
00403130-PTT  
Case Planners: Pam Davis, Senior Planner and Kelly M. Koldus, Associate Planner

**26. 17421 Murphy**

Location: Northwest corner of Kelvin Avenue and Murphy Avenue  
Site Size: 1.20 acres  
Unit Count: 71 unit affordable apartment complex  
Product Type: 4 story units wrapped around a 2 level parking garage  
Density: 59.1 units per acre  
Contact: Tim Strader Jr., Starpointe Ventures, 19700 Fairchild Rd., Suite 240,  
Irvine CA 92612 Phone: (949) 622-0420  
Status: to Planning Commission on 6/1/2006 and City Council 6/27/2006.  
Case Files: 00390309-PGA and 00390311-PZC  
Case Planner: Amy Mullay, Associate Planner

**27. 16901 Jamboree**

Location: Southwest corner of Jamboree and Richter  
Site Size: 2.8 acres  
Unit Count: 146 units  
Product Type: Four to five story condominium complex (for-sale)  
Density: 52 units per acre  
Contact: Tim Strader Jr., Starpointe Ventures, 19700 Fairchild Rd., Suite 240,  
Irvine CA 92612 Phone: (949) 622-0420  
Status: General Plan Amendment and Zone Change in for review (first  
screencheck). CUP, Park Plan and Map: second screencheck to  
applicant. NOP has not been circulated. Planning Commission and City  
Council hearing dates have not been determined.  
Case Files: 00400290-PGA and 00400291-PZC

Case Planner: Diana Blaisure, Associate Planner

**28. Irvine Technology Center**

Location: 2525 Campus Drive, 2601 Campus Drive, 18872 Bardeen Avenue, 18902 Bardeen Avenue, 18871 Teller Avenue, 2649 Campus Drive, 2727 Campus Drive, 2737 Campus Drive, 2747 Campus Drive, 18900 Teller Avenue, and 18910 Teller Avenue (Northwest corner of Jamboree and Campus Drive)

Site Size: 18.84 acres

Unit Count: 1,000 residential units

Square Feet: 120,000 square feet of office, 15,000 square feet of retail

Product Type: Product type and layout of project site still under design. To be reviewed with subsequent conditional use permit.

Density: Not known

Contact: Tim Strader, Jr. Starpointe Ventures, 19700 Fairchild Road, Suite 240, Irvine, CA 92612 Phone: (949) 622-0420

Status: General Plan Amendment, Zone Change, Master Plan, and Park Plan in for review. Planning Commission and City Council hearing dates have not yet been determined.

Case Files: 00400679-PGA, 00400680-PZC, 00411552-PPP, 00411520-PMP, 00414122-PCLE

Case Planner: Marika A. Modugno, Senior Planner

**29. 16542 Millikan and 2502 Barranca**

Location: 16542 Millikan and 2502 Barranca Parkway (Southeast and –west corners of Barranca & Millikan, across from the proposed VESTAR retail development on the former MCAS Tustin in the City of Tustin).

Site Size: 5.22 acres

Unit Count: 250 residential units

Product Type: 4-story podium over 2 levels of parking. Each parcel has separate recreational amenities. First submittal was for 16542 Millikan alone.

Density: 52 units per acre

Contact: Patrick Strader, Starpointe Ventures, 19700 Fairchild Road, Suite 240, Irvine, CA 92612 Phone: (949) 622-0420

Status: General Plan Amendment, Zone Change, CUP, TTM, and Park Plan in for review. Planning Commission and City Council hearing dates have not yet been determined.

Case Files: 00401842-PGA and 00401848-PZC

Case Planner: Tim Gehrich, Principal Planner, assisted by Kelly M. Koldus, Associate Planner

**30. 2900 McCabe**

Location: 2900 McCabe, north side of McCabe near Jamboree Road (adjacent to the northbound Jamboree on-ramp to the I-405 freeway).  
Site Size: 4.09 acres  
Unit Count: 314 residential condominium units  
Product Type: Podium project with variety of product type including 125 units in four story low-rise, 10 row townhouses, 138 units in a 16 story tower, 18 units in a 9 story tower, 20 units in a five story tower, and 3 work/live units. Architecture by Michael Graves & Associates.  
Density: 76.8 units per acre  
Contact: Sue Whitaker, Sapetto Group, Inc., 2 Park Plaza, Suite 735, Irvine, CA 92614 Phone: (949) 252-0841 Ext. 41  
Edwin Sundareson, KB Home Coastal, Inc. 3 Jenner, Suite 100, Irvine, CA 92618 Phone: (949) 790-9100  
Status: Pre-application review completed. The filing of applications for a General Plan Amendment, Zone Change, Conditional Use Permit, Tentative Tract Map and Park Plan is pending.  
Case File: 00407710-PPA  
Case Planner: Michael Philbrick, Senior Planner

**31. 17150 Von Karman**

Location: 17150 Von Karman  
Site Size: 9.15 acres  
Unit Count: 475 residential units  
Product Type: Five story podium over two-story parking with liner  
Density: 52.0 units per acre  
Contact: Eric Rubery, Sapetto Group, Inc., 2 Park Plaza, Suite 735, Irvine, CA 92614 Phone: (949) 252-0841 Ext. 26  
Status: Pre-application, GPA and PZC filing at this point only (filed on 11/8/05), and 11/16/05. Applications for Conditional Use Permit, Tentative Tract Map and Park Plan pending.  
Case Files: 00407710-PPA, 004406285-PGA, 00406286-PZC  
Contact: Joseph Hanen, Kilroy Realty Corporation, 111 Pacifica, Suite 300, Irvine, CA 92618 (949) 790-7222  
Status: Planning Commission and City Council hearing dates have not been determined yet.  
Case Files: 00405669-PPA, 00406286-PZC, 00406285-PGA  
Case Planner: Stacy Tran, Civic Solutions, Inc.

**32. Charter Apartments**

Location: 2710-2790 Kelvin (SWC of Kelvin and Jamboree)  
Site Size: 8.9 acres  
Unit Count: 403 residential units  
Product Type: Podium over parking garage  
Density: 45 units per acre  
Case File: 87-CP-0786

**33. Metropolitan Condominiums**

Location: 2233-2253 Martin  
Site Size: 5.87 acres  
Unit Count: 261 residential units  
Product Type:  
Density: 45 units/acre  
Case File: 87-CP-0825

**34. Villa Siena Apartments**

Location: Between Jamboree and Carlson on south side of Michelson  
Site Size:  
Unit Count: 1442  
Product Type:  
Density:  
Case File:

**35. Toscana Apartments**

Location: Between Jamboree and Carlson south of Villa Siena, north of Campus Center and Watermarke  
Site Size:  
Unit Count: 563  
Product Type: apartments over subterranean garage  
Density:  
Case File: 87-CP-0787 (part of MOLA project)

**36. Irvine Inn**

Location: southwest corner of Jamboree and Warner  
Site Size:  
Unit Count: 192  
Product Type: SRO  
Density:

Case File:

**37. 2802 Kelvin**

Location: southeast corner of Jamboree and Kelvin

Site Size: 3.5 +/- acres

Unit Count: 185

Product Type: apartments: studio, 1-bdrm., and 2-bdrm. Flats.

Density: 52.8 units per acre

Product Type: Product type and layout of project site still under design. To be reviewed with subsequent conditional use permit.

Contact: Kent Marshall, Irvine Apartment Communities, (949) 720-5548

Status: Pre-application: first review completed; General Plan Amendment, Zone Change, Conditional Use Permit and Park Plan to be submitted in the future. Planning Commission and City Council hearing dates have not yet been determined.

Case File: 00412718-PPA

Case Planners: Pam Davis, Senior Planner and Tim Nguyen, Assistant Planner

**38. Metropolis**

Location: 2500 Main (Main & Cartwright)

Site Size: 7.34 acres

Unit Count: 452 condominium units

Product Type: For-sale condominiums in two buildings (units over parking) on either side of rail spur

Density: approx. 62 units/acre

Contact: Patrick Strader, Starpointe Ventures, 19700 Fairchild Road, Suite 240,  
Irvine, CA 92612 Phone: (949) 622-0420

Status: GPA & ZC in for first review.

Case Planner(s): Hernan DeSantos, Associate Planner (949) 724-6441, Sherman Jones, Associate Planner, (949) 724-6559, Tim Nguyen, Assistant Planner, (949) 724-6319

**39. The Village- Mixed Use**

Location: 18691 Jamboree, NWC of Jamboree & Dupont

Site Size: 7.5-acre

Unit Count: 264 for-sale units (high-rise tower, live/work, and townhome)

Product Type: 20 2-story townhomes along Dupont and Teller, 24 live-work units, 2 14-story towers with 110 units each. Site also includes 190,000sf of office and 55,145 sf of retail, including an 18,000 sf grocery store

Density: 32.8 units/acre

Contact: Patrick Strader, Starpointe Ventures, 19700 Fairchild Road, Suite 240,  
Irvine, CA 92612 Phone: (949) 622-0420  
Status: GPA & ZC in for first review.  
Case Planners: Marika A. Modugno, AICP, Senior Planner (949) 724-6456 & Kelly M.  
Koldus, Associate Planner (949) 724-7330

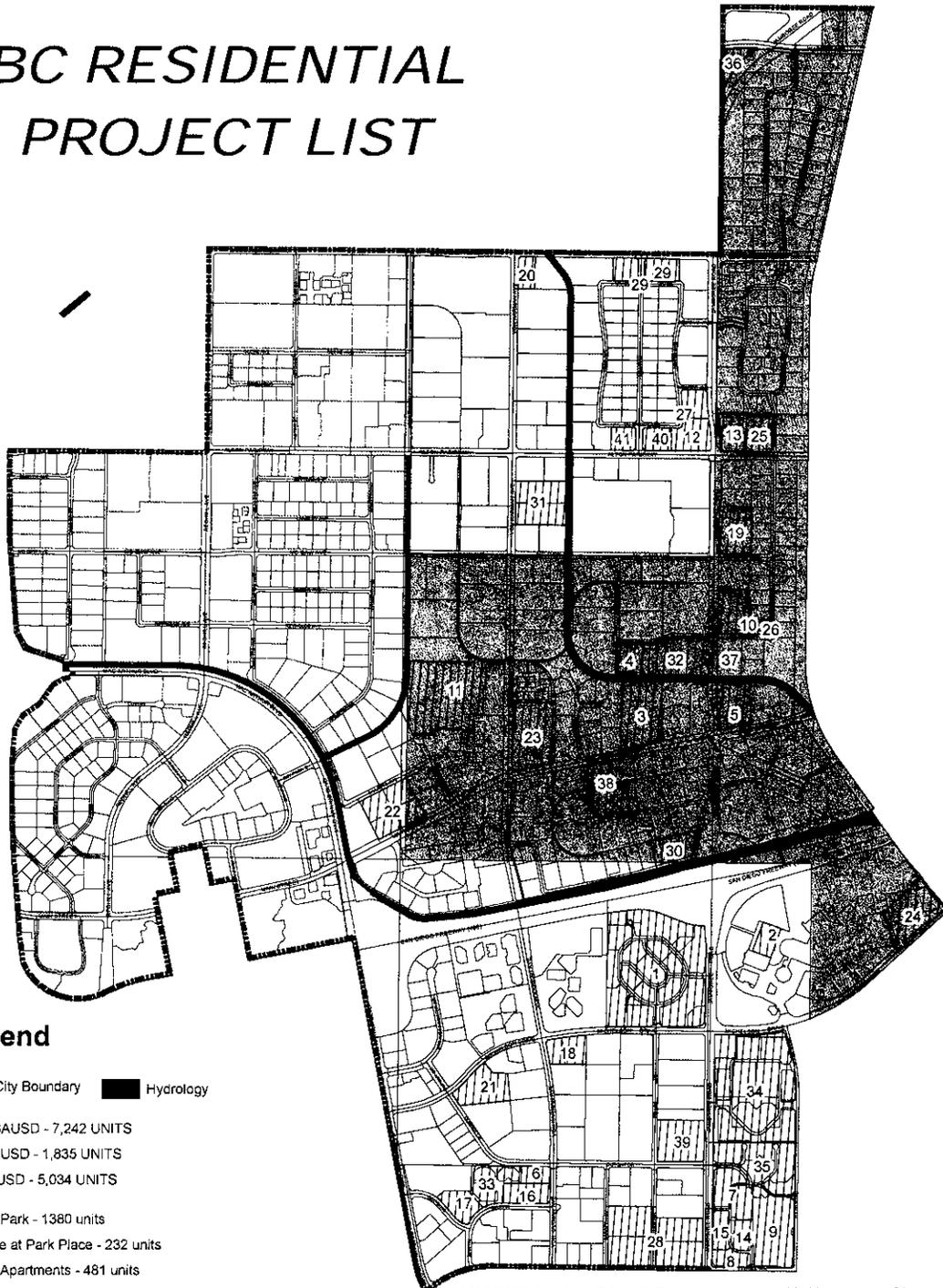
**40. Park Avenue Apartments**

Location: 16952 Millikan (Northeast corner of Alton and Millikan)  
Site Size: 2.53 acres  
Unit Count: 187 units  
Product Type: Podium-style apartment project with four stories of apartments over  
two levels of parking - one of which is subterranean  
Density: 73.91 dwelling units per acre  
Contacts: Patrick Strader, Starpointe Ventures, 19700 Fairchild Rd., Suite 240,  
Irvine, CA 92612 Phone: (949) 622-0420  
Status: 1<sup>st</sup> screencheck routed June 7, 2006  
Case File: 00421239-PGA and 00421233-PZC  
Case Planner: Bill Rodrigues, Senior Planner, and Christina Ciampa, Assistant Planner

**41. Mountain Vista**

Location: 2501 Alton (Northwest corner of Alton and Millikan)  
Site Size: 3.91 acres  
Unit Count: 190 units  
Product Type: Podium-style condominium project with four stories of condominiums  
over two levels of parking - one of which is subterranean  
Density: 48.6 dwelling units per acre  
Contacts: Patrick Strader, Starpointe Ventures, 19700 Fairchild Rd., Suite 240,  
Irvine, CA 92612 Phone: (949) 622-0420  
Status: 1<sup>st</sup> screencheck routed June 12, 2006  
Case File: 00421234-PGA and 00421238-PZC  
Case Planner: Pam Davis, Senior Planner, and Sidney Stone, Assistant Planner

# IBC RESIDENTIAL PROJECT LIST



## Legend

- City Boundary
- Hydrology
- SAUSD - 7,242 UNITS
- TUSD - 1,835 UNITS
- IUSD - 5,034 UNITS

- |   |  |                                     |
|---|--|-------------------------------------|
| 1. Central Park - 1380 units                                    | 21. 2132-2168 Michelson Drive - 317 units        | 39. Metropolis - 452 units          |
| 2. Marquee at Park Place - 232 units                            | 22. 1929-2031 & 17809-17819 Gillette - 569 units | 39. Village - Mixed Use - 264 units |
| 3. MetLife Apartments - 481 units                               | 23. 2323 Main - 444 units                        | 40. Park Ave Apts. - 187 units      |
| 4. Essex Apartments - 132 units                                 | 24. BOSA II - 566 units                          | 41. Mountain Vista - 190 units      |
| 5. R.D. Olson/Legacy Partners - 290 units                       | 25. 2851 Alton - 170 units                       |                                     |
| 6. The Lofts @ Von Karman - 115 units                           | 26. 17421 Murphy - 71 units                      |                                     |
| 7. Campus Center Apartments - 341 units                         | 27. 16901 Jamboree - 146 units                   |                                     |
| 8. The Plaza-Irvine: Condominiums (Phase I & II) -202 units     | 28. Irvine Technology Center - 1000 units        |                                     |
| 9. Watermark Condominiums - 535 units                           | 29. 16542 Millikan and 2502 Barranca - 251 units |                                     |
| 10. 2801 Kelvin Avenue (John Laing Homes) - 248 units           | 30. 2900 McCabe - 314 units                      |                                     |
| 11. Irvine Crossings - 686 units                                | 31. 17150 Von Karman - 475 units                 |                                     |
| 12. Avalon Bay: "Avalon Jamboree Village" - 290 units           | 32. Charter Apts - 403 units                     |                                     |
| 13. 2801 Alton Parkway - 179 units                              | 33. Metropolitan Condos - 261 units              |                                     |
| 14. Campus Center Apartments Modification - 61 units            | 34. Villa Siena - 1442 units                     |                                     |
| 15. The Plaza Irvine: Condominiums (Phase III & IV) - 105 units | 35. Toscana - 563 units                          |                                     |
| 16. Martin Street Condominiums - 82 units                       | 36. Irvine Inn - 192 units                       |                                     |
| 17. Carlyle @ Colton Plaza - 156 units                          | 37. 2802 Kelvin - 185 units                      |                                     |
| 18. 2400 Michelson - 186 units                                  |  |                                     |
| 19. 2801-2823 McGaw - 292 units                                 |  |                                     |
| 20. 16552 Von Karman - 109 units                                |  |                                     |



Although every effort has been made to develop the completeness of the information displayed on this map and it has been verified to the best of our ability, we warrant, represent or implied, in no way regarding accuracy, adequacy, completeness, legality, reliability, or usefulness of the information.

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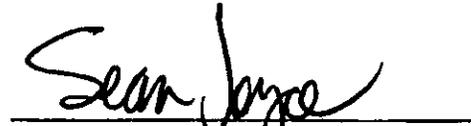


# REQUEST FOR CITY COUNCIL ACTION

CITY COUNCIL MEETING DATE: APRIL 12, 2005

TITLE: IRVINE BUSINESS COMPLEX RESIDENTIAL/MIXED-USE DEVELOPMENT STRATEGY

  
Director of Community Development

  
City Manager

## RECOMMENDED ACTION

1. Direct staff to prepare an ordinance, with accompanying documentation, create a residential/mixed-use overlay district in the Irvine Business Complex (IBC), and include a vision statement, principles, development standards, and guidelines for the evaluation of proposed residential and mixed-use developments in the IBC.
2. Direct staff to de-emphasize the residential overlay district boundary at this time. Create the development standards and design guidelines and parameters for development agreements to be required in the IBC. If a residential overlay district boundary is required to support implementation of the development standards, it can be recommended by staff after development of the design standards for the overlay district with the specific rationale for the recommended location of the boundary line.
3. Direct staff to continue to process applications and projects currently on file with the City. Applicants should not be delayed by the process, but staff should work cooperatively with them in the spirit of the proposed standards.
4. Approve a scope of work for staff to follow that is consistent with achieving the five strategic goals as developed by Community Development staff and EDAW, with consideration for input provided by the Planning Commission as outlined in this report.
5. Approve the attached Budget Adjustment increasing Community Development's FY 04-05 General Fund expenditures by \$150,000 to fund this work project.

## EXECUTIVE SUMMARY

Staff has developed a preliminary framework for a strategy to address the issues associated with increasing residential development in the Irvine Business Complex (IBC), which follows the Council's direction on the issue. This direction arose from a series of workshops with the Planning Commission and joint sessions between the Planning Commission and City Council in 2004.

The action requested is for the City Council to direct staff to complete the design standards and prepare an ordinance that implements of the IBC Residential/Mixed-Use Development Strategy as proposed by staff and the Planning Commission. The strategy

includes a preliminary framework for addressing those issues that are defined by a set of vision statements, goals, policies, and a menu of issues to be addressed by the strategy as follows:

- Protect existing job base within the IBC.
- Develop mixed-use cores.
- Provide transportation, pedestrian, and visual connectivity.
- Create usable open space.
- Develop safe-well-designed neighborhoods

These strategies are further discussed in Attachment 1, Recommended Scope of Work. The final work product will be comprised of urban and mixed use/residential development standards and criteria for development agreement negotiations.

Once the City Council provides staff with direction to proceed, staff will formulate the details of the strategy including new development standards, incentive elements (intended to encourage the type of mixed-use development favored by the City), procedural components, and other essential regulations and guidelines. All planning and strategy efforts will be geared to respect and address the issues identified by the Planning Commission and City Council. This effort could take as long as four months to complete. The overall strategy will then be brought back before the Planning Commission for its recommendation and proposed adoption and the City Council for final consideration.

#### COMMISSION/ADVISORY BOARD RECOMMENDATION

On January 20, February 17, and March 17, 2005, the Planning Commission received presentations and input from staff, representatives of the development community, and affected businesses. At the March 17 meeting, the Planning Commission voted unanimously to recommend that the City Council move forward with preparing a comprehensive IBC Residential/Mixed-Use Strategy

#### BACKGROUND

At the regular City Council meeting of May 25, 2004, the City Council gave the following direction to staff:

- Establish urban residential development standards for the IBC.  
Establish parameters to create an IBC residential overlay district.  
If determined to be appropriate and feasible, increase the residential unit cap specified in the General Plan and Zoning Code to the maximum currently permitted within the trip budget for the IBC.

Since that time, a coordinated team of staff representatives and the urban design consulting firm of EDAW have been working to prepare proposed policies to implement the City Council's direction for its consideration. The purpose of this report is to present the results of that effort.

At this point, the proposed strategy is a conceptual framework of what will ultimately be proposed and brought back to the Planning Commission and City Council for final adoption. Staff is seeking approval in concept of the proposed strategy and direction to proceed with the detail level work and planning efforts necessary to address all issues identified by both the Planning Commission and the City Council. Timing is a critical component of this strategy. As more and more applications for residential development are filed, the opportunity for those projects to be developed without the benefit of the strategy increases. There are currently 14 applications in progress. The longer this process takes and before the new standards are in place, there is an increased potential that the majority of residential units to be developed in the IBC will have been processed for review and consideration by the City Council, thereby rendering this strategy effort ineffective.

Staff has brought forth a basic framework for the IBC residential/mixed-use development strategy for consideration. The framework is highlighted by a series of conceptual vision statements principles, standards, and guidelines. The staff recommendations and Planning Commission comments on each is contained in Attachment 1, Recommended Scope of Work. Staff recommends the Council approve this proposed approach for preparation of final documents. These components are intended as a means to address the variety of issues that have been raised during the process. Through community outreach efforts and by collaboration with the Planning Commission, these framework components have been bolstered and enhanced to more comprehensively and proactively ensure that the ability of existing businesses to stay in the IBC and grow is protected, and that the quality of life for future IBC residents will not be compromised for lack of amenities and the proper interface and compatibility between land uses. The issues identified thus far have been listed in Attachment 2, Planning Commission Issues.

The Planning Commission has consistently expressed concerns with the continued intrusion of residential development in the IBC. Staff believes that the IBC residential/mixed-use development strategy is the City's best opportunity to address those concerns. With that in mind, staff recommends that the City Council authorize and direct staff to proceed with the IBC residential/mixed-use development strategy, and allocate the funding necessary to accomplish this task. To complete the work, staff estimates an additional \$150,000 part time staffing and consultant contract services will be needed.

STATEMENT OF THE ISSUES

Issue 1: Status of Projects in the Pipeline

There has been much discussion regarding the status of any pending applications for residential development within the IBC.

The Planning Commission recommended that the City Council direct staff to continue to process applications currently on file with the City and that those applications not be affected by the proposed guidelines yet to be adopted. There are now 14 projects with pending requests for general plan amendments and zone changes to allow residential development in the IBC with a total in excess of 3,500 units. These projects are summarized below:

<b>Project Name</b>	<b>Unit Count:</b>
Irvine Crossings	752
2801 Kelvin	248
Avalon Bay	290
Campus Center Apartments	63
The Plaza (Phase III & IV)	103
Martin Street Condominiums	90
2801 Alton	179
The Carlyle	156
Olen (2801-2823 McGaw)	305
Olen (16552 Von Karman)	104
Olen (1929-2031 Main Street)	321
Olen (2132 - 2168 Michelson)	323
Trammel Crow (2400 Michelson)	185
Standard Pacific (2323 Main)	444
<b>Total</b>	<b>3,563</b>

These projects are all in various stages of the review process. At this point, only two of the 14 applications have been deemed completed. Eight of these applications have had a scoping session at the City Council level. The other six should have their scoping sessions scheduled before the City Council within the next 50 to 100 days. None of these applications has yet proceeded to public hearing before either the Planning Commission or City Council. It is anticipated that eight of these applications will be scheduled for public hearings by September 2005 at the latest, with the remaining six applications having probable public hearing dates either in late 2005 or early 2006. A summary of the status of all the pending IBC residential projects is provided as Attachment 3, IBC Pending Project Status.

Staff is concerned that, if the City Council adopts the Planning Commission recommendation for current applications to be processed without regard for the proposed

development standards and development agreement criteria, the opportunity to create an organized master planned, mixed use urban village within the IBC may be lost, or severely compromised. Staff believes that any project that has not completed the public hearing for the required general plan amendment and zone change prior to the City Council authorizing staff to proceed with the strategy should be subject to the IBC residential/mixed-use development strategy.

## Issue 2: Explanation of Strategy Concepts

### Purpose of the Overlay District

The purpose of the IBC Residential/Mixed-Use Overlay district is to establish areas within the IBC where residential development can be supported if it meets the residential/mixed-use standards and development requirements to be established as part of this strategy effort. The overlay would not change the existing zoning and does not require anyone to develop residential uses on their property. The overlay also does not exempt anyone from filing the required applications to amend the general plan amendments and zoning changes necessary to increase the IBC residential cap and to allow residential development on properties not currently zoned for such uses. Residential projects proposed outside the overlay district boundary are discouraged and would not be supported by staff.

However, the concept of an overlay district created a significant amount of controversy in determining the location of the boundary line and how it would affect properties located both inside and outside the boundary. Numerous business interests expressed a desire to have their property included within the overlay while several other businesses requested exclusion from the overlay of some sort of buffer. Accordingly, per the recommendation of the Planning Commission, staff suggests that the overlay district boundary line be set aside and not pursued further until the development standards have been fully developed. After staff has created the standards, if it is determined a boundary line is still needed, staff should prepare a justification of where and why the boundary line is needed.

### Purpose of the Core Areas

One of the key goals of the residential strategy is to create activity nodes connecting uses in the district with an integrated, urban environment, where residents are close to jobs, can obtain needed services, and find food and entertainment all within a walkable distance. The activity nodes or "core areas" can help reduce vehicular trips and create interesting unique points of reference through the district. The core areas are intended to allow for higher-density mixed-use development that is integrated horizontally and vertically. The core areas are generally located at key intersections or major transit stops facilitating pedestrian concentrations that create a lively safe, attractive, and entertaining streetscape. The core areas also create variety along transportation corridors and within the overlay zone. The emphasis on core areas provides an opportunity to encourage "place-making," a land planning term referring to the creation of engaging and vital activity nodes within urbanized areas.

### Core Locations

The core areas in the IBC Residential/Mixed-Use Overlay district have been located at key intersections near regional transportation systems (the San Diego Freeway and proposed HOV access ramps) or at key arterial intersections. In all cases, these core areas already include a mix of land uses that can be intensified (within the limits set forth in the established trip budgets for the IBC). The core areas are also located either along Jamboree Boulevard or Von Karman Avenue where a loop bus transit system could connect to the transit center located north of the Tustin Legacy project at Von Karman Avenue. This proximity would reinforce Transit-Oriented Development (TOD) opportunities through the implementation of the IBC Residential/Mixed-Use Development Strategy.

### Incentives and Standards

Incentives and standards will be developed to stimulate the market to provide new, high quality development that integrates needed housing, retail, services, and office space at a density that provides funding for increased amenities, open space, and pedestrian connections. The goal is to locate mixed-use, high quality neighborhoods that maintain their value and vitality over time in these core areas. Incentives for core area development being considered include increased residential density, increased building heights, reduced vehicular trips assigned to retail (where data reviewed and approved by staff supports an on-site "trip capture"), and reductions in required parking ratios (when supported by appropriate documentation subject to staff review).

These incentives are not geared or intended to reward the developer or enhance its return on investment. Rather, the incentives would only be granted as a means to ensure that the City will be getting the type of mixed-use development it feels is necessary to ensure land use compatibility and a higher degree of interface and interplay between uses. In this context, the term "incentives" refers to regulatory enhancements that might be made available only if the developer puts together the type of project that will effectively implement and promote the urban village atmosphere with public amenities and services as contemplated and intended by the IBC Residential/Mixed-Use Development Strategy.

More stringent development provisions being considered for the core areas include development of urban parks and public activity areas, enhanced pedestrian connections, improved vehicular circulation, variation in housing types, and street level/ground floor zone requirements. These incentives and standards will work together to create attractive, safe and vibrant activity core areas.

### Land Use

While the residential overlay would allow residential development throughout the area on a project-by-project basis, the goal of core area development is to provide integrated mixed-uses that provide pedestrian and vehicular connections within each core. Open spaces and activity areas can easily be shared among residents and visitors in a core area.

Architecture

Due to the higher intensity of development in the core areas, architecture will have a greater impact on the identity of the area. Landmark architecture adjacent to core area intersections will be required.

Comparison of Standards and Incentives

To further clarify the standards and incentives being considered for the IBC Residential/Mixed-Use Development Strategy and core areas, refer to the following comparison matrix.

<b>Strategy Under Consideration</b>	<b>Core Area Requirements/Incentives</b>	<b>Residential Overlay Requirements/Incentives</b>
Creation on new jobs	Required	Not required
Buffers	Consolidate buffers	No consolidation
Create urban parks and/or pedestrian activity centers	Required	Not required
Transit connections within walking distance	Required	Not required
Service commercial	Required	Not required
Ground-floor orientation to local streets, plazas and courtyards	Required	Not required
Minimum ground-floor depth established	Required	Not required
Landmark architecture	Required	Not required
Reduced parking requirements	Allowed	Not allowed
Reduced setbacks	Allowed	Not allowed
Reduced site coverage	Allowed	Not allowed
Alternative retail trip conversion factors	Allowed	Not allowed
Increased FAR	Allowed	Not allowed
Alternative landscape requirements	Allowed	Not allowed

Other standards that are being considered for the IBC Residential/Mixed-Use Development Strategy may be based on parcel size, which will apply to the core areas.

### ALTERNATIVES CONSIDERED

The City Council has a number of options it could consider as an alternative to the Planning Commission recommendation.

#### Reinstate Overlay District Boundaries

Initially, staff recommended that the Planning Commission adopt a an IBC Residential/Mixed-Use Overlay district boundary in accordance with the direction originally provided by the City council to staff. The Planning Commission unanimously recommended that the City Council "de-emphasize" the overlay boundary at this time, and perhaps revisit the issue later in the course of formulating the process. The City Council may elect to reinstitute that boundary previously recommended by staff.

#### Continue As Is

Another option for the City Council to consider would be to allow the GPA/ZC requests for residential development within the IBC to continue as they have been processed in the recent past. Over the past two years or so, eight projects totaling over 3,500 units have been processed through the GPA/ZC on a case-by-case basis. With each case, the Planning Commission and City Council have expressed increasing frustration with the lack of coordination and comprehensive planning. Concerns have also been expressed regarding the adequacy of public facilities and services such as schools, parks, trails, and police and fire services.

The proposed strategy represents probably the best opportunity to address these types of issues and the overall quality-of-life concerns for future IBC residents. Therefore, staff would not recommend that the City Council support this option.

#### Moratorium

The potential for a moratorium is really more of an interruption of processing issue than anything else. The only way a moratorium could legally be adopted in this case would be if the City declared an urgency condition in order to suspend processing of residential applications in the IBC in order to formulate new development standards and other appropriate regulations and programs. The prospect of a moratorium was raised last year during the Planning Commission workshops and the joint sessions between the City Council and Planning Commission on this issue. At that time, the Planning Commission and City Council both voiced no support for a moratorium.

### FINANCIAL IMPACT

EDAW, the City's planning consultant, developed a proposal and schedule for the project scope as recommended by the Planning Commission on March 17. If the City Council concurs with this course of action and authorizes staff to proceed, staff will execute the planning services proposal and commence the work program. The funding required for this work effort is \$150,000.

Report prepared by: Michael Philbrick, Senior Planner

Report reviewed by: Michael Haack, Manager of Development Services

Attachments:

1. Recommended Scope of Work, IBC Residential/Mixed-Use Strategy and Preliminary Schedule
  2. Planning Commission Issues for Future Mixed-Use and Residential Development Within the IBC
  3. IBC Pending Project Status
  4. Budget Adjustment
- c:
- Ken Ryan, EDAW, 2737 Campus Drive, Irvine, CA 92612
  - Cathy Baranger, EDAW, 2737 Campus Drive, Irvine, CA 92612
  - Mike LeBlanc, The Irvine Company, 550 Newport Center Drive, Newport Beach, CA 92660
  - Debra Okano, The Irvine Company, 550 Newport Center Drive, Newport Beach, CA 92660
  - John Boslett, The Irvine Company, 550 Newport Center Drive, Newport Beach, CA 92660
  - Tim Strader, Jr., Starpointe Ventures, 19700 Fairchild Road, Suite 240, Irvine, CA 92603
  - J. J. Abraham, Legacy Partners, 30 Executive Park, Suite 100, Irvine CA 92614-4724
  - Bob Olson, R. D. Olson Development, 2955 Main Street, Irvine, CA 92614
  - Pamela Sapetto, Sapetto Government Solutions, 2 Park Plaza, Suite 735, Irvine, CA 92614
  - Gerald Marcil, Palos Verdes Developers, 43 Malaga Cove Plaza, Suite D, Palos Verdes Estates, CA 90274-1360
  - Tony Petros, LSA Associates, Inc., 20 Executive Park, Suite 200, Irvine, CA 92614
  - Pete Pirzadeh, Pirzadeh and Associates, 30 Executive Park, Suite 270, Irvine, CA 92614
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Kurt Mowery, Finance Department

# **Recommended Scope of Work for the IBC Residential/Mixed-Use Development Strategy**

## **Goal 1. Protect Existing Job Base within the IBC**

### **Staff/EDAW Recommendations:**

- Preserve a core area to protect the existing job base.
- Discourage residential encroachment.
- Provide housing opportunities to support commercial/industrial uses.
- Maintain existing zoning rights.
- Create residential design criteria that protect industrial operation flexibility.

### **Planning Commission Input:**

Comment: The Council should keep in mind that there is a wide range of employment in IBC, and employment opportunities continue to evolve. For example, once corporate headquarters dominated the employment base, now Fluor, Parker Hannifin, and Smith Tool have moved on. They have been replaced or are being replaced through the economic evolution that is characteristic of IBC. As the character of IBC continues to change, employment will change. Employees will need housing in all ranges of affordability.

- Create Residential *Development Standards* for the IBC that address issues of conflict—with a special emphasis on any residential project proposed within 500 feet of an existing industrial and/or manufacturing site. These standards must address, but not limited to:

Adjacent land uses

Noise

Odors

24 hour operations

Truck traffic

Hazardous materials storage

Residential buffer zones and requirements

**Attachment 1** (4/12/05)

- Identify strategies to protect businesses and significant sales tax generators while encouraging unique development projects on adjacent properties.
- Ensure business community representation and notifications throughout the process.

## **Goal 2: Develop Mixed Use Cores**

### **Staff/EDAW Recommendations:**

- Identify locations for mixed-use cores.
- Create pedestrian activity centers at the Cores.
- Provide incentives to develop the Cores.

### **Planning Commission Input:**

Comment: Mixed “use cores” can take a variety of shapes. They should not be approached rigidly, but flexibly. Look for synergy between projects.

- Address the need for an overall balance Mixed-Use Plan
  - Office (various levels of intensities)
  - Multiple levels of Commercial-Retail uses with emphasis on restaurants and entertainment
  - Residential
  - Open Spaces “within an urban setting”
- Designate the desired urban core centers within the IBC.
- Find ways to work with developers to create attractive “destinations” that include public gathering places that integrate commercial-retail uses. Capitalize on the shift to a “24/7” population (weekday, day time office and evenings and weekend residential) to locate new dining/entertainment experiences.
- Identify ways to encourage and integrate convenient neighborhood “service retail” uses.
- Develop workable ways to encourage commercial-retail to be at the core of these mixed-use cores (e.g., 1:1 trip capture rates for retail uses).

### **Goal 3 Provide Transportation Pedestrian & Visual Connectivity**

#### **Staff/EDAW Recommendations:**

- Enhance project relationships to transit.
- Introduce new local streets.
- Provide pedestrian linkages.
- Create attractive and safe pedestrian environments.
- Visually unify and integrate facilities and uses.
- Provide linkage and support facilities to bicycle trail systems.

#### **Planning Commission Input:**

**Comment:** Connectivity is a major component in the success of IBC. Planners should consider pedestrian connections and connectors within the designated core sites as a primary goal. Consider ways to connect designated core sites to each other through a local transit system.

- Consider efforts to establish localized and dedicated transit service within IBC (with potential links to John Wayne Airport, UCI, and the ITC).
- Ensure there are adequate pedestrian and bike paths and connectivity by creating development standards that address the following:

A pedestrian and bike path master plan that connects to the City's master bike path and trails system.

Ensure pedestrian connectivity throughout the IBC with pedestrian designated access standards, requirements and linkages between parcels and uses.

- Consider varied "Set-Back" requirements to provide for the following:

Visual corridors and connectivity that is gate-free

Off-street pedestrian and bike access

Synergies with park and public gathering places and spaces

## **Goal 4: Create Usable Open Space**

### **Staff/EDAW recommendations:**

- **Contribute fees to the community-wide park system.**
- **Provide urban open space.**
- **Provide semi-private open space.**
- **Provide private open space.**
- **Provide landscape throughout project.**

### **Planning Commission Input:**

**Comment: For IBC, planners should explore the IBC landscape to discover connectivity opportunities. IBC Open Space element must also be thought of in unique ways. Traditional parks may not be appropriate. Decommissioned rails converted to trails and other rights-of-way (ROW) should be seen as unique opportunities to develop non-traditional open spaces.**

- **Determine the requirements for public spaces for all residential, commercial, retail, and office users.**
- **Finds ways to promote the connection of various land uses into a synergistic mixed-use urban core. The goal is to create “places” that enhance the creation of “destination” urban cores, and provide protected pedestrian access.**
- **Development standards need to be created for the following:**
  - On-site and off-site park, public places, and recreational spaces and facilities/improvements**
  - Incentives for “urban spaces”; blending retail and restaurant uses with public open spaces**
- **Find ways to encourage developers to coordinate and cooperate with funding and locating recreational facilities.**
  - Consider land requirements and park improvements together.**
  - Consider reduced on-site parking for park sites.**
- **Examine the possibilities of zoning abandoned railroad spurs as open space.**
  - Consider ways to convert the railroads rights-of-way to off-road walking and bicycle trail system.**

- Consider the Edison right-of-way on the west side of San Diego Creek for a multipurpose trail, with perhaps a bridge over the creek to Westpark.

## **Goal 5: Develop Safe, Well-Designed Neighborhoods**

### **Staff/EDAW Recommendations:**

- Create a pedestrian-friendly walking environment.
- Provide visually rich & engaging street scenes.
- Visually differentiate and emphasize retail.
- Implement landscape and building treatments.
- Buffer new residential developments from existing industrial uses.
- Encourage variation in building heights and types.
- Design buildings with articulated massing.
- Incorporate architectural detailing.
- Design roofs that are attractive from the ground and taller buildings.
- Buffer and blend parking structures.
- Provide parking solutions.
- Create a safer living and work environment.
- Build sustainable and energy-efficient residential buildings.

### **Planning Commission Input:**

**Comments:** Neighborhoods throughout Irvine are called “villages” and are loaded with traditional amenities. There will be a temptation to see IBC “neighborhoods” as mini versions of Irvine villages. These new Irvine communities need to have their own unique urban characteristics.

- Protect residents and businesses with development standards. Special development standards should be considered for residential projects proposed within 500 feet of an existing manufacturing and/or industrial site.
- Use residential development standards to focus new residential developments on arterial roadways (Jamboree, Von Karman, Campus, and Main Street). Ensure proper mitigation measurements and appropriate community benefits.
- Put in place “workforce” housing requirements to provide truly affordable housing opportunities.

**ADDITIONAL PLANNING SERVICES FOR THE IBC AREA**

PRELIMINARY SCHEDULE

Task	Month 1				Month 2				Month 3				Month 4			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1. Response to Phase One Issues																
2. Develop Standards & Guidelines																
3. Prepare Implementation Strategy Document																
4. Department/Meetings/Outreach/Community Input	*			*	*		*		*		*		*		*	
5. Coordination																

\* Team Meetings

Assumes a 4 month Schedule

**PLANNING COMMISSION ISSUES  
FOR FUTURE MIXED-USE AND RESIDENTIAL  
DEVELOPMENT WITHIN THE IBC**

Infrastructure

- Establish appropriate review procedures.
- Address infrastructure needs (including schools, parks, police and fire services).
- Evaluate and address traffic/transportation needs.
- Ensure that environmental issues are addressed in process.
- Consider efforts to establish localized and dedicated transit service within the IBC (with potential links to John Wayne Airport, UCI and the Irvine and Tustin Transportation Centers).

Amenities

- Establish pedestrian connectivity.
- Create incentives for desired amenities.
- Require development to fund needed community amenities.

Parks/Recreation

- Address funding of land requirements.
- Address funding of park improvements.
- Considered reduced parking for park sites.
- Ensure adequate pedestrian and bike connectivity.
- Establish new park dedication requirements and development standards to recognize urban conditions.

Overlay Boundary

- Address micro-level issues associated with land use compatibility (i.e. noise, odors, truck traffic, 24-hour operations, hazardous materials storage, etc.).
- Consider carving out parcels to be excluded.
- Focus new Residential development on arterial roadways.
- Consider requests to expand the overlay boundary.

Development Standards

- Ensure land use compatibility.
- Address long-term economic viability for existing businesses.
- Develop workable incentives to encourage mixed-use development.
- Consider on-site trip capture for retail development.
- Identify ways to encourage and integrate convenient neighborhood serving retail uses.

- Mixed-use development offers opportunity to reduce automobile dependency and improve air quality.
- Gate-free neighborhood.

#### Concerns to be Addressed Through the Process

- Protect residents.
- Business community representation.
- Establish goals.
- Seek a balance of mixed use.
- Ensure proper notification throughout the process.
- Identify strategies to protect businesses and significant sales tax generators.
- Identify effective tools to promote and include adequate affordable housing in the IBC.
- Consider revisions to the City fees for transfers of development rights.

#### Applicability

- Establish appropriate cut-off for pending projects
- Consider status of all pending projects without entitlements

**IBC PENDING PROJECT STATUS**

(As of March 24, 2005)

	<b>Units Count</b>	<b>Scoping Session Date</b>	<b>Deemed Complete?</b>	<b>Public Hearing for GPA/ZC</b>
Irvine Crossings	752	11/9/2004	No	TBD
2801 Alton	179	11/9/2004	Yes	TBD
Avalon Bay	290	11/9/2004	No	TBD
The Plaza Irvine (Phases III & IV)	103	11/9/2004	No	TBD
Campus Center Apartments	63	11/9/2004	No	TBD
The Carlyle	156	2/22/2005	No	TBD
Martin Street Condominiums	90	2/22/2005	No	TBD
2801 Kelvin	248	2/22/2005	Yes	TBD
Olen (2801-2823 McGaw)	305	TBD	No	TBD
Olen (16552 Von Karman)	104	TBD	No	TBD
Olen (1929 - 2031 Main)	321	TBD	No	TBD
Olen (2132 - 2168 Michelson)	323	TBD	No	TBD
Trammel Crow (2400 Michelson)	185	TBD	No	TBD
Standard Pacific (2323 Main)	444	TBD	No	TBD
<b>Total</b>	<b>3,563</b>			

TBD = To Be Determined

ATTACHMENT 3 (4/12/05)



irvine business complex **DRAFT**  
mixed-use community **VISION**

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June 16, 2006

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## **Introduction**

The Irvine Business Complex (IBC) is a unique part of the City of Irvine. Dating from the 1970s, the IBC was developed solely as a commercial and industrial center serving Southern California as a regional economic and employment base, including hotel, restaurant, commercial, retail, industrial, and office uses.

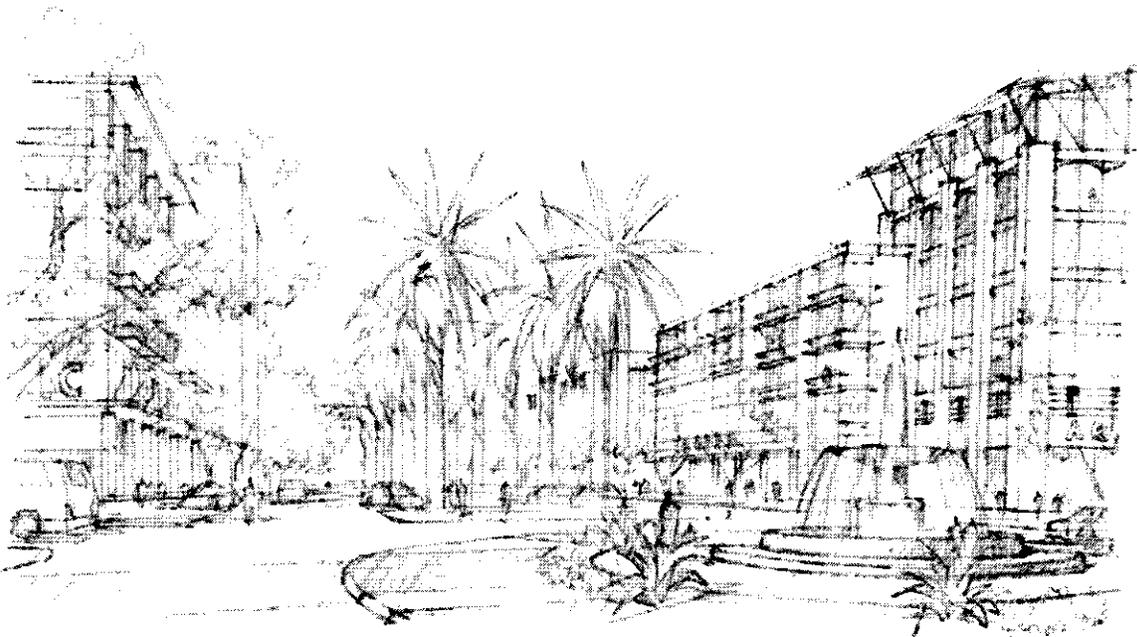
Transition in land use was contemplated in the original entitlement program for the IBC with the amount and variety of land use within an individual parcel being dictated by a trip generation strategy. A process was created that permits Transfer of Development Rights between parcels based upon trip generation, environmental analysis and mitigation studies. Market forces, however, have increased development pressures in the IBC and are encouraging a rapid transition from a suburban mixed-use commercial and industrial center into a more urban regional mixed use center. This evolution, to a more urban environment, will include an array of commercial, industrial, retail and residential land uses constituting changes to the look, feel, and function of the business complex.

In early 2004, the number of applications for residential units within the IBC increased dramatically and City of Irvine staff anticipates that the increase could reach over 10,000 units within the next five to ten years. This increase in residential units represents a significant increase over the original residential cap of 3,896 dwelling units in the IBC established in 1992. The City of Irvine identified the need for a development strategy and a coordinated urban design framework to address the impact of these new residential developments within the IBC while ensuring the continued economic viability of existing and future businesses.

These development pressures have created a need for a vision, a vision which takes the working heart of Irvine into the 21st Century. The purpose of this Vision Plan is to develop a comprehensive strategy and guiding urban design framework for future IBC development. This Vision Plan and the Irvine Business Complex Residential Mixed-Use (IBCRMU) Overlay Zone, call for creating sustainable urban neighborhoods within a framework of new streets and open spaces; a new approach than has traditionally been considered within other residential areas of Irvine.

The recommendations within this document are the result of a year-long process. This Vision Plan reflects a long-term view of the IBC, beyond the expectations of current thinking and reflects the best planning techniques available to assist in this evolution. This Vision Plan also builds on the principles established through the public meeting process and at the IBC Design Charrette held in July 2005.

Together, the Vision Plan and the IBCRMU Overlay Zone will become the basis for determining the coordination of public and private sector initiatives for the development and implementation of a sustainable, quality mixed-use community within the IBC.



Character Images –Streetscape

# BACKGROUND

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## **Background**

### **Location**

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Lying on the southwestern edge of the City of Irvine and adjacent to the cities of Tustin, Santa Ana and Newport Beach, the IBC is a regional hub within Orange County. The IBC extends over 2,760 acres, making it the largest business complex in the Orange county region. The complex was originally designed as the bustling working machine for the City, creating a unique environment for economic growth and vitality.

The boundaries of the Irvine Business Complex, located on the southwestern portion of the City of Irvine, are well defined. John Wayne Airport forms the northwestern boundary and San Diego Creek forms the southeastern boundary, with two arterial roads - Barranca Parkway and Campus Drive – forming the northeast and southwest boundaries of the IBC area.

### **Regional Influences**

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There are several regional influences that are important in terms of the location of the IBC. These influences include:

#### **John Wayne Airport**

Unique to the IBC is its close proximity to John Wayne Airport. The airport has a service area of three million people with an annual volume of over nine million passengers. To keep up with population growth, the County has approved plans to expand facilities at the airport. The airport is located at the terminus of Michelson Drive and Macarthur Boulevard.

#### **University of California Irvine (UCI)**

The 24,000-student UCI campus is located on 1,500 acres to the east of the IBC. The campus now employs 6,000 people and provides a rich resource for the IBC area.

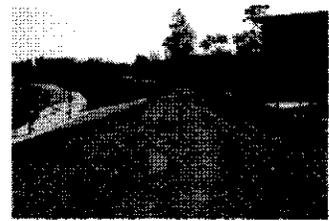
#### **Regional Development**

The developments proposed at the former MCAS Tustin (Tustin Legacy) and El Toro (Heritage Fields), and the existing Spectrum Center, are emerging as significant draws within the region, both to residents and visitors. The IBC has played an important role in the image of the City since regional transportation connections flow through the IBC between the airport and these regional facilities.

---

### San Diego Creek

The San Diego Creek, which runs along the southeastern boundary of the IBC, provides an important connection to a comprehensive system of parks and open space developed within the City of Irvine. The San Joaquin Wildlife Sanctuary, which abuts the IBC, offers ten miles of trails for walkers, joggers, bikers, and equestrian riders. The "Mountains to the Sea" trail, a 22-mile network of hiking, biking, and riding trails, connecting the historical Irvine Ranch and the northern foothills, to Upper Newport Bay and the Pacific Ocean, runs along the eastern side of the San Diego Creek.



Existing Creek



Regional Location Map

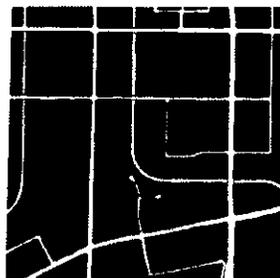
## Transportation

Existing streets within the IBC are designed to accommodate high speed through traffic, especially on the major arterials. These wide streets make it difficult for pedestrians and bicycles to cross and would not be classified as “urban” in character. However, any future planning must maintain the street capacities required to accommodate development previously approved within the IBC and address capacities as needed for any additional proposed intensity.

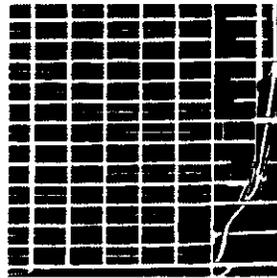
The IBC is served by a system of public transportation bus routes aligned on most major arterial streets. Currently, there are 11 local and regional bus routes serving the IBC. The routes are part of the wider Orange County Transportation Authority (OCTA) network of buses and trains within the region. The Tustin Metrolink train station is located 1.5 miles to the north of the IBC. There are existing OCTA bus routes that service the IBC from other parts of the region. The existing bus routes provide connectivity throughout the IBC along Alton Parkway, Michelson Drive, Red Hill Avenue, Jamboree Road, Dupont Drive, Main Street, and Von Karman Avenue.

## Existing Urban Form

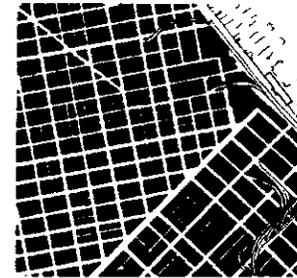
The existing block system within the IBC has evolved based on industrial functionality and large user size resulting in a large grid, “super block” street pattern. For these practical reasons, little or no consideration was given to the pedestrian. In the book *Great Streets* by Allan B. Jacobs, the IBC was compared to various cities throughout the world in terms of scale and block size. The blocks within the IBC are three and four times the size of notable “walkable cities” such as Santa Monica and San Francisco. The comparative studies, below, show the disparity in the size of the blocks between the IBC and more urban, pedestrian-oriented environments, which typically are comprised of smaller blocks.



Irvine Street Blocks



Santa Monica  
Street Blocks



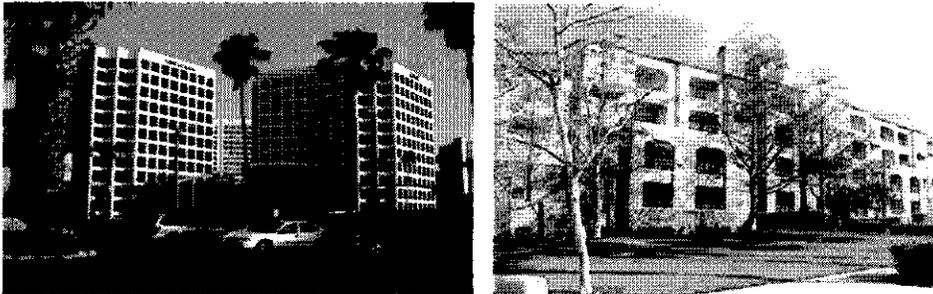
San Francisco  
Street Blocks

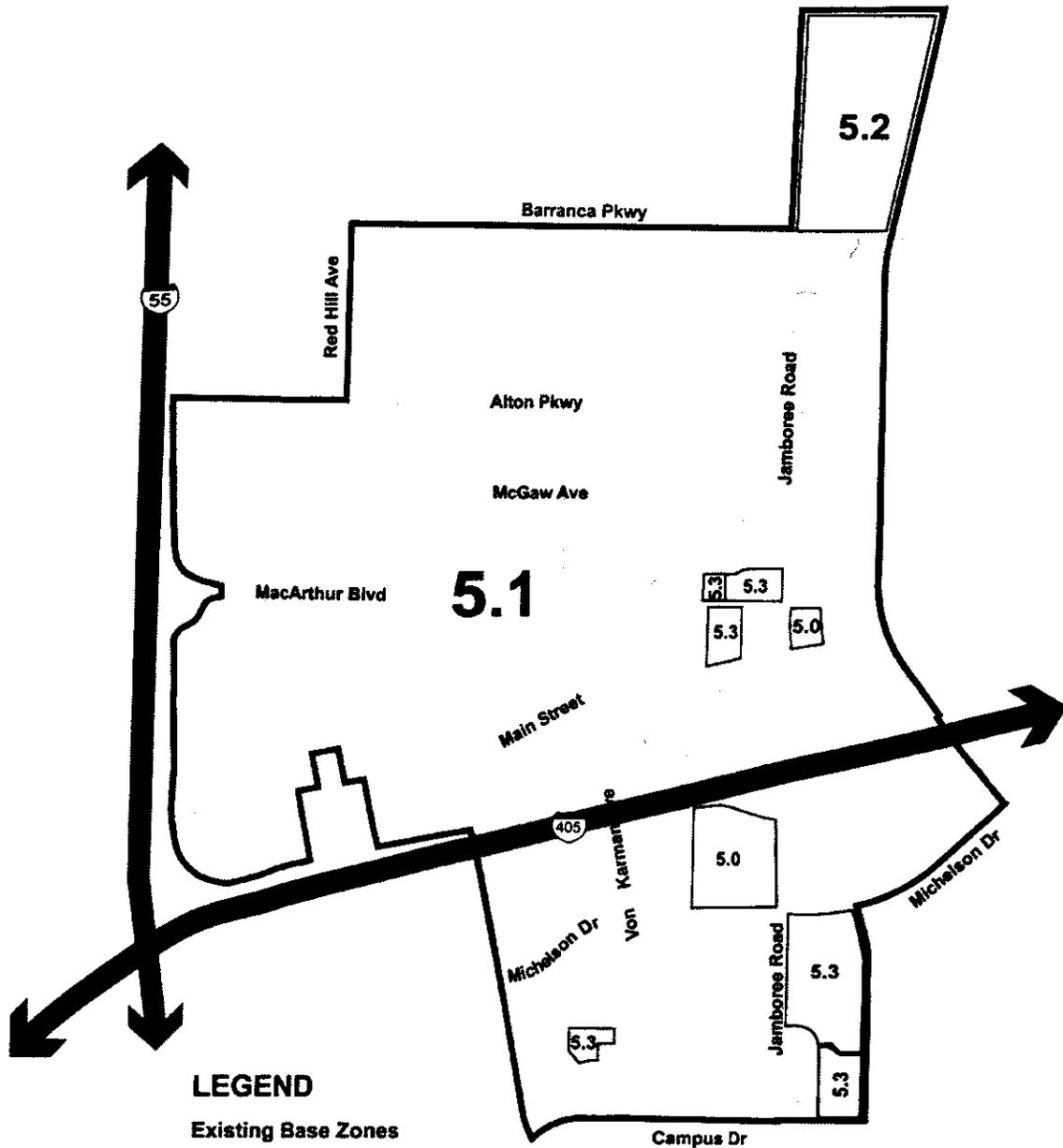
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Many streets within the IBC do not have sidewalks and on-street parking is not permitted in a majority of the complex. The large scale of the blocks and width of the streets have restricted pedestrian connectivity. As a result, accessibility and pedestrian movement is very difficult. The existing urban form in many areas of the IBC lacks a distinctive “sense of place” or strong identity. The IBC tends to blend with neighboring industrial areas in adjacent jurisdictions with no clear demarcation. The perception of the area comes from its wide streets which provide the dominating visual experience with buildings typically set far back from the street. These characteristics are appropriate for a business park, but lack human scale, diversity and visual richness if a high value, mixed-use or residential district is the goal.

## Existing Uses

The IBC offers a wide range of industrial and service industries ranging from specialty pharmaceutical, healthcare and medical products, clothing manufacturers and other commercial, and financial institutions. As a result of the close proximity to the airport, other service industries have developed, including hotels and restaurants. Several companies, like Allergan, Edwards Life Sciences, St. John Knits, and Taco Bell have located their company headquarters within the IBC, some of which date back prior to the City of Irvine’s incorporation in 1971. It is important that existing businesses be allowed to not only continue their business as usual but are empowered to expand consistent with current development rights.





**LEGEND**

**Existing Base Zones**

- 5.0 Mixed-Use
- 5.1 Multi-Use
- 5.2 Industrial
- 5.3 Residential

Unless otherwise noted, all zones are 5.1

5.1

Existing Base Zoning

---

## Increased Housing Demand

---

A number of factors have created an impetus for the IBC to transition to an urban, mixed-use center. These factors include:

- A strong residential market demand combined with a lack of available land in the region for new housing;
- An existing stock of aging, low density tilt-up industrial buildings; and
- A key location at the confluence of several freeways and regional circulation systems.

In response, new residential development has been “inserted” piecemeal into an existing industrial community with no overall master plan guidance. A resulting ‘island mentality’ has developed with gated and/or inward focused residential complexes with little or no relationship to surrounding streets and buildings.

## Resident Survey

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Alfred Gobar Associates performed a survey of the current residents within the IBC in 2005. All IBC residents currently reside in higher density apartment and condo-style dwellings. The characteristics of these existing households are seen to predict fundamental demographic traits (household size, number of cars, number of children, etc.) of future residents expected to reside in new, higher density housing planned in the IBC area.

Characteristics of special note found through the survey are as follows:

- There is a substantially greater proportion of one- and two-person households in the IBC area than in the rest of the City.
- The average number of persons per household is 1.86 members.
- There is a substantially smaller proportion of children under 18 years of age (only 11% of residents are under 18 compared to 25% City-wide).
- The number of workers per household is slightly less in the IBC area than is true for the City but only due to a substantially greater proportion of a one-person households in the IBC.
- The proportion of IBC residents that work outside the IBC area is comparable to the proportion of Irvine residents that work outside the City.
- All households in the IBC area own at least one vehicle but a significantly smaller share of households own two or more vehicles than is true for the City overall.
- Driving to work alone remains the dominant method of commuting to work, even for IBC residents that also work in the IBC area.

## Parks and Open Space

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There are currently no public neighborhood parks or recreation facilities within the IBC. The Bill Barber Marine Corps Memorial Park, located adjacent to the IBC, serves the area for Community Park outdoor recreation facilities as well as the San Joaquin Freshwater Marsh and San Diego Creek Trail.



A number of private, internal recreation facilities have been developed as part of the residential developments within the IBC. These facilities are predominantly gated or indoor facilities with no public access or city-wide public recreation value.

## Community Participation

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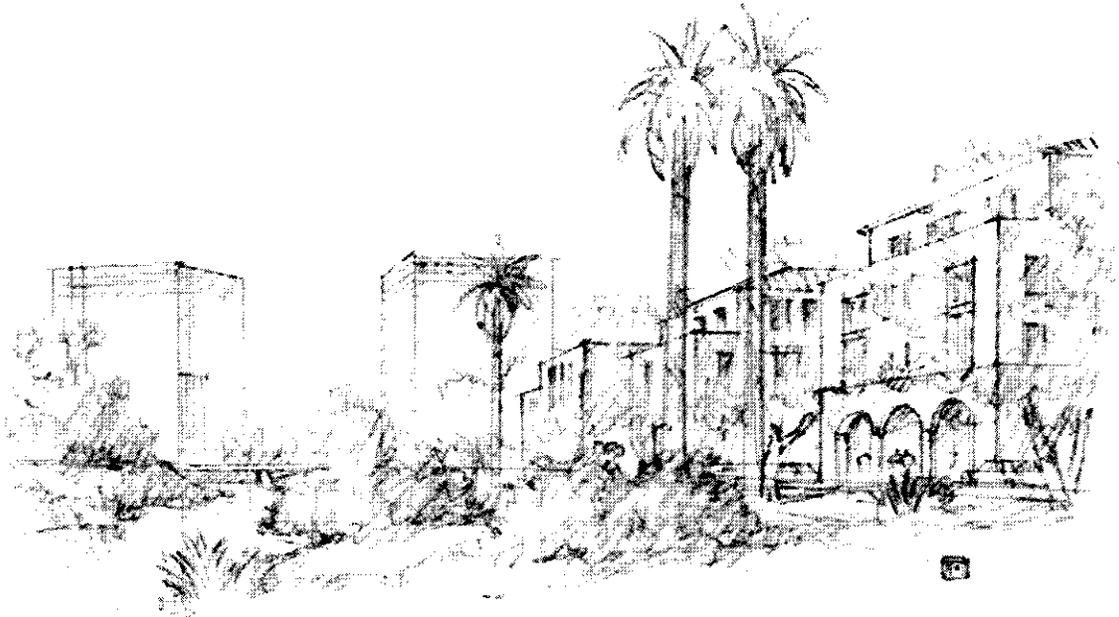
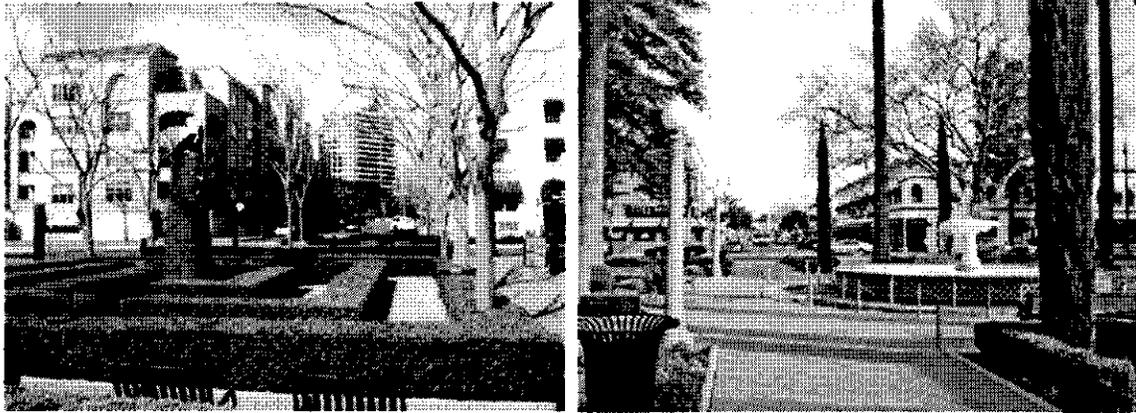
Throughout the IBC planning process, the involvement of various individuals, organizations, key stakeholders, local businesses and developers have been sought to build and develop a broad based consensus for the effective Vision Plan. A number of public meetings were held during the first part of 2005 to develop the vision elements.

On April 12, 2005, the Irvine City Council adopted a series of recommendations directing the preparation of this document as well as the IBC Residential Mixed-Use Overlay Zone. As part of this effort, the City Council adopted five vision elements for use in guiding the preparation of development standards. The vision elements include:

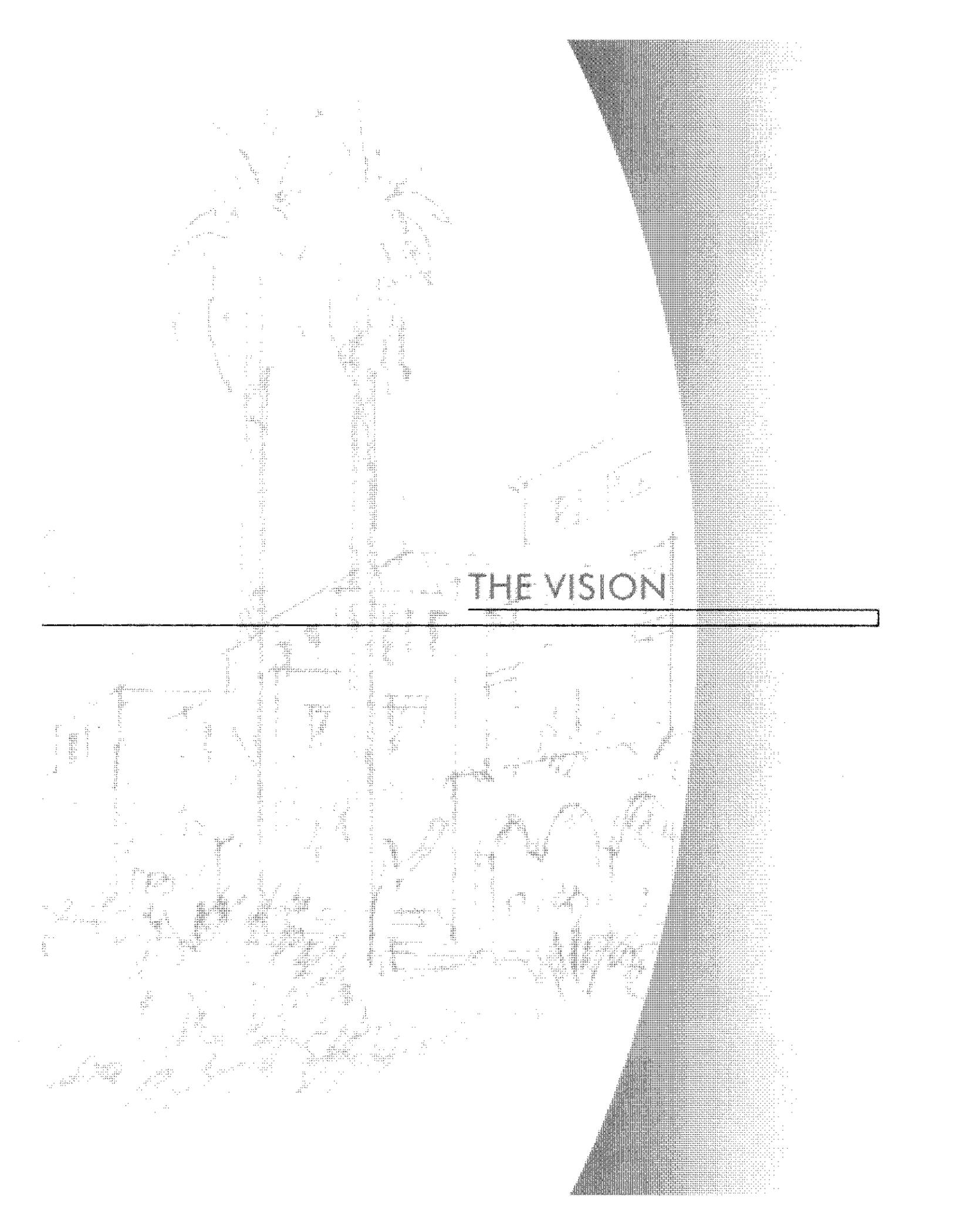
- Protect the existing job base within the IBC.
- Develop mixed-use cores.
- Provide transportation, pedestrian, and visual connectivity.
- Create useable open space.
- Develop safe, well-designed neighborhoods.

The City Council also directed staff to continue processing pending IBC residential applications, working cooperatively with applicants to achieve the spirit of the strategic goals, while these documents were being developed.

In addition, the City hosted the IBC Design Charrette from July 5 - 9, 2005 to develop new standards and guidelines for residential development within the IBC. Key urban design principles created at the Design Charrette have formed the basis of this document and the Urban Design Framework Plan (see page 25).



Character Images – Parks and Open Space



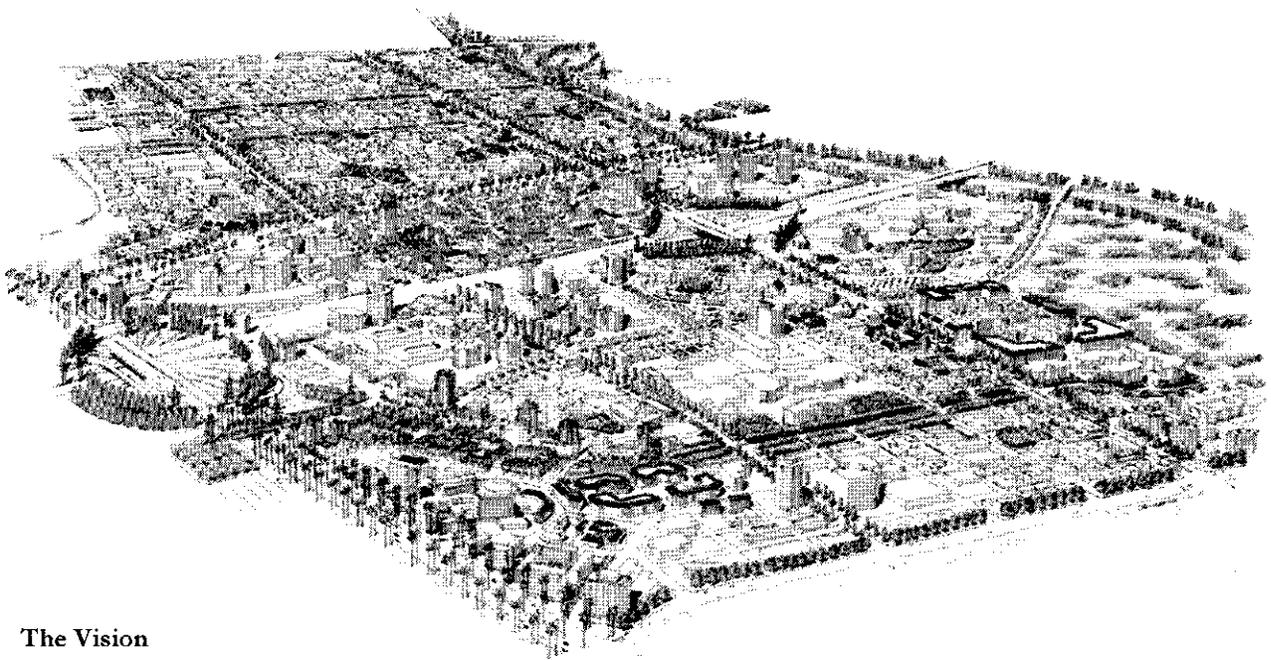
THE VISION

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## The Vision – Overarching Concepts

The purpose of this Vision Plan is to address the opportunities and constraints previously discussed and develop an urban design framework to guide future development in the IBC. This Vision Plan suggests a dynamic mix of uses, with urban housing integrated into a conceptual framework of streets, landscape improvements, pedestrian walkways, and urban open spaces.

In order to achieve a balanced urban environment, the IBC needs walkable districts where people can work, live, and play; feeling part of an evolving and vibrant cosmopolitan city. This requires a mix of uses and places that are activated both day and night, drawing together diverse community segments both business and residential.



The Vision

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## Provide a Guide for Future Development

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This IBC Vision Plan will serve as a guide for public improvements within the complex, including criteria for park locations, a conceptual new street network, and improvements to the streetscape design.

## Provide Housing Opportunities

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New residential development will provide a range of housing opportunities including rowhouses, live-work units, courtyard housing, commercial blocks, podiums, liners, and towers while still retaining the mature industrial development and its associated job base.

Private developments will be guided through the new IBCRMU Overlay Zone. In addition, a funding mechanism will be established to provide for implementation of the community-oriented pedestrian and infrastructure improvements outlined in this document to increase walkability within the IBC.

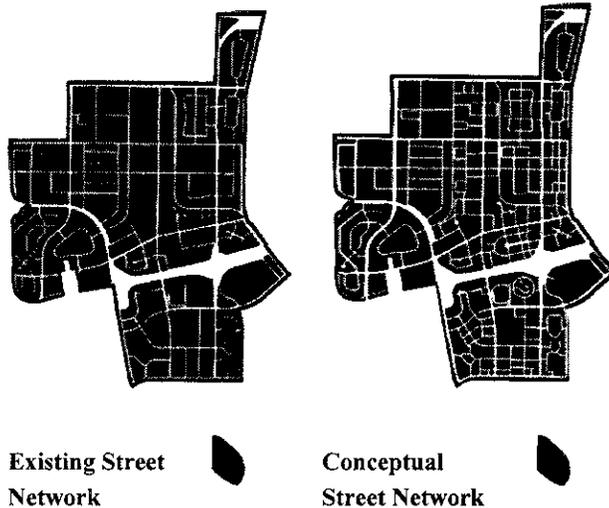
## Create New Streets and Smaller Blocks

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A key consideration for the future of the IBC is the introduction of new streets, reducing the size of blocks to a pedestrian scale. A component of walkable neighborhoods is smaller blocks. While the existing arterial road system needs to continue to function as planned to move vehicles through the IBC, the new streets and pedestrian paseos will connect to the arterials at key locations.

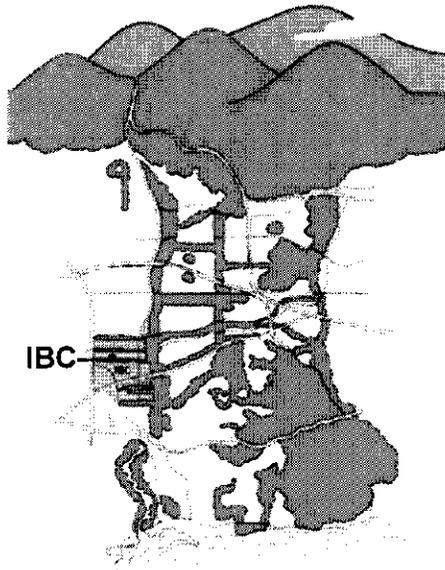
New connections will be encouraged and designed that keep ultimate curb locations as planned under existing policies and requirements but move the sidewalk away from the curb into the required setback area where appropriate. Landscape parkways or wide sidewalks with tree wells will be encouraged in key locations.

The new standards in the IBCRMU Overlay Zone and associated guidelines will lead to buildings that are more human-scaled, on smaller blocks, which provide a greater variety of pedestrian-friendly experiences.

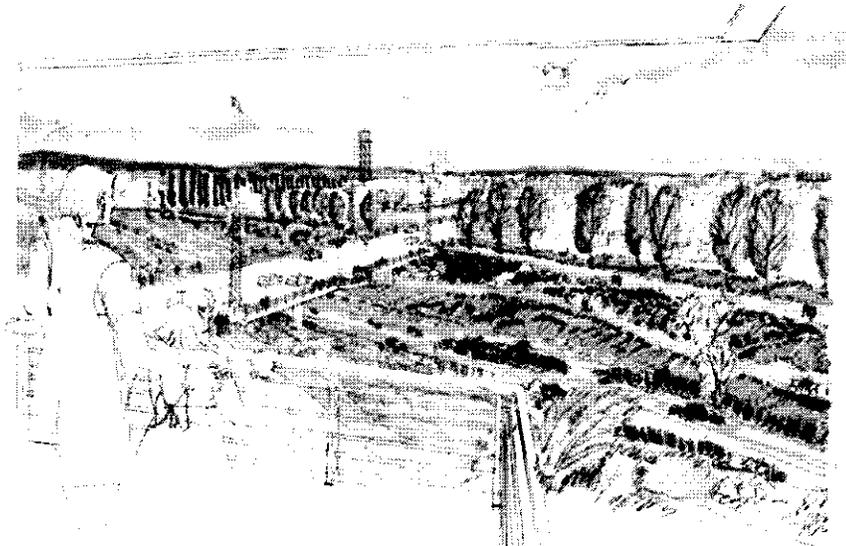


## Develop a Pedestrian Linkage System

A system of pedestrian linkages, parks, and urban open spaces will be a critical component of future projects connecting residential to employment opportunities within the IBC as well as link to the San Diego Creek and San Joaquin Freshwater Reserve. A pedestrian “Creekwalk” system is envisioned adjacent to the San Diego Creek that will ultimately provide a trail connection to the Great Park from the IBC and the Civic Center.



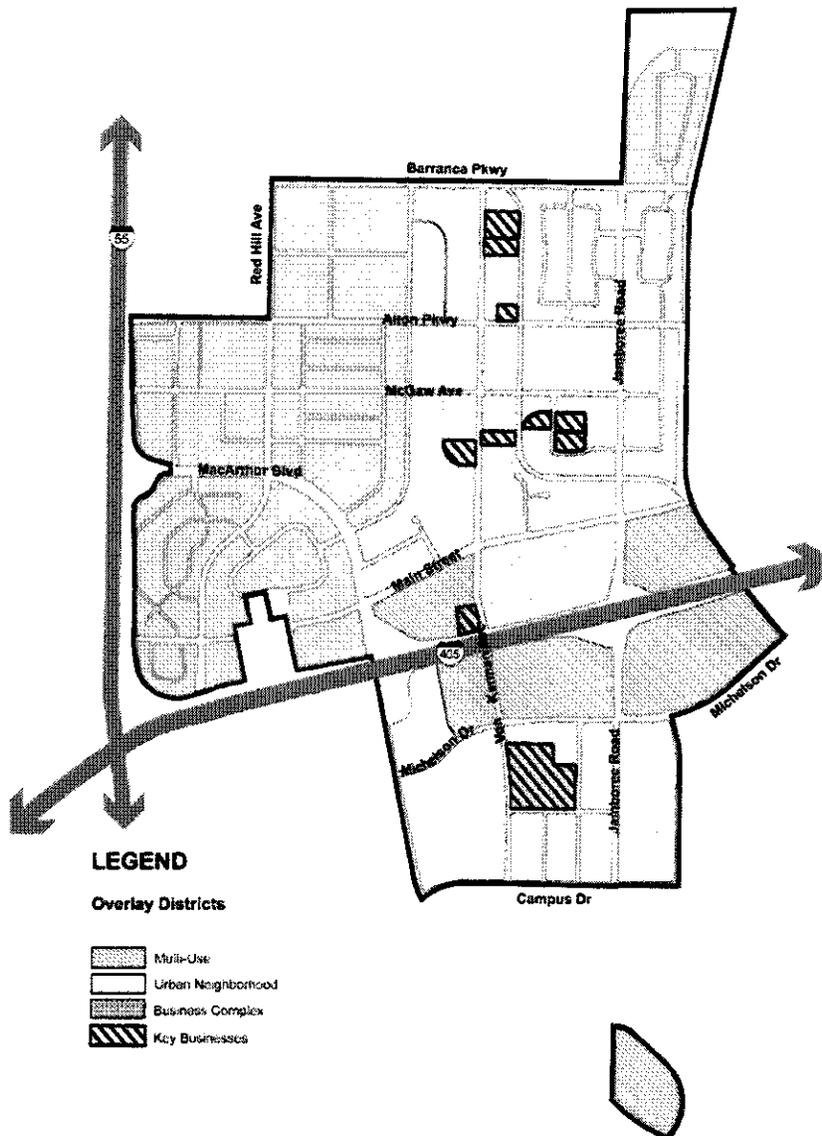
Open Space Connection – Mountains to Bay



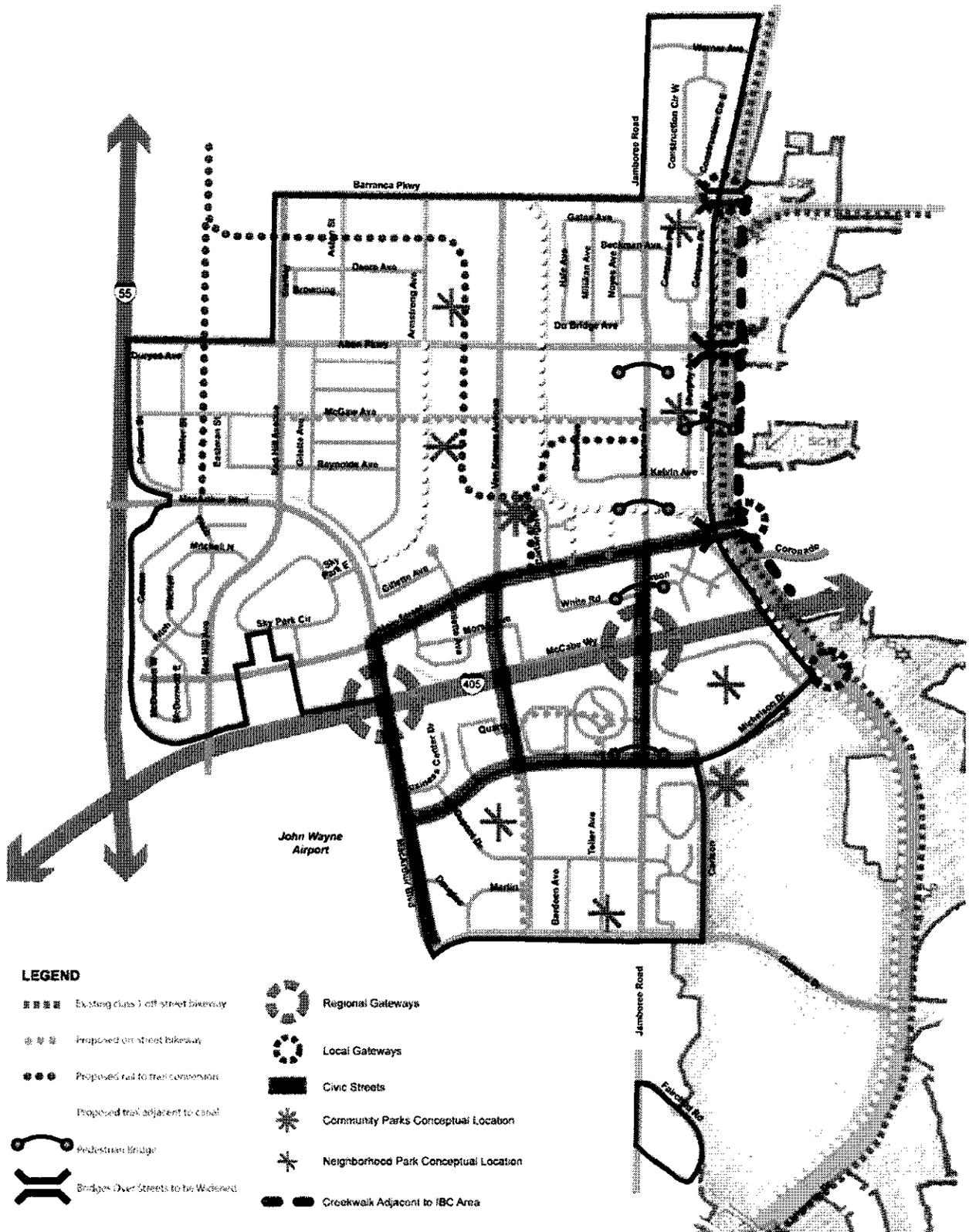
Creekwalk – IBC Illustrative Concept

## Vision Framework Plan

The Vision Framework Plan provides the land use and urban design structure by which new residential development will be organized. The Vision Plan is a summary exhibit of the key elements and attributes to ensure the development of high quality, sustainable neighborhoods and a mixture of uses which will achieve and maintain the highest economic value within the long-term like the Land Use Element of the General Plan. The Regulating Plan in the IBCRMU Overlay Zone implements the Framework Plan.



### Regulating Plan in the IBCRMU Overlay Zone



**LEGEND**

- Existing class 1 off street bikeway
- Proposed on street bikeway
- Proposed rail to trail conversion
- Proposed trail adjacent to canal
- Pedestrian Bridge
- Bridges Over Streets to be Widened
- Regional Gateways
- Local Gateways
- Civic Streets
- Community Parks Conceptual Location
- Neighborhood Park Conceptual Location
- Creekwalk Adjacent to IBC Area

**Vision Framework Plan**

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## New Districts

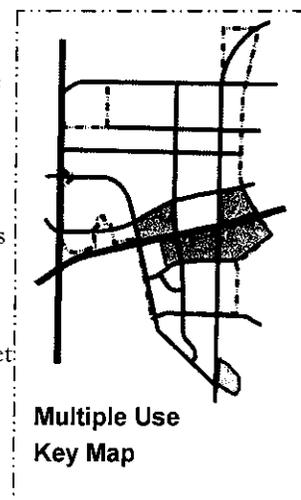
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The IBC was originally planned as a business complex and at present, there is little distinctiveness or character between its different areas. The Vision Plan attempts to address this lack of distinctiveness and character by creating three districts, each with its own unique identity and character. The purpose of creating different districts is to influence the pattern of development and land uses within each district. This will be achieved through a range of land uses, development types, scale of buildings, the streetscape design, and setbacks. As a whole, the districts will create distinct areas which will become the focus for the activity or facility within each district and together they will create a unique 'sense of place' within the City of Irvine.

### Multiple Use (MU)

The Multiple Use District includes the portions of the IBC with large existing multi-use development on sites that may allow for more intensification. Streets throughout the district are currently automobile-oriented, however the vision is to create a shared automobile-pedestrian scale environment.

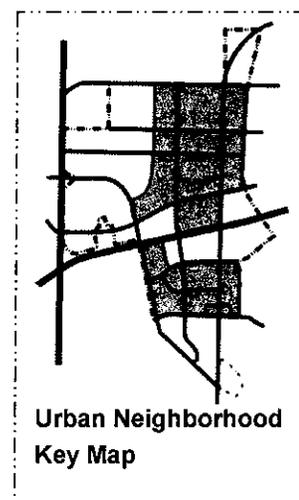
- Land uses range from ground floor retail, offices, and restaurants, with upper floors accommodating offices or residential.
- Lodging, entertainment, and civic uses are also encouraged.
- Off-street parking should be provided in shared garages, or located away from street frontages behind buildings.
- On-street parking may be considered appropriate on new community streets.
- Streetscapes are urban in character and planted to both enhance the pedestrian experience and contribute to the identity of the district.

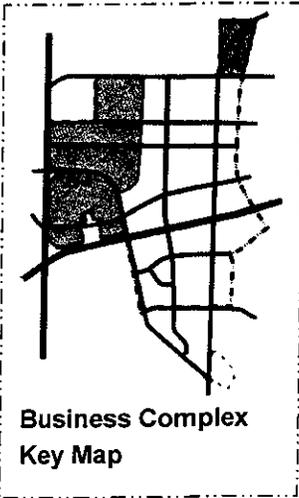


### Urban Neighborhood (UN)

The Urban Neighborhood District includes the majority of the IBC and allows a range of land uses and buildings of up to seven stories. Generally, these neighborhoods are envisioned to be primarily residential with retail, offices and restaurants allowed on the first floor.

- Auto-oriented uses are not appropriate in this district.
- Street frontages throughout the district are pedestrian-oriented.
- Off-street parking is provided in shared garages, or located away from street frontages behind buildings.
- On-site parking may be appropriate on the new connector streets.
- Streetscapes are urban in character with enhanced pedestrian experience.





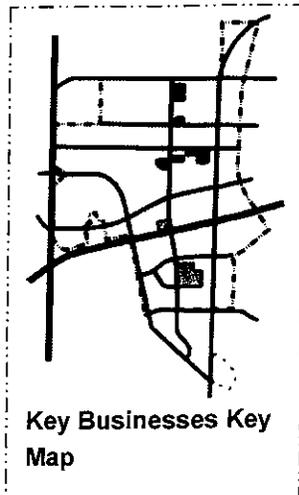
**Business Complex (BC)**

The Business Complex District is applied to portions of the IBC characterized by existing longstanding industrial uses that are expected to remain. This District accommodates new industrial uses and an expansion of existing uses.

- Residential uses are not permitted in this area.
- The land use types and standards allowed in the district are determined by the base zoning designation.
- Streetscapes are suburban in character with wide setbacks and landscaped areas.
- Off-street parking is provided in parking lots, adjacent to the streets.
- On-street parking is restricted within this district.

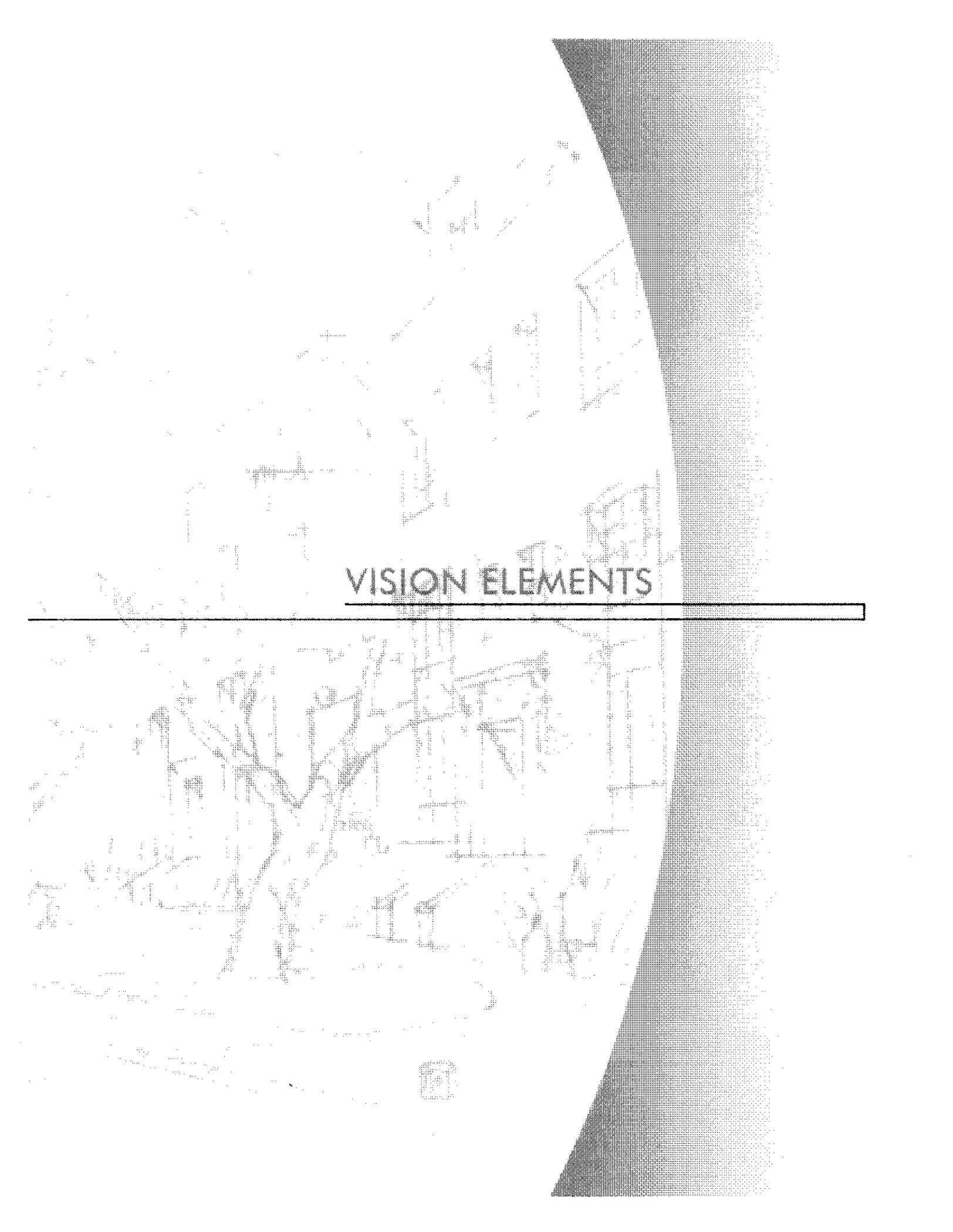
**Key Businesses**

A number of longstanding businesses in the IBC have been identified as a “Key Business”, the operating characteristics of which may be incompatible with proposed residential uses on adjacent sites. Therefore, a 200-foot buffer for proposed residential uses is required from these Key Business sites.





Character Images - Residential

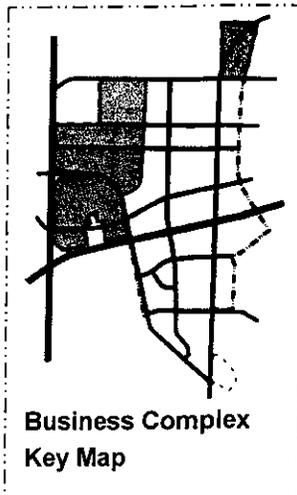


## VISION ELEMENTS

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## Vision Elements

The following five Vision Elements organize the Vision Plan and includes key principles identified during public meetings. Following the introduction of each Vision Element are the key components that implement the Vision Plan.

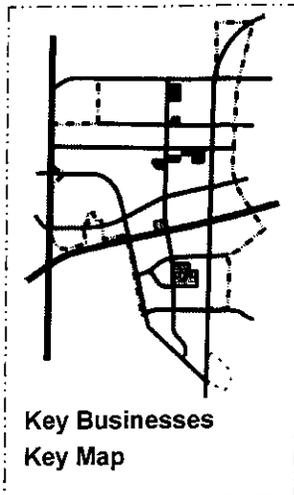


### 1. Protect Existing Job Base

In order to maintain long-term property value and economic health, the IBC will not only attract new office, retail, and residential uses but will protect those businesses that wish to remain and possibly expand. As market strength shifts between uses over time, the value of all uses will be enhanced by a fully integrated and mixed-use district approach. New residential neighborhoods must co-exist with mature industrial uses for the balanced community concept to succeed.

Key principles are:

- Preserve a core area to protect the existing job base and provide for future job growth.
- Discourage random, incremental residential encroachment into the core employment area.
- Provide housing opportunities for the local and regional employment base that support and complement commercial and industrial uses in the IBC.
- Maintain existing zoning rights for all property owners.
- Create criteria that protect both industrial and residential operations.



### Overlay Zone Implementation

The Overlay Zone allows all property owners to maintain their current zoning if that is their preference. The Overlay Zone only applies to properties for which new residential is proposed. The Business Complex District designation also protects a number of existing key businesses. A buffer has been established that discourages residential development within 200 feet of a protected business. Guidelines have been developed in the Overlay Zone to provide incentives for new housing to cluster around existing residential developments rather than being scattered throughout the IBC. The Overlay Zone requires an industrial adjacency assessment of all properties within 500 feet of the proposed residential project site. Adjacent property owners will be notified by the City of proposed residential development during the assessment process.

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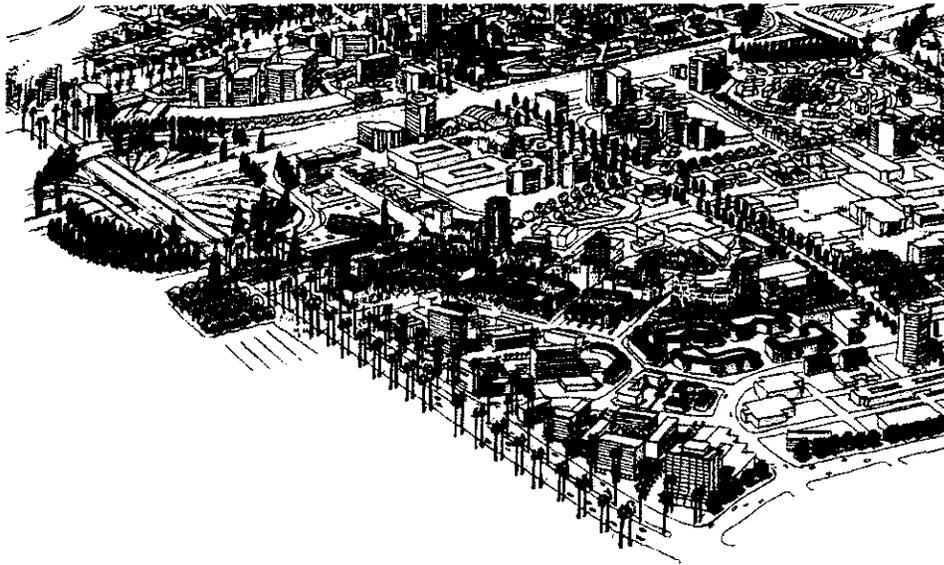
## 2. Develop Mixed Use Districts

The development of mixed-use districts within the IBC will help stimulate and reinforce the integration of uses and provide housing adjacent to local services and jobs within a walkable environment.

Key principles include:

- Identify preferred location for mixed-use cores of higher density commercial and residential development.
- Create pedestrian activity centers within and around the cores with services, food, child care, and transit within walking distance of residences and employment.
- Provide incentives for mixed-use and the inclusion of retail and other support services within core areas.

Multiple Use Districts encourage mixed-use within ground floor commercial, urban parks, and street landscape treatments.



**Vision Concept**

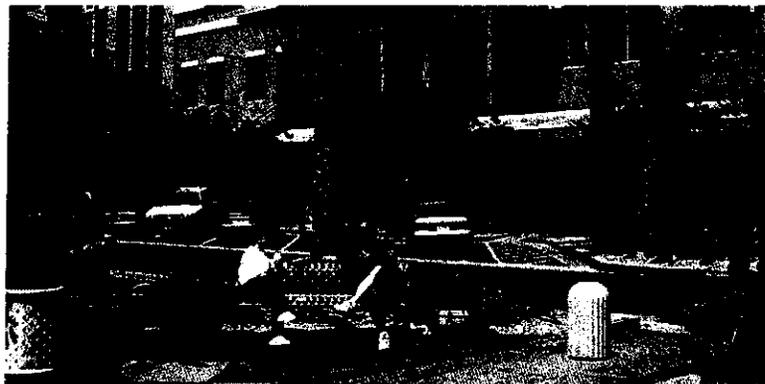
### 3. Provide Transportation, Pedestrian and Visual Connectivity

The Vision Plan suggests a more 'pedestrian oriented, urban living experience' within the emerging residential and mixed-use districts of the IBC. In the long-term, it is hoped that the need to drive within the IBC will be modestly reduced. To achieve this, it is essential that each new development make a positive contribution towards an expanded and connected street system, comfortable and secure walking paths and an expanded transit opportunity. Attractive buildings, 'eyes on the street' residential design and integrated open space will also encourage an enhanced pedestrian and vehicular experience.

In an attempt to transition from large-scale blocks to sustainable urban residential neighborhoods, new residential developments will be encouraged to utilize smaller blocks and more interconnected streets and pedestrian ways to create a network of linkages.

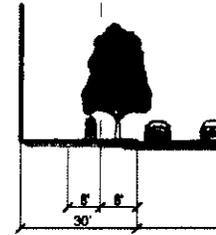
Key principles include:

- Enhance project relationships to transit systems, including Metrolink, OCTA buses and UCI shuttles.
- On larger projects, introduce additional local streets within and between parcels to improve vehicular, emergency and pedestrian access.
- Provide pedestrian linkages that facilitate improved resident access to local services, recreation facilities, the City's trail network and transit access.
- Create attractive, safe (eyes on the street) and well landscaped pedestrian environments.
- Provide linkages and support facilities to promote use of city and regional bicycle trail systems.
- Connect all new residential development with existing and future transit stops.

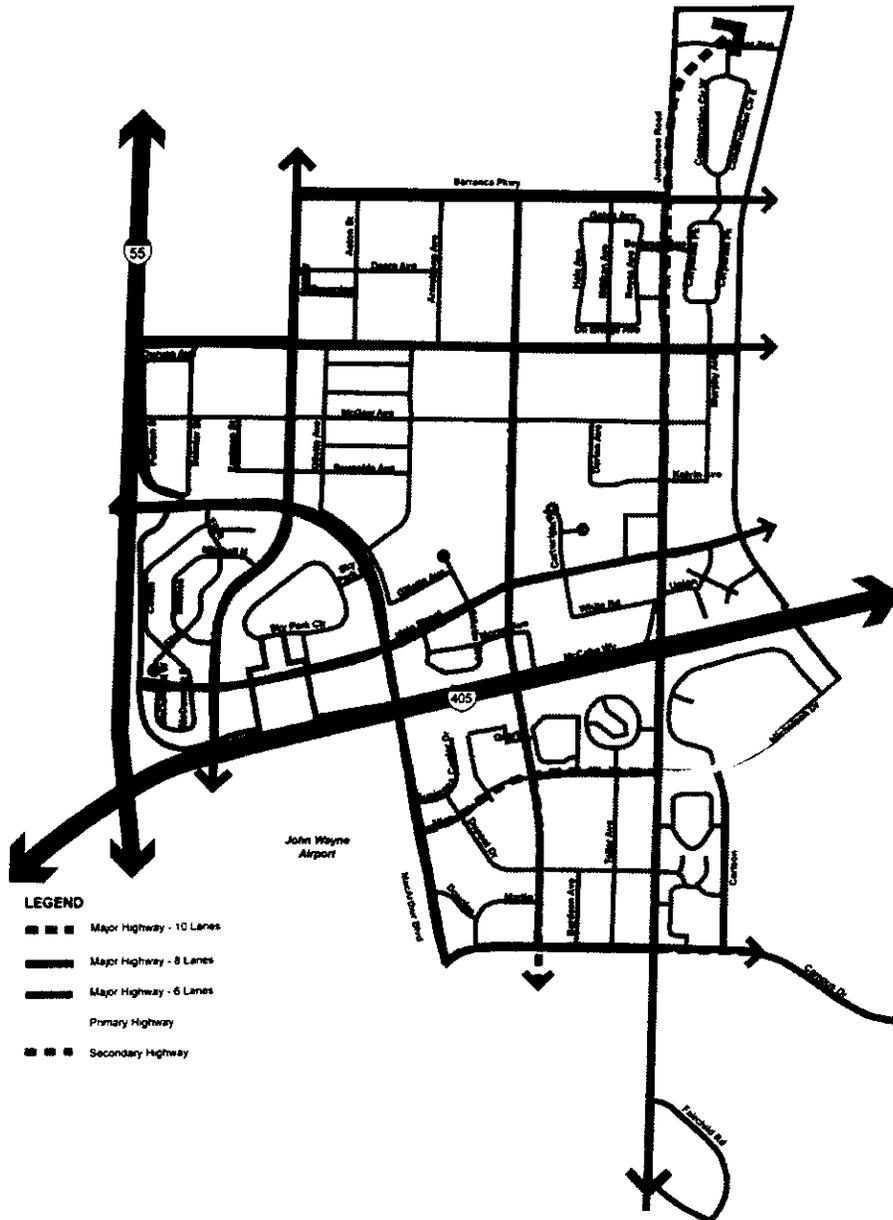


## Arterial Streets

The arterial streets are proposed to maintain wider setbacks of 30 feet from ultimate curb line with an extensive landscaped frontage. An eight-foot parkway adjacent to the street and an eight-foot sidewalk are proposed. In addition, on-street bike lanes eight feet wide will connect along Red Hill Avenue, Von Karman Avenue and parts of Jamboree Road, into the wider City of Irvine Bikeways network.



Proposed Typical Arterial Street Cross Section



## Arterial Street Plan

## Gateways and Landmarks



A hierarchy of gateways has been identified to create identity for the IBC and strengthen and unify the Multiple Use Districts. The introduction of these elements at key intersections will enhance the 'sense of place' and identity for the area. The gateways will create a strong urban design context through the uses of architectural and streetscape design elements. These design elements could include civic or monumental gateways, landmark buildings, new urban plazas, street lighting, new hardscape and landscape treatments, integrated with public art. The gateways will let visitors know they have arrived at a major destination.

### Regional Gateways

The IBC is highly visible when viewed from the I-405. The I-405 divides the IBC, and the off ramps at Jamboree Road and Macarthur Boulevard, could create an "entrance" to the IBC. The SR-55 off ramp at Macarthur Boulevard also provides opportunity for a regional gateway. Widening of the I-405 Freeway may provide an opportunity to enhance the off ramps with new landscaping and gateway features, including signage and lighting.

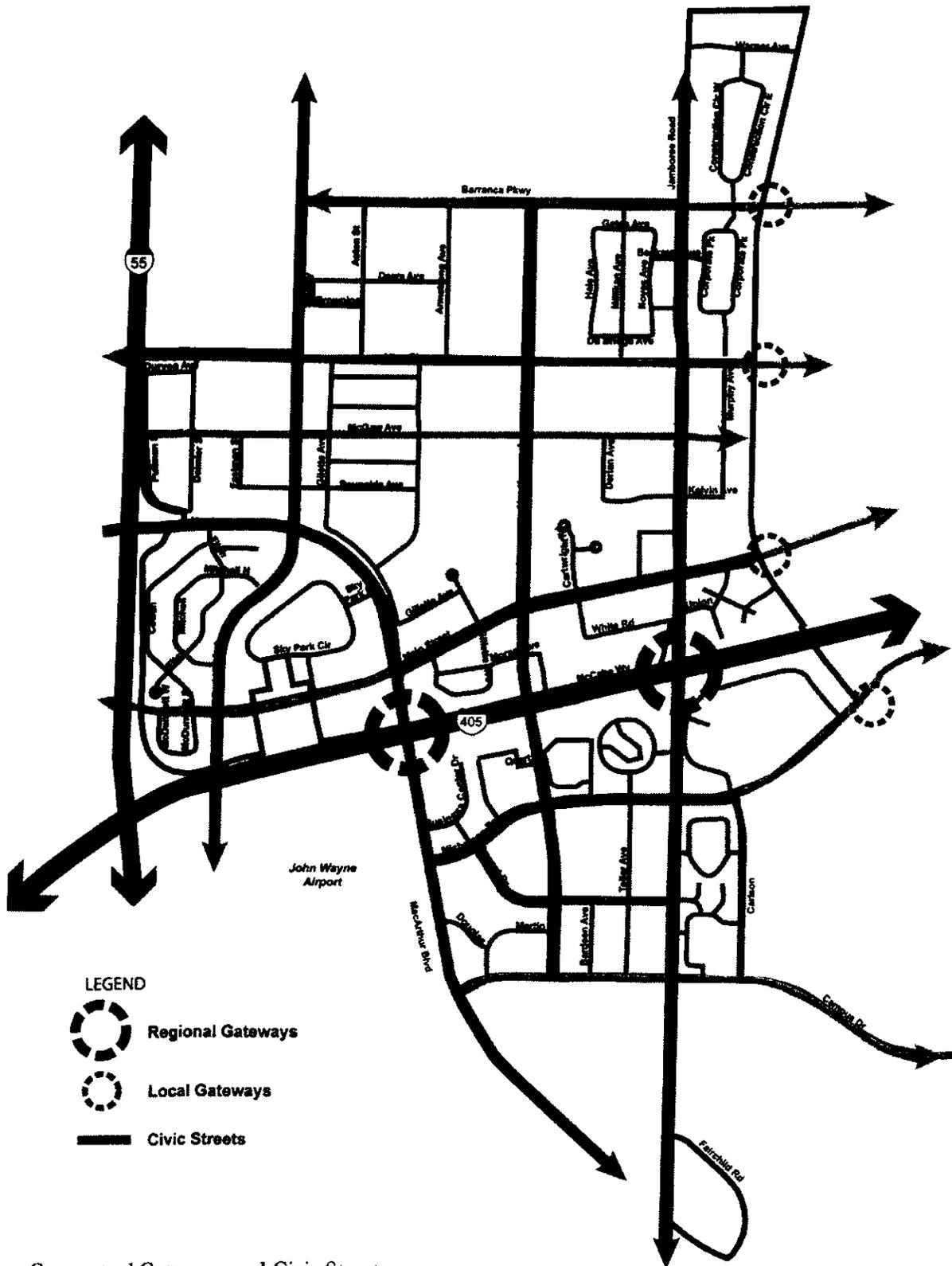


### Local Gateways

These local gateways to the IBC need to be recognized and enhanced, to provide an identity to the area as a vibrant place to live and work. The bridges over the San Diego Creek could form important gateways for local residents in the adjacent neighborhoods and the City of Irvine, to the IBC.

### Civic Streets

The Vision Plan recognizes the importance of the east/west streets of Main Street and Michelson Drive, and the north/south streets of Macarthur Boulevard, Von Karman Avenue, and Jamboree Road. It is envisioned that these streets, where they abut the Multiple Use Districts, will have a strong civic and urban presence through streetscape design and urban forms.



Conceptual Gateways and Civic Streets

## Streetscape

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The rapid transition of land use in the IBC provides an opportunity to create a distinctive streetscape system of tree-lined streets, new sidewalks, street lighting and furniture, bicycle trails, parks, plazas and open spaces.

The streetscape elements including gateways, public art, light fixtures, street furniture, and signs need to be coordinated with a landscape concept plan unique to the IBC. This landscape concept plan should be designed to reinforce pedestrian walkability and create a unified and coordinated planting structure to the IBC, with some variations within the different districts to create some visual interest and ecological variety within the landscape. One of the next steps to implement the Vision Plan is to refine the Landscape Concept Plan and update the Master Streetscape Plan.

To create this distinctive streetscape, the following elements should be provided:

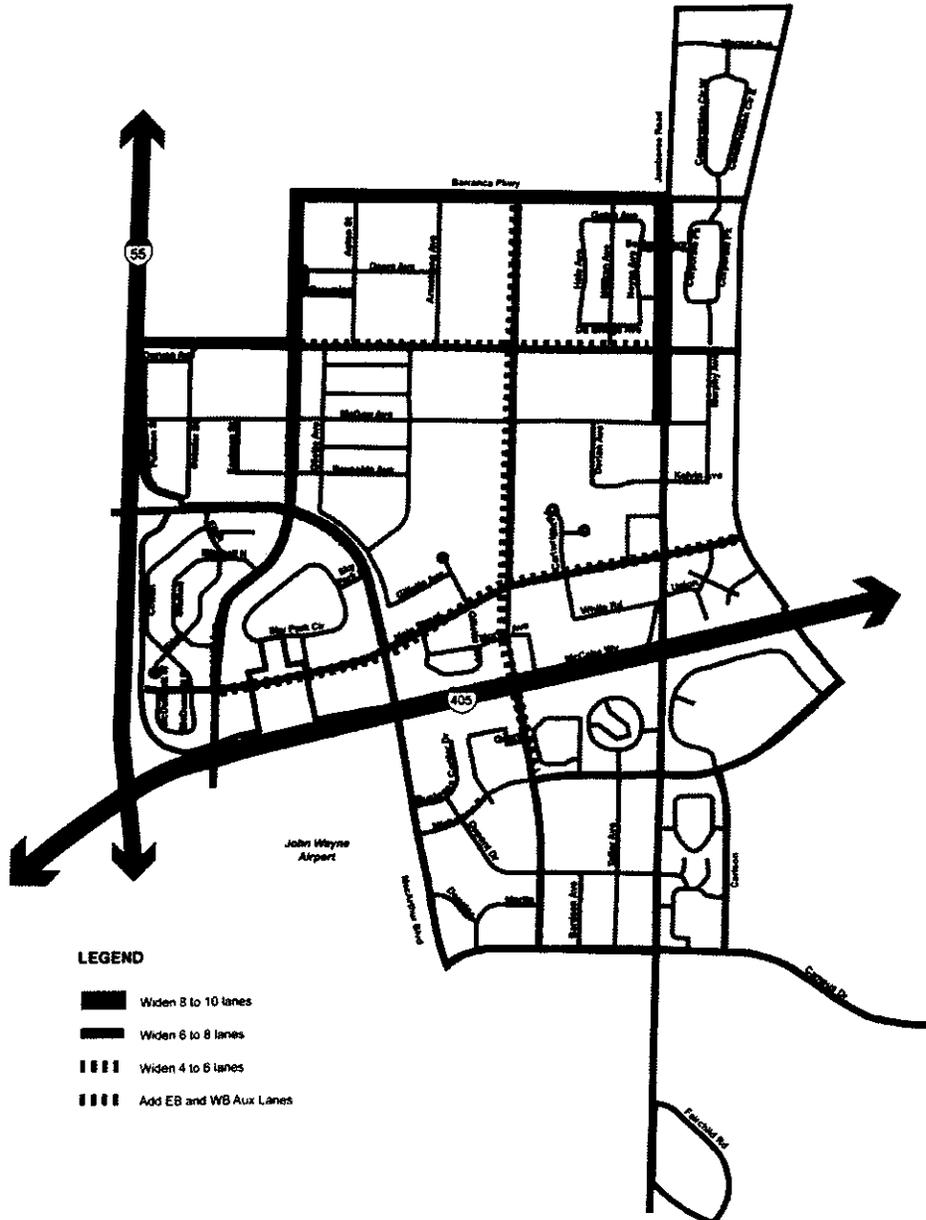
- Wide tree-lined sidewalks with a shaded canopy of trees, benches, and coordinated street furniture, including bus shelters and trash receptacles.
- Visual unification and integration of the facilities and uses within the IBC through the use of streetscape, lighting, special paving, and landscape treatments.
- Shared sidewalks for pedestrians and bicycles
- Pedestrian connections to the transit system.
- Landscape street planting program that can be coordinated with future developments.
- Pedestrian and bicycle connectivity to every public park and urban open space.
- Enhanced intersection treatments and pavement.

The implementation of the streetscape within the various rights-of-way will occur as new sites are developed within the IBC, unless otherwise determined by the City. Every development within the IBC should be thought of as an opportunity to enhance the walkability and livability of the area and contribute to the streetscape system.

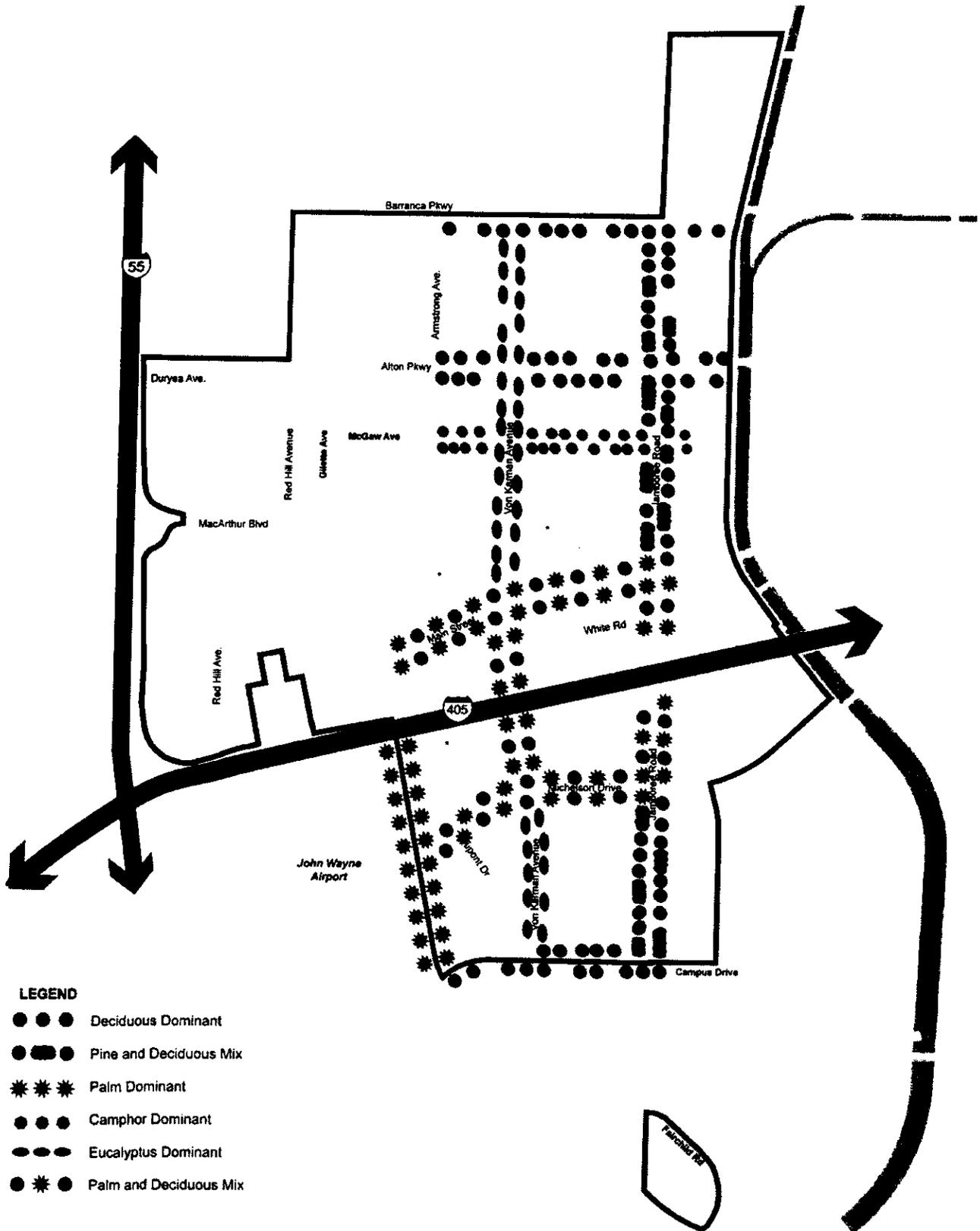
The section on street cross sections (Pg. 95-115) in this document provides street cross sections for the IBC area. Generally, sidewalks are proposed to be located away from the street with a landscaped parkway providing a buffer.

## Road Capacity

The vehicular capacity of these streets is important to maintain while improving the pedestrian experience. Several arterial streets are planned to be widened - including Jamboree Road, Von Karman Avenue, Barranca Parkway, Alton Parkway, the planned Main Street and Red Hill Avenue - as part of the IBC area-wide improvements approved in conjunction with the 1992 IBC Zone Change/EIR.



### Planned Roadway Improvements from the Existing IBC Traffic Mitigation Program



**LEGEND**

- ● ● Deciduous Dominant
- ● ● Pine and Deciduous Mix
- \*\*\* Palm Dominant
- ● ● Camphor Dominant
- ● ● Eucalyptus Dominant
- \*\*\* Palm and Deciduous Mix

Conceptual Landscape Plan for Existing Major Roadways

June 16, 2006

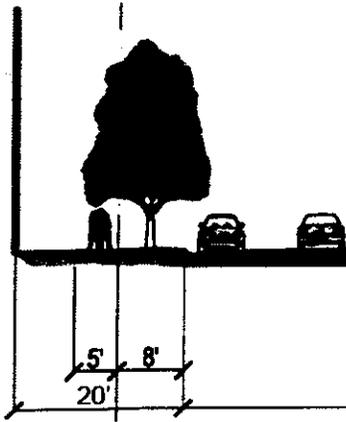
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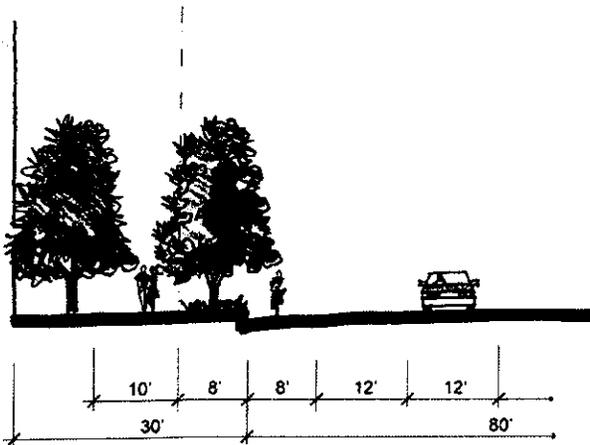
## Local Streets

The proposed new streets, as well as existing local streets, in the IBC are smaller scale; providing the opportunity for a more pedestrian oriented 'green' network of streets, connecting business and residential districts to the San Diego Creek and the citywide open space system. Canopy trees for shade are proposed in eight-foot parkways and a minimum of five-feet for sidewalks should be provided.

The existing east-west streets proposed to be enhanced for pedestrian use include: Alton Parkway, Barranca Parkway, Campus Drive, McGaw Avenue, Main Street and Michelson Drive.



Typical Local Street Cross Section



McGaw Avenue Cross Section

## Expanding the Street Network



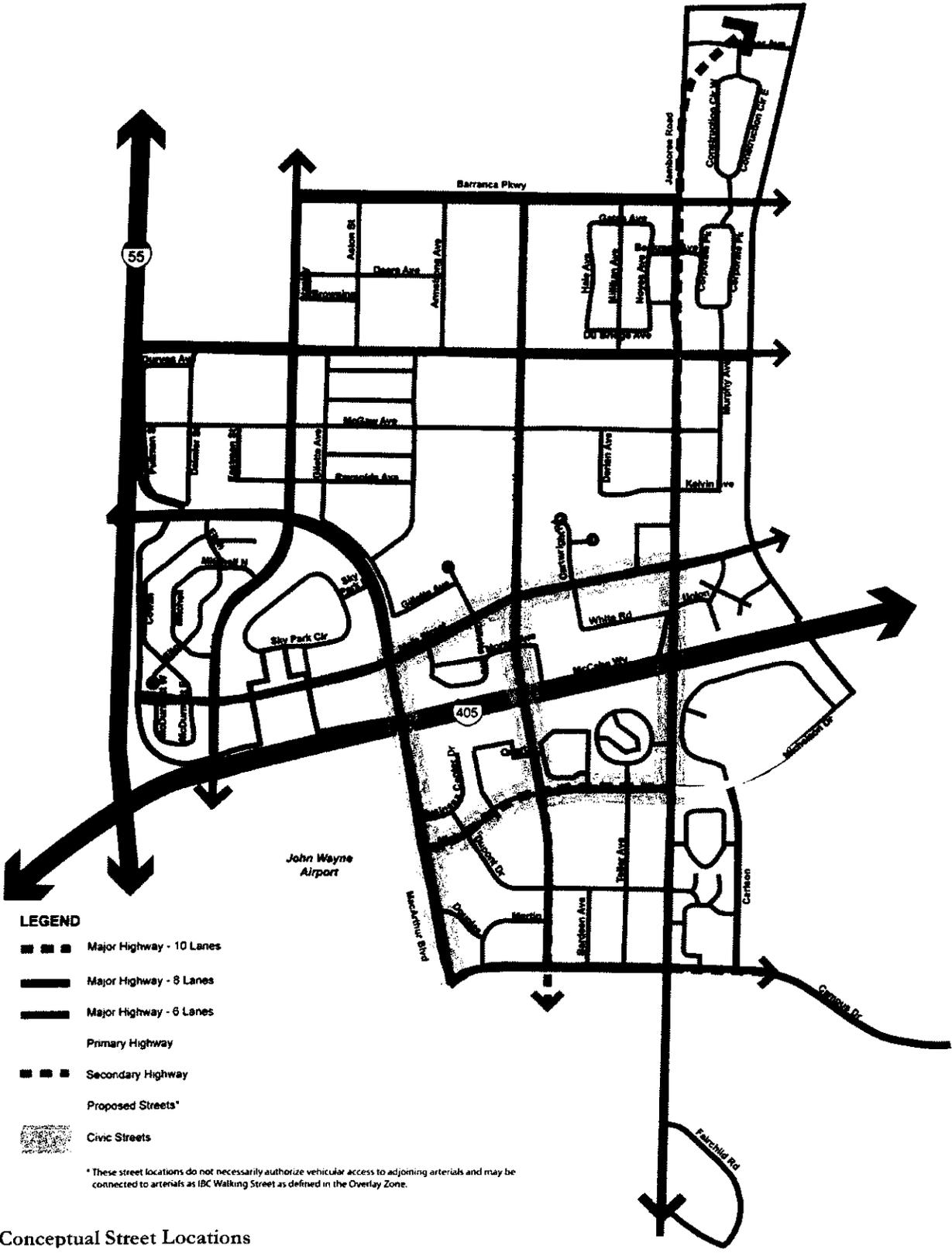
The Vision seeks to address the imbalance between pedestrian and automobile users, by deconstructing large super blocks into smaller parcels through the creation of new local vehicular and walking streets. The ultimate aim is to provide improved connectivity between blocks and the existing street network for the benefit of all the community.

This system will encourage access to the interior of existing large parcels. This proposed street network will provide improved emergency fire and police access, trash pick-up, access to parking areas, and a more pedestrian friendly access system to local services, workplaces, and transit.

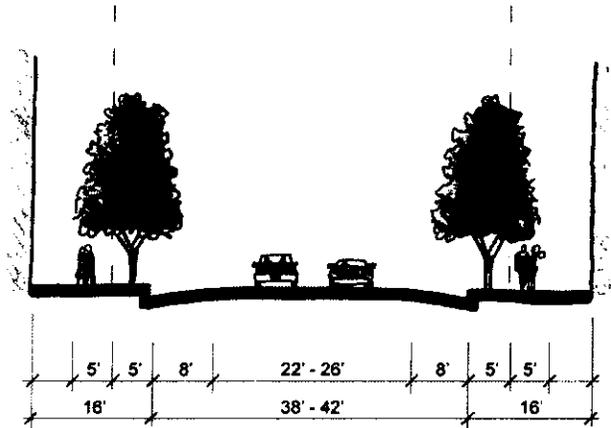
While maintaining the existing arterials and enhancing the pedestrian experience, the plan calls for the introduction of a “finer grain” street pattern allowing for a greater diversity in housing types by reducing the scale and size of developments and making it easier to mix housing types within a single large project site. The smaller blocks can create a more walkable pedestrian network by providing various routes to a variety of destinations.

Proposed sections for these new streets are shown in the section of this document on Typical Street Cross Sections – Pg. 95-115. When a new street straddles or is adjacent to a property line, the first development will be required to provide selected improvements as identified in the street sections of this Vision document and in the Overlay Zone adjacent to their project and a minimum travel way to ensure fire access. The proposed conceptual street plan shows conceptual locations of new local streets. To maintain connectivity, new local streets should not be gated.

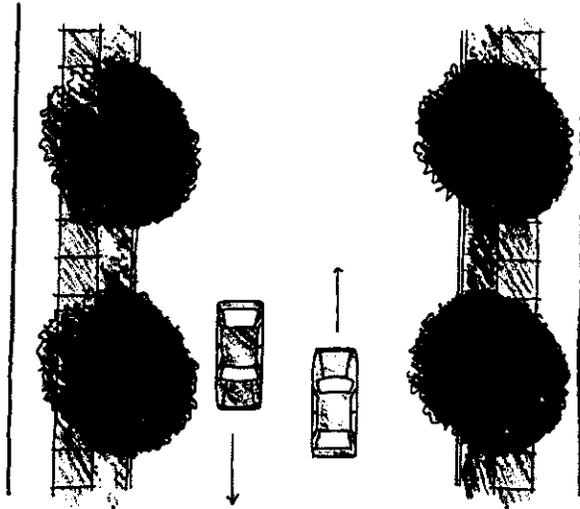




Conceptual Street Locations



New Conceptual Street Section



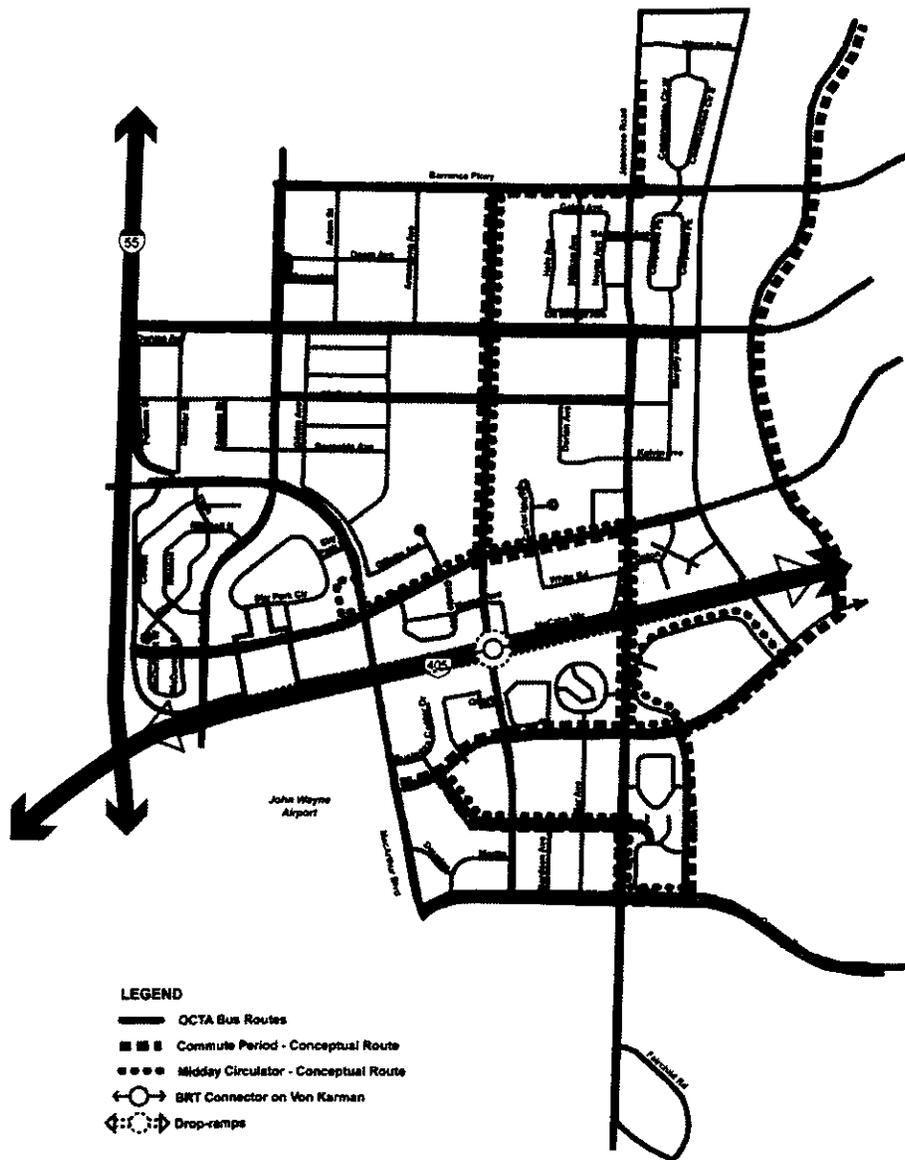
New Conceptual Street (IBC Private Way) Plan



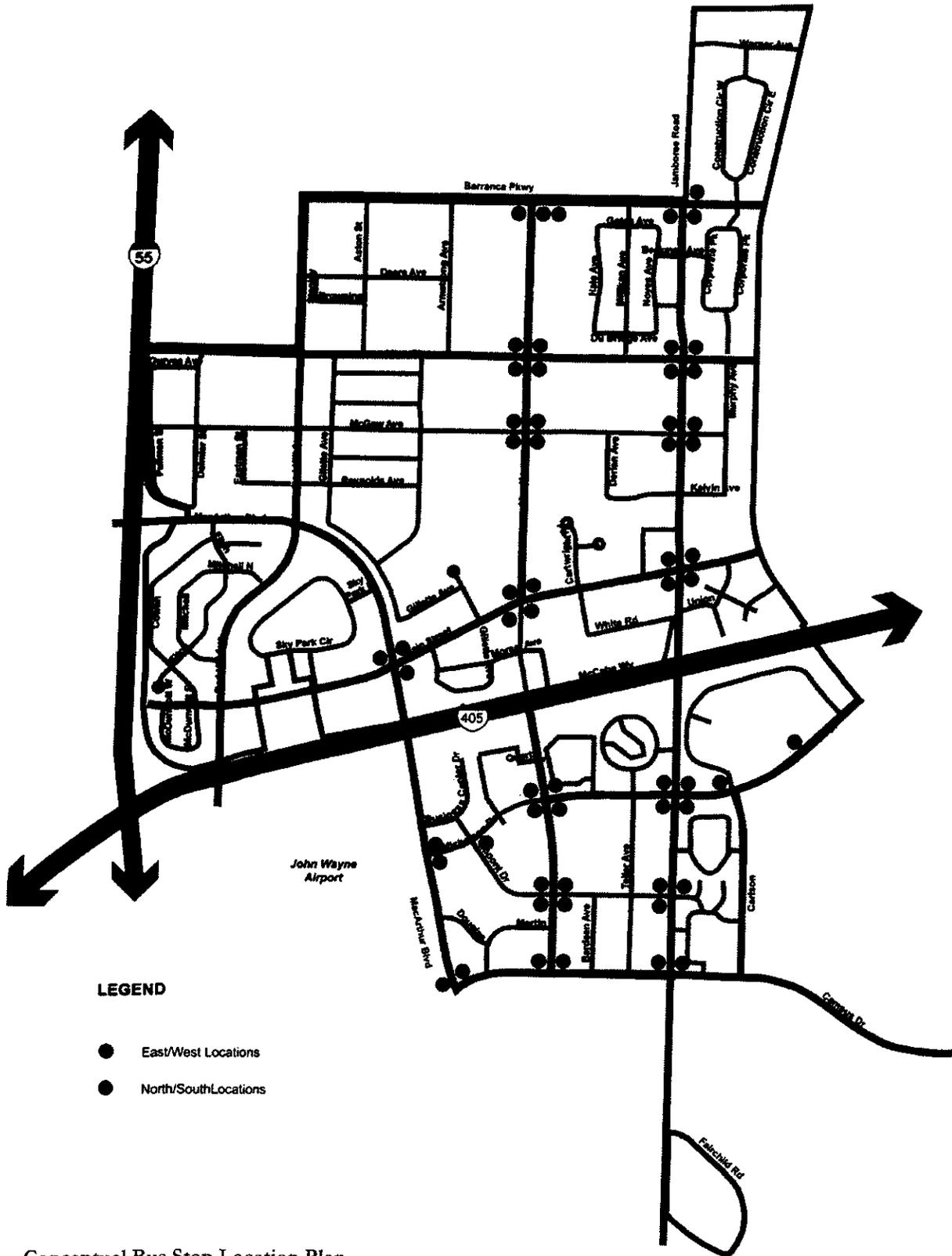
Typical Sidewalk and Setback

## Transit

A new IBC Shuttle System is proposed within the IBC. The shuttle system is shown on the conceptual Transit Plan. When implemented, the IBC shuttle system together with the existing and future OCTA bus routes will provide the opportunity for improved transit connections throughout the IBC. Along with existing bus routes, OCTA has proposed a 28-mile Bus Rapid Transit (BRT) route from the Brea Mall to the Irvine Transportation Center with an intermediate stop at John Wayne Airport via new High Occupancy Vehicle (HOV) drop ramps at Von Karman Avenue.



Conceptual Transit Plan



**LEGEND**

- East/West Locations
- North/South Locations

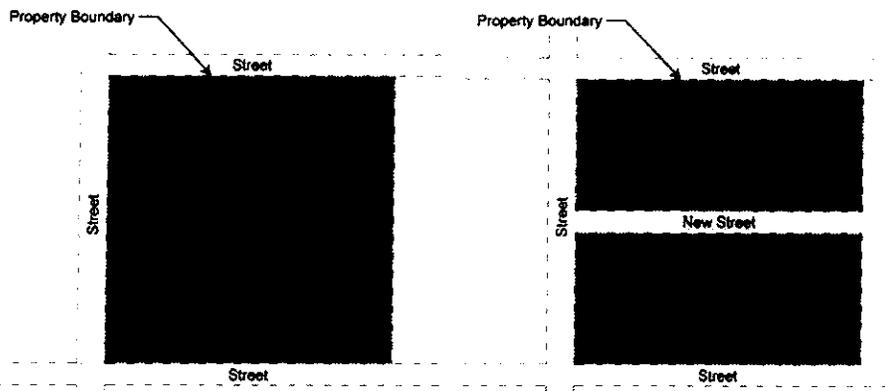
Conceptual Bus Stop Location Plan



## Overlay Zone Implementation

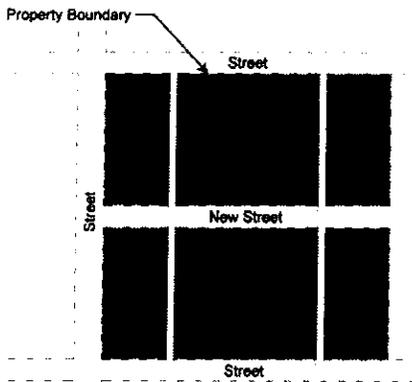


The Overlay Zone recommends new development exceeding a certain size to incorporate new vehicular or walking streets that improve access, create smaller block sizes and induce a mix of housing types. New streets shall connect with the existing street network except in cases where intersection spacing precludes such connections; in such cases walking streets shall be provided. Sidewalks and parkways are required adjacent to new residential development. These sidewalks will be located within the private setback area. Street setbacks have been established for all the streets within the Overlay.

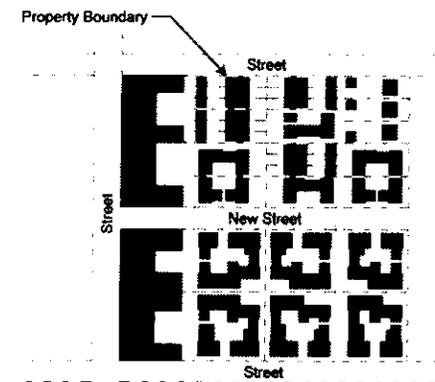


Existing Block Size

Introduce Streets



Introduce New Streets/Access



Mix of Housing Types

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## 4. Create Useable Urban Open Space

Higher density neighborhoods need parks and urban space to offset building intensity and provide space for informal activities. The vision is to create a system of new public parks, urban plazas, open spaces, and private or public recreation areas that are interconnected by streets, bikeways, and trails. Well crafted and programmed public space encourages people gathering and neighborhood events.



Key principles are:

- Contribute fees to new community park within or adjacent to the IBC that serves new residents and provides a variety of amenities.
- Provide smaller, neighborhood scale parks and urban open space within and between projects that provide local park areas for residents.
- Provide private on-site recreational facilities and open space for use by neighborhood residents in meeting recreation, health and wellness needs.
- In addition to providing the park and recreational requirements, additional private open space in the form of patios, courtyards, and balconies for most dwellings will be required.
- Provide a balance between landscape and built form by providing sufficient planting space around buildings and within internal spaces.



Conceptual Urban Plaza

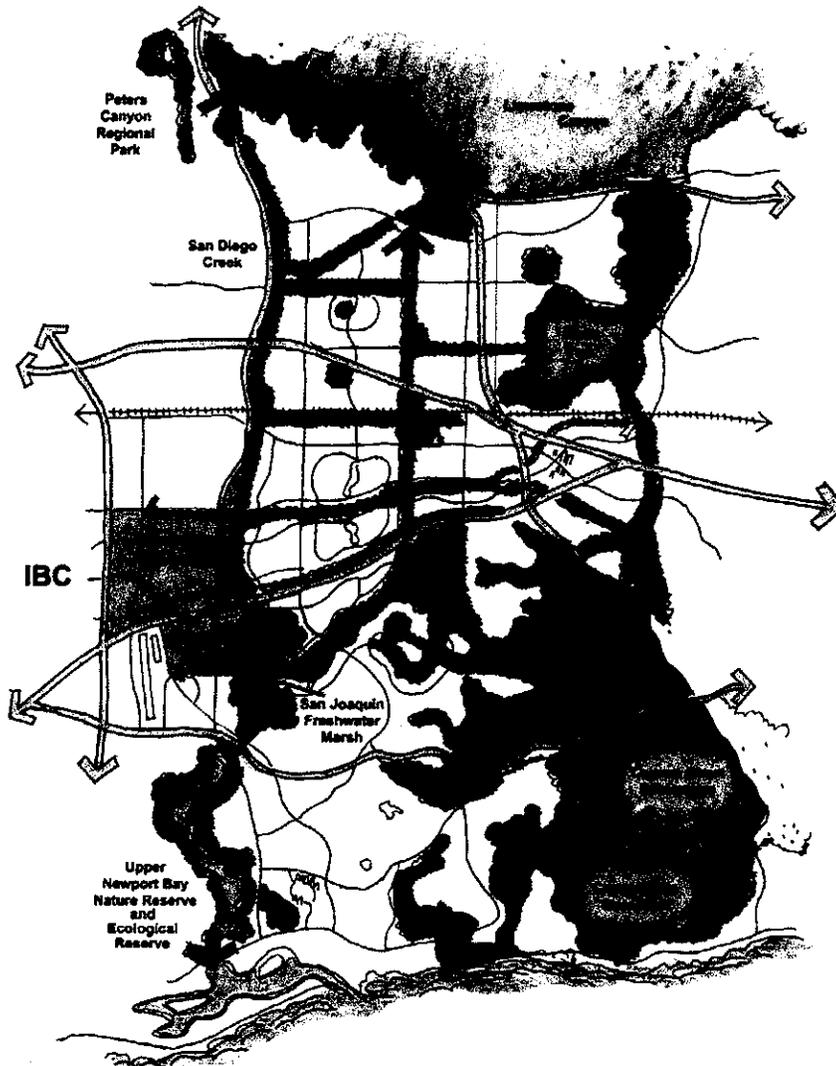
## Regional Open Space



The San Diego Creek and the San Joaquin Freshwater Marsh, which lie adjacent to the IBC, are part of the wider open space system within the IBC. This open space system is a mosaic of habitats ranging from wetlands and coastal sage scrub, and includes an important ecologically diverse ecosystem.

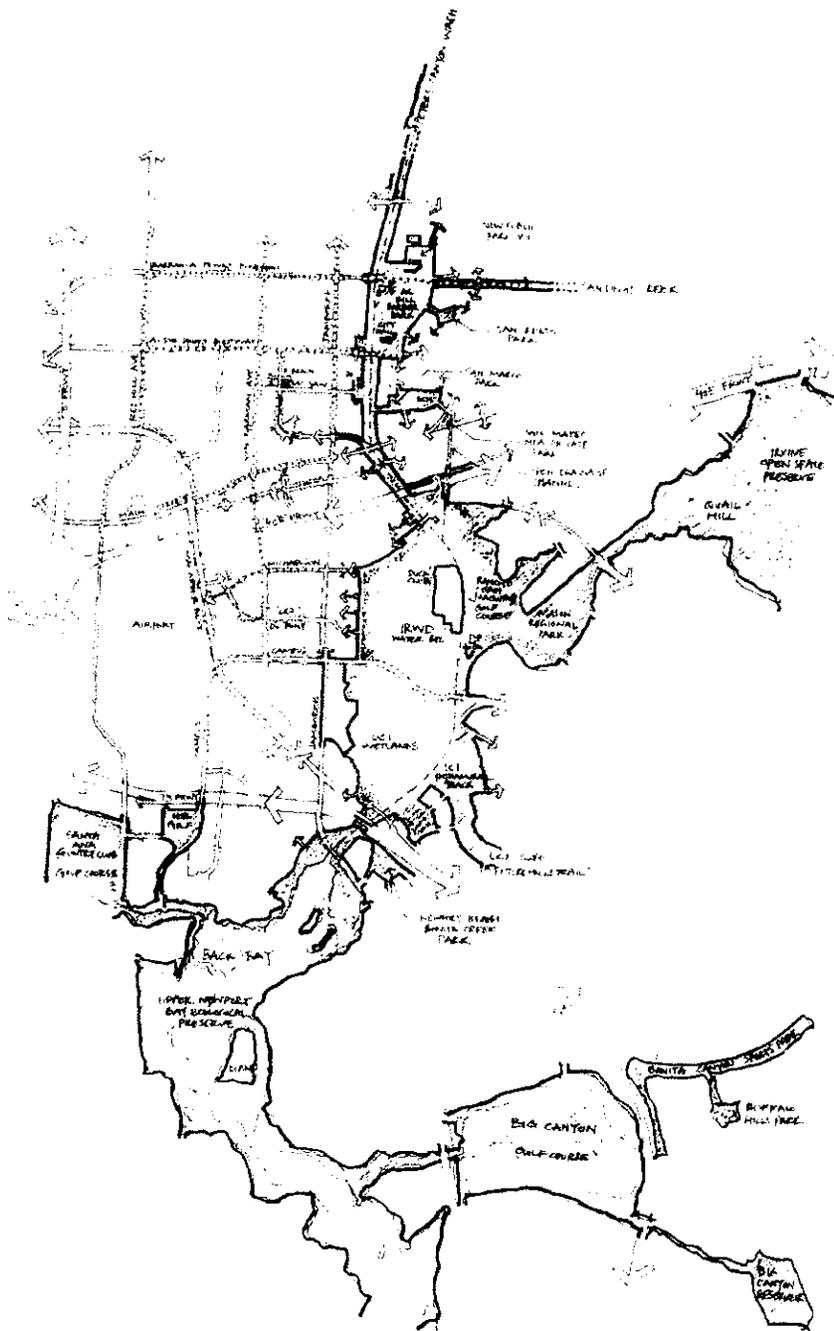


This open space system then connects with the Santa Ana Mountains along several open space corridors, including Peters Canyon Wash and Jeffrey Open Space Trail (the 'Mountains to the Sea' trail), and the Upper Newport Bay Nature Reserve and Ecological Reserve to the Pacific Ocean. This extensive open space system offers a comprehensive network of 43 miles of off-street and 132 miles of on-street trails for biking.



Regional Open Space System

As part of this Vision, the open space system provides a unique resource on the doorstep of the residents and businesses of the IBC. An opportunity exists to provide an interconnected system of streets, bikeways and trails, connecting the new streets, parks, and urban plazas within the IBC to the wider system of City open space.



Local Open Space System

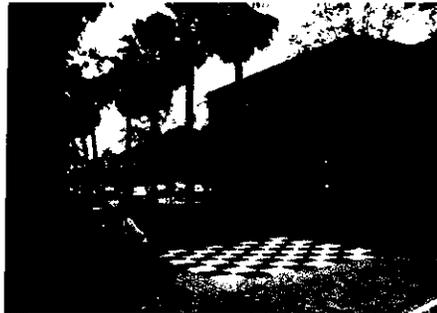
## **Parks and Public Spaces**

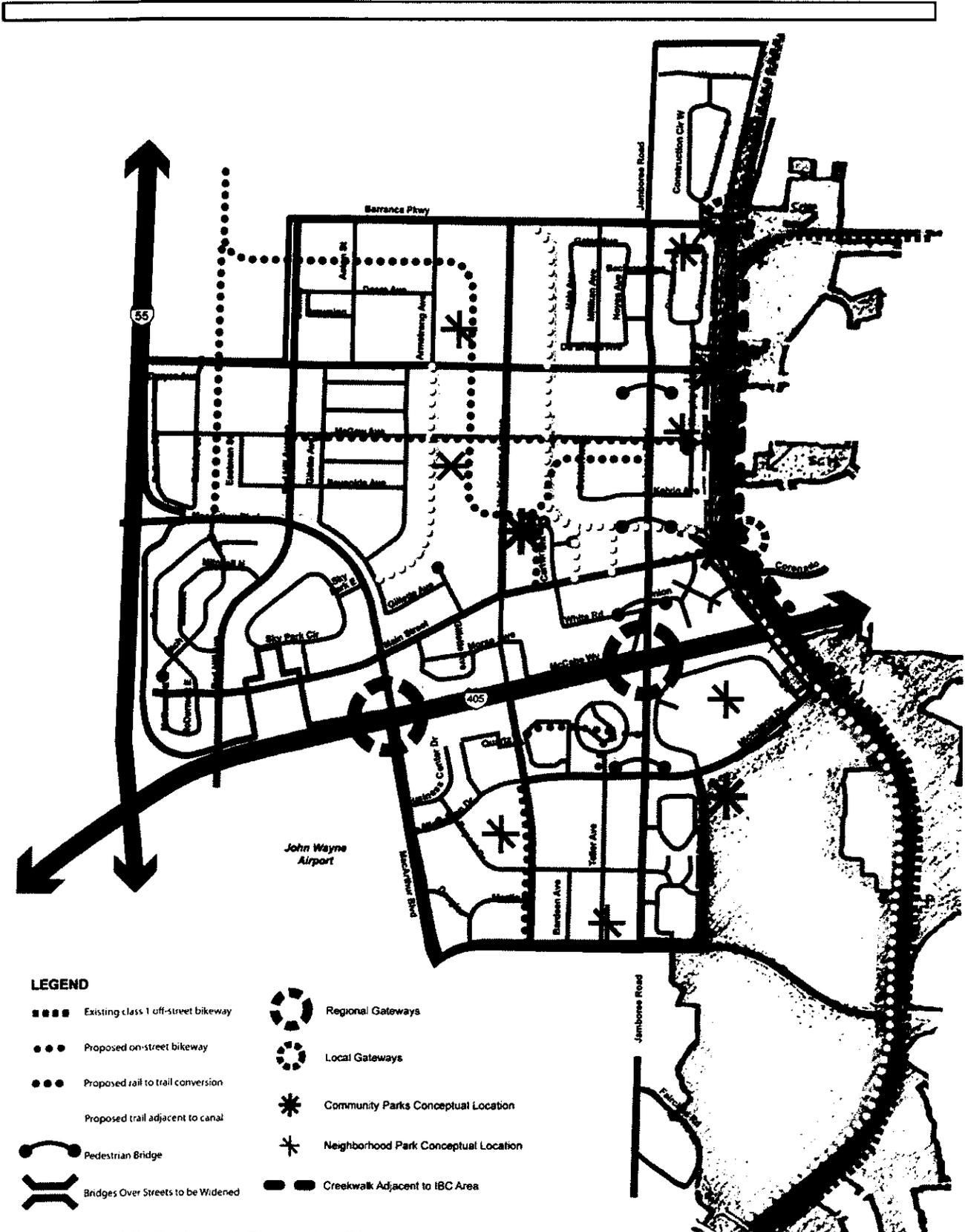
Parks in the City of Irvine are provided at 5 acres per 1,000 population. Within the IBC, Community Park dedication shall only be provided through payment of in-lieu fees at the required 2 acres per 1,000 population. Neighborhood Parks in the City of Irvine are provided at 3 acres per 1,000 population. However, in order to provide needed public facilities within the IBC, minor modifications in the park dedication distribution is needed. The public/private distribution of Neighborhood Park land within the IBC is proposed to be allocated for the Overlay Zone as follows:

- Public: two acres
- Private: one acre

The following new parks should be provided in the IBC:

- Two new Community Park facilities: one north and one south of the I-405 freeway.
- At least seven new Neighborhood Parks to provide a local park within one-half mile of every resident.
- A network of urban open space as part of the proposed development within the built fabric of the city.
- Several “special use facilities” within the IBC, to serve both the residents and businesses within one mile. Some facilities could be located within the neighborhood parks or urban plazas. Facilities could include a dog park, performing arts center, or art park.
- Community/civic building within the IBC to serve the needs of the IBC community; facilities could include a library and a community building with meeting rooms, theater, or gallery space.





**LEGEND**

- ■ ■ ■ Existing class 1 off-street bikeway
- ● ● Proposed on-street bikeway
- ● ● Proposed rail to trail conversion
- Proposed trail adjacent to canal
- ⌒ Pedestrian Bridge
- ⌒ Bridges Over Streets to be Widened
- ⊙ Regional Gateways
- ⊙ Local Gateways
- \* Community Parks Conceptual Location
- \* Neighborhood Park Conceptual Location
- Creekwalk Adjacent to IBC Area

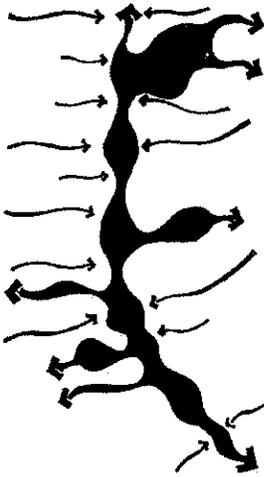
**Conceptual Public Parks and Recreation Plan**

## San Diego Creek 'Creekwalk'



San Diego Creek ranks as one of Irvine's most valuable natural assets. It defines the eastern boundary of the Irvine Business Complex (IBC) while also serving as an integral component of the regional open space network – connecting the Orange County Great Park, Irvine Open Space Preserve, and the Upper Newport Bay Ecologic Reserve.

### Existing Conditions



The Creek affords several opportunities to provide the city and IBC with meaningful recreational and park amenities. It is uniquely situated to draw users to itself by becoming a destination to experience the natural environment and partake in programmed activities and events. Presently, the Creek's west bank is inaccessible in parts. Transmission lines of Southern California Edison (SCE) run alongside the Creek. Abutting SCE's corridor are chain link fences that define the rear edges of adjoining low-rise developments – typically occupied by parking lots and service areas. A multi-purpose trail is located on the east side of the Creek channel – this can potentially be connected with a new trail system on the west bank. The character of the Creek channel itself is a blend of man-made, rip-rap embankments and natural, riparian environment.



Creekwalk Perspective

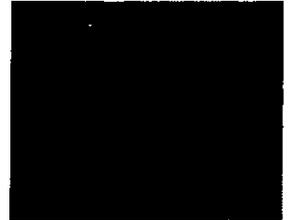
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### **Urban Design Opportunities**

The SCE corridor – from Main Street to Barranca Parkway – is ideally located for reconfiguration as an accessible linear open space to serve as the interface between the IBC and the creek environment. This open space – Irvine’s Creekwalk – will provide valuable amenities, serve as a destination, and also create opportunities for new Creek edge development by significantly enhancing the value of land in its vicinity – to the benefit of both landowners and the City.



It is vital, above all, to announce the presence of the Creek. Enhancing existing creek crossings by introducing sculptural features will signify their importance as gateways as well as points of arrival and transition. The alignment of the Creek affords excellent opportunities to create special places and vista points. The two most significant are the existing promontories downstream of Barranca Parkway and upstream of Main Street. Located strategically at bends in the Creek, they provide excellent downstream and upstream views. There are also opportunities to build new pedestrian bridges across the Creek to connect and make the trail system continuous on both banks. The concrete buttresses that extend on the upstream side of existing bridges at Main St. and Alton Parkway could support new pedestrian walkways.



The long term vision of the Creekwalk includes the introduction of a new street – which will flank the western edge of the open space. This new street will improve access and help to activate the Creek’s edge. Also in the long term, the City should encourage mid-rise residential development (with some street-level restaurants and cafes) along the Creek to positively change the character of the water’s edge. Key developments along the Creek should in the future be expanded and reoriented to acknowledge the waterway. This is particularly important with regard to Irvine City Hall and Jamboree Center since the Creek currently serves as backyard for these key uses.

### **Articulation of Creekwalk**

San Diego Creek will not revert to its untouched natural state; nor is it Creekwalk’s intention to make it do so. The proposed design takes the Creek’s urban setting as an opportunity to interpret and express the interface of natural and urban edges.

The linear open space will have twin and contrasting characters. Closer to the Creek’s edge several varieties of natural grasses of Southern California will be introduced to highlight the Creek’s water-oriented environment. Closer to the urban edge, defined by the proposed Creek Drive, manicured grasses and formal pathways are proposed. This zone incorporates urban elements, such as children’s play areas, pathways, benches, and public artwork. Transition from the natural to the urban occurs at trails which form the spine of the open space.

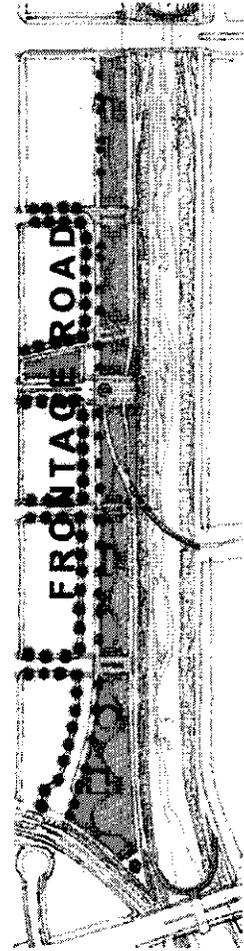
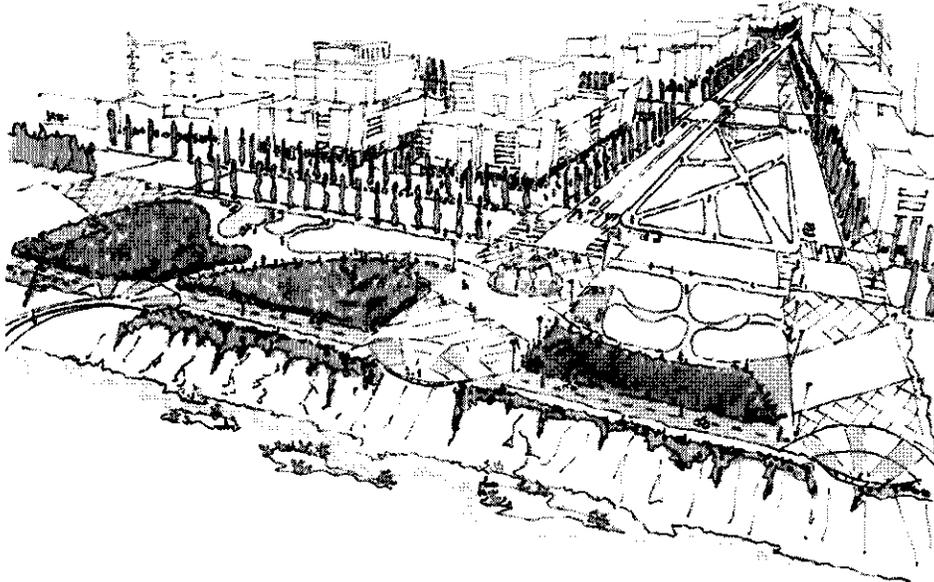
Special plazas are proposed at termination of east-west streets and pedestrian pathways. These incorporate elements that will draw users to the Creek's edge – such as, look-outs, special paving, lighting, and water features. The plazas punctuate the mile-long length of the open space, and where possible Bougainvillea shrubs will cascade down the rocky rip-rap to soften the edge of the Creek. The design proposes no other intervention within the Flood Control District's right-of-way.

A parcel near the eastern end of McGaw Avenue (outside SCE's right-of-way) could become a new neighborhood park. This park, in conjunction with a proposed plaza within Creekwalk will become the Creek's most significant node and destination. McGaw Avenue will serve as the main east-west connection to the Creekwalk, providing both physical and visual linkages from Jamboree Road. The neighborhood park helps to draw the Creek's natural environment into the urban fabric, thereby enhancing development potential value along McGaw to Jamboree.

The new street proposed along the length of the Creekwalk will be developed privately in segments by individual developers. It will connect to three major arterials: Barranca, Alton, and Jamboree, providing access to the Creekwalk and also ensuring it is safe and secure. A new pedestrian bridge is proposed across the Creek to connect the plaza at McGaw with San Marco Park on the east bank. Two new trail bridges are also proposed – at Alton and at Main – supported on the upstream buttresses of the existing road bridges.

**Implementation**

The Creekwalk and adjacent new street will most probably be developed in an incremental manner recognizing the distributed patterns of landownership and undetermined availability of funding. One potential scenario of phasing (of which several permutations exist) could envision the neighborhood park and adjoining plaza be the first pieces implemented, followed by smaller plazas and their corresponding pedestrian connections to Murphy Avenue. These in turn can be followed by the missing segments of Creekwalk and adjacent new street, building piece by piece the full vision of the proposed design. This phasing strategy has convenient ‘pick and choose’ options that allow the City to first implement pieces of the project that will have maximum benefit and likelihood of success – knowing that these short term actions will not preclude realization of the long term vision.

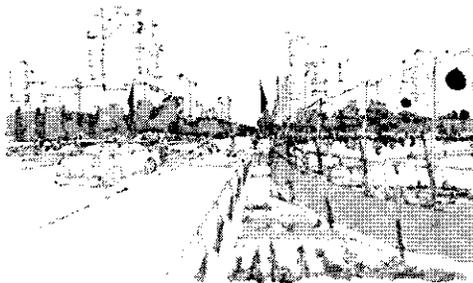


Conceptual Creek  
Frontage Road  
Location

Conceptual Linkage at McGaw Street



Existing San Diego Creek at  
South End



Bridge Enhancements

## Trails and Bikeways

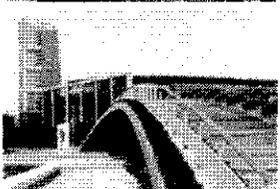
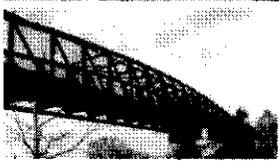


The City of Irvine has an extensive trails and bikeways network throughout the City. However, the connections from the IBC to this network are very limited. Continuous on-street bicycle lanes currently exist only along Main Street. Bicycle lanes are proposed along parts of Jamboree Road, Red Hill Avenue, Von Karman, Michelson Carlson Avenue, Barranca Parkway, and Alton Parkway.

Key principles are:

- Establish the San Diego Creek Creekwalk, along the easement on the west side of the creek, further connecting the ‘Mountain to the Sea’ Trail.
- Improve bicycle and pedestrian connections to San Marco Park, adjacent to the San Diego Creek, across the San Diego Creek with a new pedestrian bridge.
- Explore the opportunity to develop new shared use trails along the existing drainage channels and creeks within the IBC – Barranca channel and the Armstrong channel.
- As a larger team effort, establish the ‘Rails to Trails’ program to convert the abandoned railroads within the IBC, to walking and bicycle trails. The trails will eventually connect to the wider system of public realm improvements to create an interconnected pedestrian experience within the street network of the IBC.

## Bridges

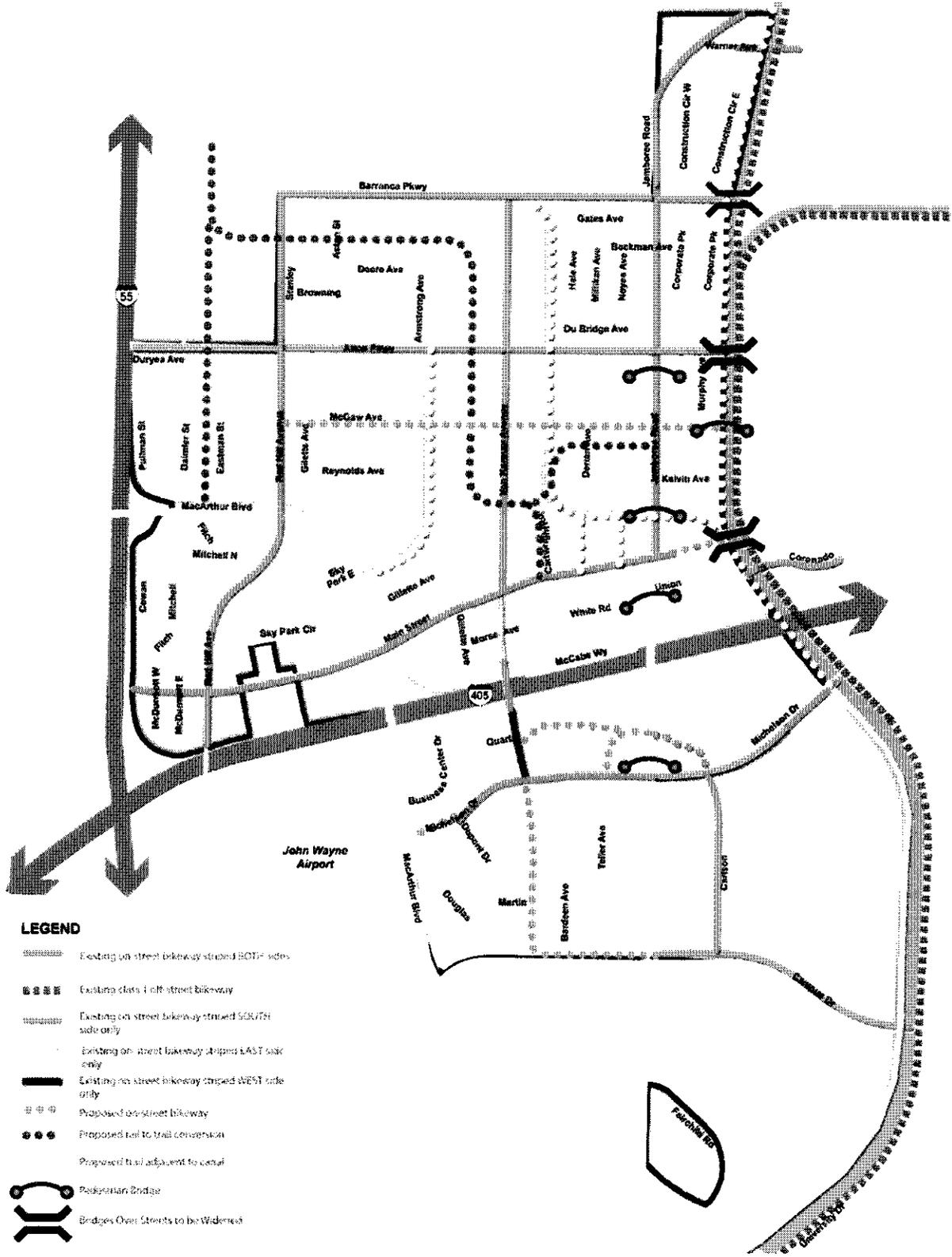


The San Diego Creek forms an important physical feature between the IBC and the city of Irvine. Several existing bridges cross the creek providing vehicular and pedestrian access to the IBC.

The Vision creates an opportunity to celebrate these crossings, as gateways to the IBC and provide a ‘sense of arrival’ to the IBC. These gateways could be enhanced with the provision of new civic or monumental features including new street lighting, monuments, signage, street furniture, and landscaping.

The major bridges include Barranca and Alton Parkways, Main Street, and Michelson Drive. The Coronado Bridge also forms an important local connection across the creek, providing access to the IBC.

To provide enhanced pedestrian connectivity to the IBC, new bridges are proposed to create enhanced pedestrian and bicycle connections with the IBC and to the wider system of trails.



**Conceptual Bikeways and Trails Plan**

DRAFT

June 16, 2006



Several new pedestrian bridges are envisioned within the IBC:

- Across the San Diego Creek, connecting to Bill Barber Marine Corps Memorial Park.
- Across the San Diego Creek, connecting McGaw to the new 'Creekwalk,' San Marco Park, and the existing 'Mountains to the Sea' trail along the San Diego Creek.
- A bridge crossing on Jamboree Road from Central Park to Park Place.
- Improve the bridge/underpass along San Juan Creek at I-405.

## Public Art

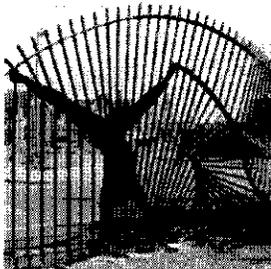


Public Art provides visual interest, variety and gives character to an area or development.

The provision of public art in urban places has played an important role to create and stimulate interest within an area. The majority of public art within the IBC is located on private property, often hidden from the public view. Developments should be encouraged to provide amenities meeting a variety of aesthetic objectives in parks and open space for which park and public art credit may be granted.



It is recommended that a Public Art Program be developed to act as a tool to implement and integrate a number of public artworks in the public and private developments within the IBC. An exaction based on 1% of the valuation of the development project could be established to provide a funding source for the program.



Key opportunities for public art include, but are not limited to:

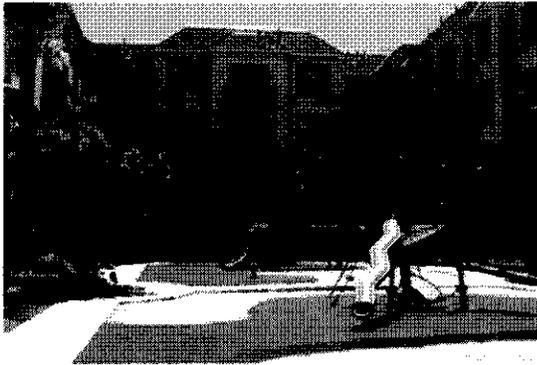
- Public Parks
- Gateways into the IBC
- Along the San Diego Creek Creekwalk
- An integral part of all new developments (including gates, fencing, courtyard features, and private recreational sites.



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## Overlay Zone Implementation

The Overlay Zone guidelines describe the type of open spaces that can qualify for the public and private Neighborhood Park requirement. Urban open spaces such as plazas and squares may qualify as a Public Neighborhood Park if they meet the requirements.



## 5. Develop Safe, Well Designed Neighborhoods



A major goal of this Vision Plan is to create long lasting and enduring neighborhoods that maintain their value and socio-economic vitality. The Vision Plan and the Overlay Zone should provide a strong and appropriately scaled framework of urban blocks, streets, parks, and urban open spaces. Only by providing these essentials can a truly rich, sustainable urban community be achieved. The new Overlay Zone and associated guidelines will regulate the building form and encourage a diverse mix and variety of urban living choices.



The residential uses should be compatible with the existing businesses within the IBC. The vision attempts to set the framework to create a high quality living environment for both businesses and residents.



Key principles include:

- Build sustainable and energy efficient residential buildings.
- Create a pedestrian friendly walking environment that is attractive, safe, and engaging.
- Provide visually rich and engaging street scenes along designated local and collector roads, encouraging pedestrian use and adding aesthetic value to neighborhoods.
- Visually differentiate and emphasize retail in the mixed-use residential developments.
- Implement appropriate landscape and building treatments along arterial roadways.
- Buffer existing industrial uses from the new residential developments.
- Encourage variation in building heights and housing types (liners, podium, and towers) to avoid massive “project” appearance within each IBC residential project.
- Design buildings with articulated massing and roof forms to avoid an institutional character and feel.
- Incorporate architectural detailing that leads to a sense of quality, diversity, and authenticity in design.
- Design roof forms with variation and that are attractive when seen from both the ground and taller buildings.
- Buffer and blend parking structures into the neighborhood so that they are not visually obtrusive or detract from the quality of the pedestrian environment.
- Provide parking solutions that are incentives for creative site planning and neighborhood design.
- Create a safer living and work environment.

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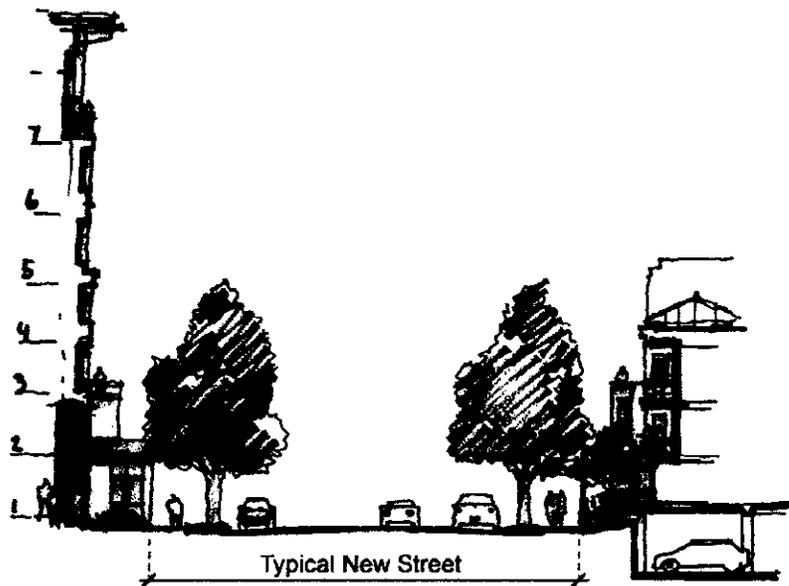
## Street Frontages - Setbacks

The IBC has developed in a manner that has resulted in a patchwork of building frontages and setbacks. Building setbacks currently range between 20 to 40 feet measured from the curb. These setbacks were designed with the vehicle in mind which has created an environment that is unfriendly to pedestrians within the IBC. In addition, some buildings along Jamboree Road turn their backs on the major streets and do not contribute to an attractive street frontage.



Buildings should be designed in a manner that creates an attractive, safe pedestrian scale along public streets.

A hierarchy of street setbacks has been established in the IBCRMU Overlay Zone which proposes different setbacks for different types of streets and in some cases location within the IBC. A typical street cross section is shown below demonstrating the relationship between buildings and street. Detailed cross sections can be found in the Typical Street Cross Sections section of this document (Pg. 95-115).



Typical Setback Cross Section

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## Provide Variation in Housing and Building Types

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A healthy variety of housing and building types not only enhances long term economic stability but provides a public benefit by serving a wider demographic spectrum. It is especially important for the IBC to have a balance of for-sale and rental housing, if the districts are to maintain values and quality over time. The following housing types are considered appropriate within the IBC:



- Rowhouse;
- Live/work;
- Court;
- Mixed-use commercial block;
- Liner;
- Podium; and
- Tower.

Multiple housing types are encouraged within individual development projects to create blocks and buildings of a size and scale that are not overwhelming. Height and coverage criteria within the IBCRMU Overlay Zone will guide developments toward appropriate variations in block size, building density and integrated open space.

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## Provide Variety in Building Heights

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The scale of buildings varies dramatically within the IBC. The existing scale of the built form remains fairly uniform throughout the IBC, with 1 and 2 story industrial buildings throughout, and the introduction of numerous “wrapped” 4 story residential building types. There are two notable areas, the existing multiple use districts, mainly adjacent to the I-405, where the height of buildings increases with towers up to 20 stories.



Towers and tall buildings contribute to the skyline and act as landmarks and visual references for the area. The Vision Plan enhances the existing concentration of tall buildings within the IBC, in particular within the Multiple Use Districts.

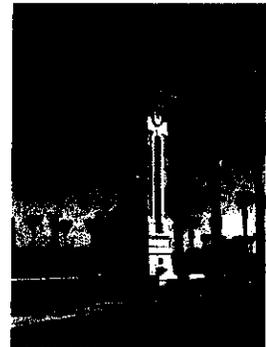


The Overlay Zone provides specific design criteria to require building heights to vary within a project as well as from district to district. An overall goal is to guide taller buildings to areas around mixed-use/commercial cores.

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## Landmarks

New buildings should address arterial street intersections with architecture and/or landscape enhancements, offering an opportunity to create visual cues and reference points for both visitors and locals within the IBC. Corner buildings should be both expressive and visually interesting and contribute to the character of the urban neighborhoods and the street scene as a whole, but consistent with the underlying Code.



## Parking

The Vision seeks to create safe attractive parking places for businesses, residents and visitors and address opportunities for shared use parking throughout the IBC.

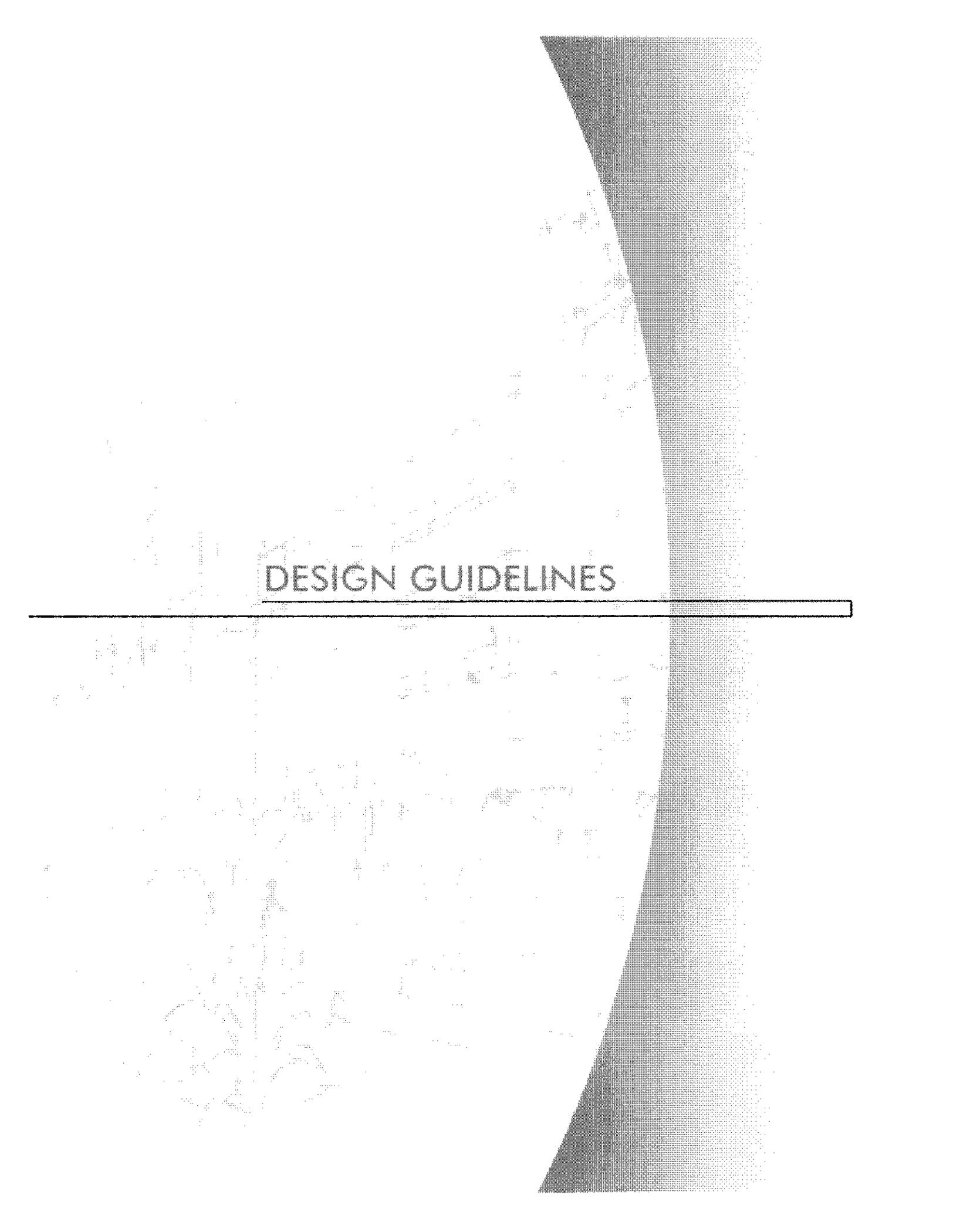
- Develop a shared parking structure strategy for use by workers during the day and residents to use at night.
- Develop strategies to re-use existing under-utilized parking structures within the IBC.
- Encourage employer transit subsidies to reduce employee parking demand.

## Protection from Airport Operations

The IBC Residential Mixed-Use Overlay District incorporates a number of development standards to mitigate residential impacts on airport operations. These standards include minimum sound attenuation requirements, maximum heights, required notification of residents of the airport proximity and compliance with obstruction lighting and mark-up criteria.

## Sustainability

Sustainability in the construction of new buildings is an important consideration as our communities are facing limited resources. The primary IBCRMU Overlay Zone requirement for new construction will be to participate in the proposed City of Irvine Residential Green Building Program.



# DESIGN GUIDELINES

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## **1.0 Introduction**

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### **1.1 Purpose and Intent**

To ensure a consistent standard of residential design quality throughout the IBC, the City of Irvine has established a set of Residential Mixed-Use Design Guidelines. These Design Guidelines are intended to guide the physical development of any residential or mixed use project that contains a component of residential use located within the boundaries of the IBC. They are intended to assist in ensuring that the design of each development remains true to the principles established in the IBC Vision process and Vision summary document.

This document establishes the framework through which design continuity can be achieved while accommodating varying tastes, materials and building methods. It provides standards and criteria for new construction and for remodels or additions.

These guidelines are intended to complement the IBC Residential Mixed-Use Overlay District.

### **1.2 Project Location and Description**

These guidelines should be utilized for new residential developments in all areas within the Irvine Business Complex, generally defined as the area between John Wayne Airport, the San Diego Creek, Barranca Parkway and Campus Drive and located within the City of Irvine.

#### **Consistency**

These guidelines are intended to define standards consistent with the Vision established for residential and mixed-use projects within the IBC. Should these guidelines be found in conflict with regulatory codes, zoning codes, building codes and/or other statutes pertaining to construction within the IBC, those codes and statutes should supersede.

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## 2.0 Limitations on the Location of Residential Development within the IBCRMU Overlay

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- A. Minimum Site Area Requirements.** In order to promote an orderly transition from existing industrial uses to proposed residential development, new residential projects should be located on sites that comply with the following minimum site area requirements.

<u>Site Location</u>	<u>Minimum Site Area Requirement</u>
Within 660 feet of an existing or approved residential project	No minimum area requirement for residential uses
Within 660 feet of an existing or approved mixed-use or retail project that incorporates at least 10,000 square feet of retail use	No minimum site area requirement for residential uses
Within Multiple Use Districts	No minimum area requirement for residential uses
All other sites within the IBC	120,000 square feet

- B. Required Street Frontage.** In order to provide adequate emergency and public access, all proposed development sites should have a minimum frontage of 100 feet along a public or private street. An IBC Private Service Street or IBC Walking Street as defined in Section 5-8-13 does not qualify as a frontage street for purposes of this requirement.
- C. Industrial Buffers.** Where the Regulating Plan shows a Key Business, only non-residential development should be allowed within 200 feet as measured from the property line of the Key Business. Surface and structured parking, circulation, parks and urban open space, community and commercial buildings, and other non-residential uses may be located within the buffer.

### 3.0 Frontage Type Standards

#### 3.1 Purpose

This section identifies the frontage types allowed within the Overlay District area, and for each type, provides a description of the type’s intent and design standards to ensure that proposed development is consistent with the City’s goals for building form and character within the IBC. Design flexibility is encouraged by the use of different frontage types within a specific project.

#### 3.2 Allowable Frontage Types by Overlay District

The Frontage Types allowed in each District are identified in Table 3-1.

**Table 3-1: Frontage Requirements**

BUILDING FRONTAGE	BUILDING FRONTAGE ALLOWED BY DISTRICT	
	UN	MU
Arcade	Y	Y
Forecourt	Y	N
Residential Edge	Y	Y
Gallery	N	Y
Stoop	Y	Y
Storefront	Y	Y
Exposed Parking Garage	E	E

UN = Urban Neighborhood  
 MU = Multiple Use District

Y = Permitted  
 N = Not Permitted  
 E = Permitted by exception only \*

\* Exceptions include parking garages located on property boundaries not adjacent to public or private streets except on IBC service streets as well as parking garages located within the 200 foot industrial buffer.

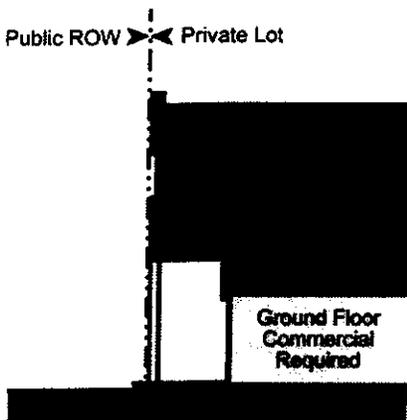
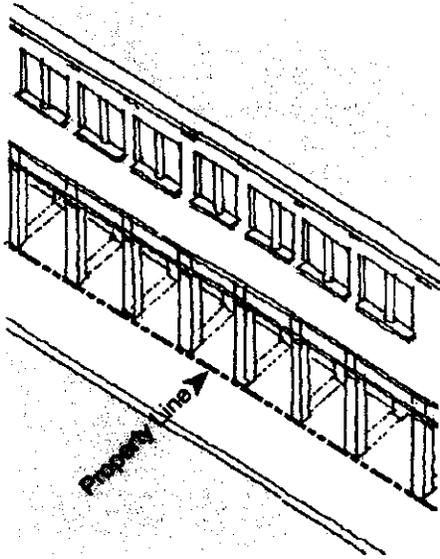
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### 3.3 Standards

#### Arcade

Arcades are façades with an attached colonnade which are covered by upper stories. This type is ideal for retail use, but only when the sidewalk is fully incorporated under the roof. This frontage type cannot cover the public right-of-way as can the Gallery frontage type.

- Arcades should be no less than 10 feet wide clear in all directions.
- At least 65% of the first floor wall area oriented to the street should consist of transparent glazed windows or glazed entries.

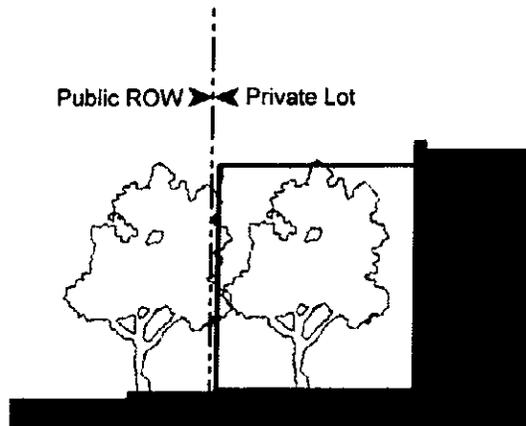
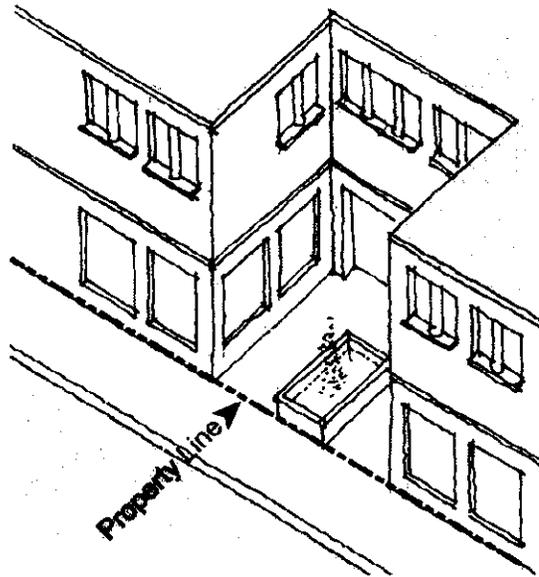


Arcade Diagrams

**Forecourt**

Forecourts are recessed courts within a storefront, gallery, or arcade frontage. The forecourt is suitable for gardens, vehicular drop offs, and utility off loading.

- The forecourt on a commercial street should not be deeper than 40 feet.
- A fence or wall at the property line may be used to define the private space of the yard. The fence or wall shall not exceed 42" in height. When forecourts are more than 18" above grade, completely solid privacy walls are discouraged.
- The forecourt may also be raised from the sidewalk, but should not exceed 36" above the sidewalk grade.



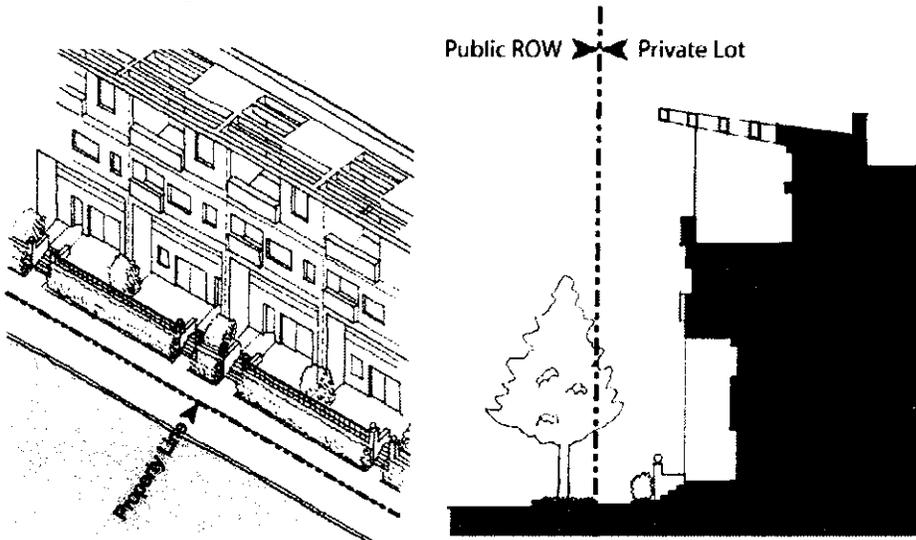
**Forecourt Diagrams**

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### Residential Edge

On multi-story buildings that have residential as a ground floor use, a pedestrian-friendly, “human scale” edge needs to be maintained along collector and local level street frontages. This is achieved by providing ground floor residential dwellings with individual entries, porches, stoops, overhangs and other devices that communicate individual home identity.

- Ground floor dwellings should have individual entries and walkway connections connecting to the adjacent street.
- Parallel on-street parking should be provided along adjacent street edges in front of dwellings where allowed for by the Director of Public Works.
- Exposed parking structure frontage along the ground level is highly discouraged and should be screened from adjacent streets with ground floor residential units, live-work, commercial use, community facilities or other uses.
- Building entries should be articulated with stoops, porches, balconies, overhangs and other architectural devices that articulate the façade and create visual interest.
- Fences or walls defining the front yard, patio, or courtyard should not exceed 42” in height. When patios are more than 18” above grade, completely solid privacy walls are discouraged.

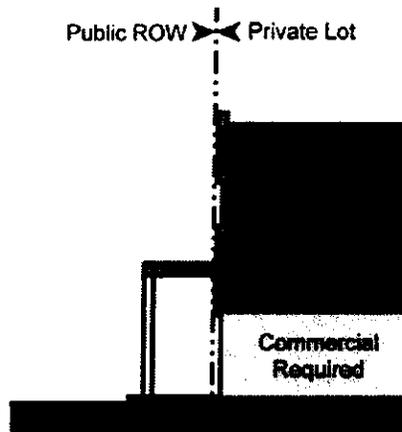
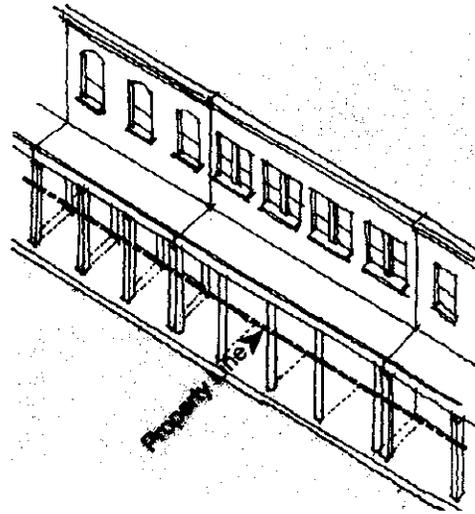


Residential Edge Diagrams

### Gallery

Galleries are storefronts with an attached colonnade that projects over the sidewalk and encroaches into the public right-of-way. This frontage type is ideal for retail use but only when the sidewalk is fully incorporated under the roof.

- Galleries should be no less than 15 feet wide clear in all directions.
- At least 65% of the first floor wall area should consist of transparent glazed windows or glazed entries.



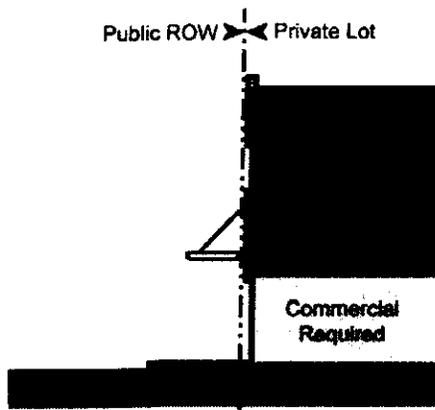
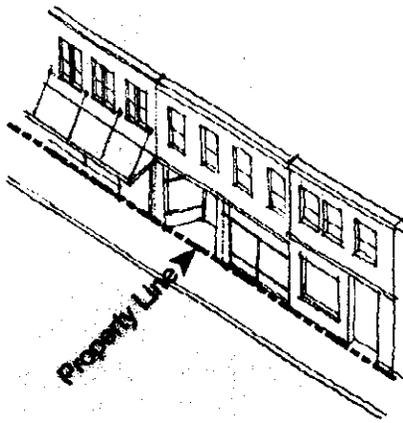
Gallery Diagrams

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## Storefront

Storefronts are façades placed at or close to the property line with the entrance at sidewalk grade and commonly equipped with cantilevered shed roof(s) or awning(s). Recessed storefronts are also acceptable.

- Storefronts should be between 12 and 16 feet tall, as measured from the adjacent sidewalk.
- At least 65% of the first floor wall area should consist of transparent glazed storefront or glazed entries
- A maximum 18 inch deep area, measured out from the face of the building so long as a 5 foot clear path of travel on the adjacent sidewalk is maintained, is permitted within which a commercial tenant may customize store front design.
- A pedestrian signage area at least 24' in height should be integrated into the front ground floor elevation of the building.



## Storefront Diagrams

## **4.0 Architectural Design Standards**

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### **A. Building Massing, Height, and Architectural Detail**

The intent of these regulations is to provide housing projects that have a variety in building massing, height as well as architectural detail. Large building masses should be articulated through variations in roof lines and building heights, as well as the introduction of arcades, colonnades, recessed entrances, window bays, separated wall surfaces, and variations in setbacks. Façades adjacent to public and private streets should be enhanced with architectural detail, contrasting materials and colors, cornices, window details and fenestrations.

There are four mandatory design standards that all new residential projects within the IBC must comply with. Additionally, projects must also comply with 4 out of 6 optional design standards.

#### **Mandatory Design Standards**

##### **1. Maximum length of building frontage**

Any single building frontage may not be longer than 200 feet without a break of at least 15 feet in depth and 15 feet in width.

##### **2. Active ground floor**

Ground floor dwellings oriented to public or private streets should be accessed individually and directly from the abutting street, with individual front stoops or porches. Ground floor units may be provided with an additional/secondary entry from interior building courts/corridors.

- Exceptions are dwellings facing arterial streets, private service streets, or within courtyards.
- Where site grades prohibit direct access, a separate walkway may be provided at the top or bottom of the finished grade.
- Towers (over 5 stories) should be incorporated into a base of two to five stories lined by residential, community facility and/or commercial uses. Building frontages exceeding 5 stories should set back 20 feet from the three to five story building base. Tower elements at corners are not included.

##### **3. Building base, middle and cap**

All buildings should be composed of three parts: base, middle and cap regardless of architectural style.

- The base or ground floor treatments generally articulated by individual dwelling entries, stoops and porches (except commercial ground floors).
- A middle consisting of a multi-story façade element with varied fenestration, color and/or breaks in wall plane.

- 
- A top floor or cornice level that is recessed, modulated, exhibits a strong cornice line or overhang, or is otherwise emphasized.

#### 4. Corner Articulation

Buildings at corners of collector and arterial street intersections should receive special treatment to enhance the pedestrian experience and create visual corner focal points.

Corner treatments may include but are not limited to:

- Tower elements, variation in height should be at least 1 story up or down.
- Larger scale of windows, openings and entry ways.
- Shift of color and material.
- Enhanced or articulated massing.
- Public art, such as murals or sculptural elements.

#### Optional Design Standards

Residential projects must incorporate at least 4 out the following 6 optional design standards in their design:

1. **Building façade** - The wall plane of a building façade should not extend longer than 120 feet without a break in the plane not less than six (6) feet in depth. Balconies do not qualify.
2. **Building tops** - Tops of building façades should be visually terminated through the use of articulated rooftops; stepped parapets, hip and/or vaulted roofs, stepped terraces, domes and/or other forms of multifaceted building tops.
3. **Building fenestration** - Building fenestration should be designed to create visual interest and distinctive building façades. This may be done through a variation in opening size, varied and/or orderly grouping of windows, or the use of recessed windows. Large total blank wall areas in excess of 20 linear feet and more than one-story in height (without windows, detail or entrances) are prohibited.
4. **Varied building heights** - Buildings should be designed with variations in building heights to help create visual interest and a distinctive street frontage. On buildings of three or more stories, one dominant building height should not exceed 70% of the building footprint. Parking structures, either podium or freestanding, are not included in the calculation.
5. **Building color** - Building façades should be designed to incorporate the use of contrasting/complementary colors and materials which reflect rather than absorb the hot/harsh Southern California sun. The predominant building colors (65% or more) should be white, off-white, light ochre, beige, or other light earth tones with other darker tones/colors used to accentuate door or window openings, cornices and other architectural elements/features.

6. **Glass building wall** - Building elevations that include a glass curtain wall should be designed to incorporate a contrast/ratio between punched openings and curtain wall elements. Curtain wall elements shall not exceed 85 percent of any one building façade.
  - The use of reflective glass is prohibited.

#### **B. Courtyard Space**

In order to provide light, ventilation, and usable outdoor areas for residents, buildings oriented toward the interiors of blocks should be formed around courtyards of reasonable proportion and scale.

1. Courtyard housing, liner buildings and podium buildings should be designed to provide courtyard space of a size at least 15% of the total aggregate site size.
2. Tower blocks should be designed to provide courtyard space of a size of at least 20% of the site size.
3. Minimum courtyard space dimensions should be 40 feet.
4. Courtyard spaces should be connected to each other and/or to the street by landscaped walkways.
5. Courtyard spaces may be located on podiums.

#### **C. Pedestrian Access**

1. Where buildings are accessed by a communal primary entry to an internal lobby or courtyard, at least two different edges of the block should have such an entry. These may be in addition to individual entries to ground floor dwellings.
2. Primary pedestrian entries for commercial/retail uses should be directly from a street or plaza.

#### **D. Utility Service Areas**

Utility/service areas and mechanical/electrical/backflow prevention equipment should be located and screened to reduce their visibility from public and communal gathering areas; methods of screening that are compatible with the project's architecture should be utilized.

#### **E. Green Building Requirements**

All residential projects should participate in the City of Irvine Residential Green Building Program.

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## 5.0 Block Standards

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- A. Purpose.** This section establishes the standards for residential and mixed-use block size. A maximum block size criteria has been established to create and maintain a connected network of streets that improve connectivity, walkability, emergency access, and a variety of building types.
- B. Applicability.** Each block within a project should be designed in compliance with the standards of this Chapter, and is subject to the review of the Community Development Department.
- C. Maximum Block Size.** Blocks should not be longer than 600 feet on the long dimension and 400 feet on the short dimension. If either dimension is exceeded a new street should be added to create a block size not exceeding said dimensions.
- D. Street Types.** Street types to be used to define and create allowed block sizes are as follows.
- Any existing public arterial streets;
  - Any existing public collector streets;
  - Any existing public local streets; and
  - Any new private way defined on page 80, except IBC Private Service Street, which is intended for service and emergency access only; however, the Walking Street should be used only when connectivity to an arterial is infeasible, as determined by the Director of Public Works.
- E. Street Connectivity.** Streets should be aligned and located in a manner to create a connected street pattern.
- New streets should link, or be aligned to ultimately link, to other local, collector, and/or arterial streets.
  - In cases where new streets cannot connect to arterials due to intersection spacing constraints the street may:
    - End before the arterial with adequate vehicular turnaround area, and continue as a pedestrian walkway connecting to the arterial adjacent sidewalk, or
    - Provide a “walking street” as depicted on page 81.

## **6.0 Street Standards**

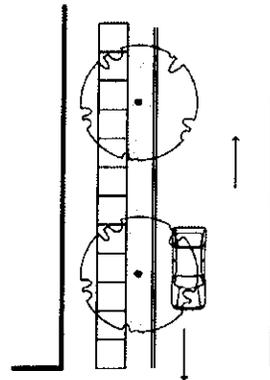
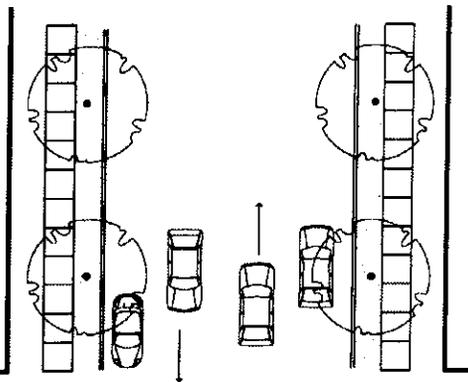
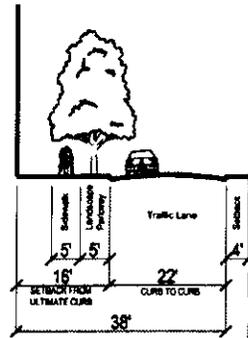
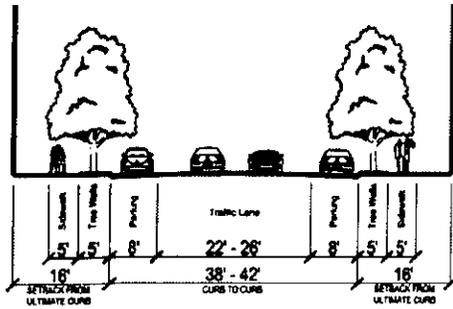
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As provided in this Vision Plan, new ungated streets should be provided in the IBCRMU Overlay to enhance the walkability and circulation and to create smaller blocks.

- A. Conceptual Location.** Streets should be located in general conformance with the Conceptual Street Locations Plan on page 40 of this Vision Plan adopted by City Council Resolution \_\_\_\_\_.
- B. Width Variations for Emergency Access.** The curb to curb dimension may vary depending on adjacent building heights in order to meet OCFA access and operational requirements.
- C. Bus Stops.** Bus stops should be located and designed in accordance with the Orange County Transportation Authority (OCTA) Bus Stop Safety and Design Guidelines, and in consultation with City and OCTA staff. Applicants should be required to install bus turnouts, shelters, and related amenities, or pay an in-lieu fee to the City, as determined by the Director of Public Works.

**D. IBC Private Way**

**Interim Section**



<b>Design Speed</b>	20 mph
<b>Curb to Curb Width</b>	38'-42'
<b>Traffic Lanes</b>	1 lane each direction
<b>Bike Lane</b>	none
<b>Parking</b>	parallel on both sides (opt.)
<b>Curb Type</b>	vertical
<b>Curb Radius</b>	20'
<b>Sidewalk Width</b>	5'
<b>Parkway Width</b>	None
<b>Planter Width</b>	5'
<b>Planted Area</b>	5'
<b>Street Lighting</b>	City standard

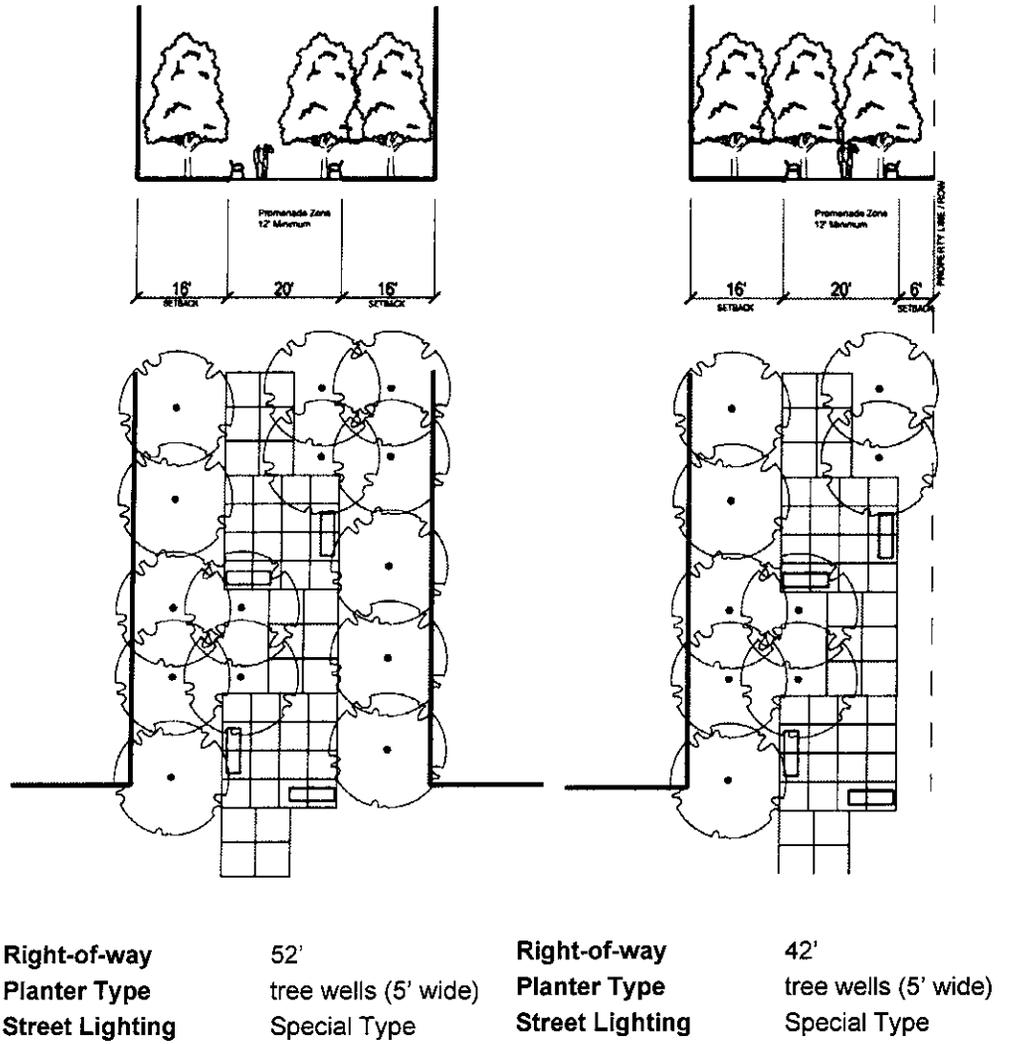
<b>Design Speed</b>	20 mph
<b>Curb to Curb Width</b>	22'
<b>Traffic Lanes</b>	1 lane each direction
<b>Bike Lane</b>	none
<b>Curb Type</b>	vertical
<b>Curb Radius</b>	20'
<b>Sidewalk Width</b>	5' on one side
<b>Planter Width</b>	5'
<b>Planter Type</b>	continuous landscape parkway
<b>Street Lighting</b>	City standard

**NOTES:**

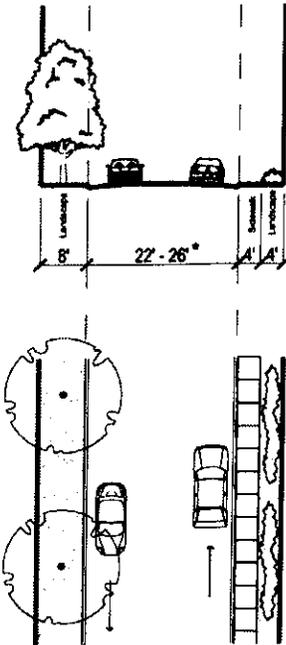
1. 42 feet pavement width required when adjacent building height is greater than 65 feet (for Orange County Fire Authority requirements).
2. On-street parking is required where residential fronts the street.

**E. IBC Walking Street**

**Interim Section**



**F. IBC Private Service Street**



<b>Design Speed</b>	20 mph
<b>Curb to Curb Width</b>	22'-26'
<b>Right-of-way width</b>	N/A
<b>Traffic Lanes</b>	1 lane each direction
<b>Median</b>	none
<b>Bike Lane</b>	none
<b>Parking</b>	none
<b>Curb Type</b>	vertical
<b>Curb Radius</b>	20'
<b>Sidewalk Width</b>	4' on one side
<b>Parkway Width</b>	none
<b>Planted Area</b>	4' one side/8' other side
<b>Planter Type</b>	none
<b>Street Lights</b>	City standard

NOTE: 26 feet wide when adjacent building height is greater than 65 feet (for Orange County Fire Authority requirements).

## 7.0 Setbacks

Every building or structure built under the provisions of this zone should provide setbacks as follows:

A. Setbacks Abutting Public Rights-of-Way and Private Streets.

1. **Minimum Setback.** All properties should have a minimum setback for the full width of the property as indicated in Table 7-2 Setbacks.

a. Setbacks shall be measured from the ultimate curb face location.

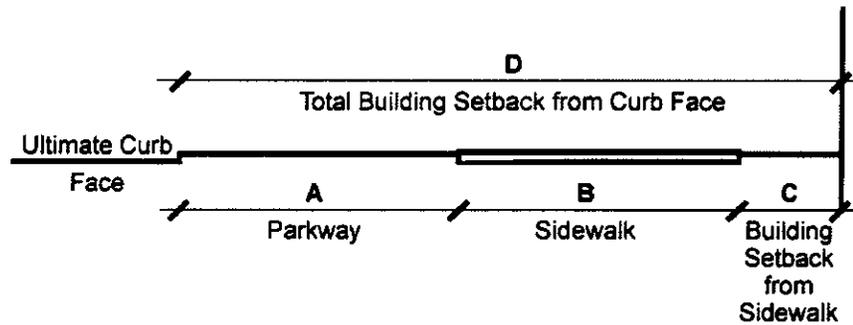


Table 7-2: Setbacks

Street	A Parkway Width (feet)	B Sidewalk Width (feet)	C Building Setback from Sidewalk (feet)	D Total Building Setback from Curb (feet)
<b>New Streets</b>				
IBC Private Court	0	8	0	8
IBC Private Way	5	5	6	16
IBC Service Street	0	8	0	8
<b>Existing Streets</b>				
Alton Parkway*	8	8	14	30
Armstrong Avenue	6	6	8	20
Barranca Parkway*	8	10	22	40
Bardeen Avenue	6	6	8	20
Beckman Avenue	6	6	8	20
Business Center Drive	6	6	8	20
Campus Drive*	8	8	14	30
Cartwright Road	8	12	0	20
Corporate Park	6	6	8	20
Derian Avenue	6	6	8	20



Street	A Parkway Width (feet)	B Sidewalk Width (feet)	C Building Setback from Sidewalk (feet)	D Total Building Setback from Curb (feet)
Douglas Drive	6	6	8	20
DuBridge Avenue	6	6	8	20
Dupont Drive (UN)	6	6	8	20
Dupont Drive (TC)	0	20	0	20
Gates Avenue	6	6	8	20
Gillette Avenue	6	6	8	20
Hale Avenue	6	6	8	20
Kelvin Avenue	6	6	8	20
Jamboree Road (north of Main Street)*	8	8	14	30
Jamboree Road (between Main Street and Michelson Drive)*	8	8	8	24
Jamboree Road (south of Michelson Drive)*	8	8	12	30
Macarthur Boulevard*	8	8	14	30
Main Street*	8	8	8	24
McCabe Way	6	6	8	20
McGaw Avenue	6	6	8	20
Martin Street	6	6	8	20
Michelson Drive*	8	8	8	24
Millikan Avenue	6	6	8	20
Murphy	6	6	8	20
Morse Avenue	6	6	8	20
Noyes Avenue	6	6	8	20
Quartz	6	6	8	20
Richter Avenue	6	6	8	20
Teller Avenue	6	6	8	20
Union	6	6	8	20
Von Karman Avenue (Main Street to Barranca Parkway)*	8	8	14	30
Von Karman Avenue (Michelson Dr. to Campus)*	8	8	8	24
Wade Street	6	6	8	20
White Road	8	12	0	20

\*Existing Arterial Streets

2. **Required Improvement within Setbacks.** Setbacks abutting public rights-of-way, private streets, private service streets, and private ways should be improved and maintained as noted below:
  - a. For projects adjacent to streets identified in Table 7-2, as well as newly constructed public and private streets, the portion of the setback adjacent to the right-of-way should be improved with a parkway and sidewalk consistent with dimensions identified in this Section. On public streets, a private property easement for the sidewalk should be provided to the City.
  - b. Setback areas should be fully landscaped with turf or groundcover, trees, shrubs or other plants, and/or decorated paving and walking surfaces.
  - c. Setback areas should be permanently maintained in a neat and orderly manner by the property owner, homeowners association, or maintenance district.
  
3. **Acceleration and Right Turn Lanes.** Required setbacks from the curb should be maintained where right turn lanes, acceleration lanes or deceleration lanes are required, except in the following condition:
  - a. A full or partial height building mass may be extended out to the normal setback line if located on the corner and not exceeding 30% of the length of the increased setback. The extended building mass must represent a corner architectural elevation and form unique to the block and designed to accentuate the arterial corner location.
  
4. **Permitted Encroachments within Setbacks:** Setbacks abutting public rights-of-way, private streets, private service streets, and private ways may include the following encroachments:
  - a. Stoops may encroach not more that five (5) feet into the required setback.
  - b. Patios and courtyards may encroach not more that four (4) feet into the required setback.
  - c. Ramps for disabled access.
  - d. Outdoor seating and dining areas in conjunction with full-service restaurants and food retailers i.e. coffee shops, ice cream shops, sandwich shops, outdoor vending, and pushcarts provided that such areas shall be designed to not adversely affect safe and efficient pedestrian circulation, subject to review and approval by the Director of Community Development.
  - e. Public art displays, fountains, ponds, planters, outdoor seating areas, benches, decorative trash receptacles, way finding signs, planters, public plazas, or other similar amenities and attractive street furnishings that create public gathering places, as permitted by existing regulations.
  - f. News racks that are designed to be aesthetically harmonious with the character of the area and not cause obstruction or adversely affect the safe and efficient circulation of pedestrian and vehicular traffic.

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- g. Awnings, canopies, galleries, and arcades.
  - h. Signs as permitted in section 8 of these Design Guidelines.
  - i. Encroachments as permitted in Section 3-27 of the Zoning Ordinance.

**5. Permitted Encroachments within Public Rights of Ways:** All Right of Way encroachments need to maintain a five (5) foot clear path of travel.

- a. Ramps for disabled access.
- b. Improvements for bus transit and shuttle stops.
- c. Outdoor seating and dining areas in conjunction with full-service restaurants and food retailers i.e. coffee shops, ice cream shops, sandwich shops, outdoor vending, and pushcarts provided that such areas shall be designed to not adversely affect the safe and efficient circulation of pedestrian and vehicular traffic, subject to review and approval by the Director of Community Development and Director of Public Works.
- d. News racks that are designed to be aesthetically harmonious with the character of the area and not cause obstruction or adversely affect the safe and efficient circulation of pedestrian and vehicular traffic.
- e. Galleries as defined in Frontage Type Standards (Section 3 of the Design Guidelines Pg. 73).
- f. Signs as permitted in Section 8 of these Design Guidelines.

## **8.0 Signs and Public Art**

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**A. Applicability of Other Regulations.** The signage provisions in Division 7 of the Irvine Municipal Code should apply to projects within the IBCRMU Overlay, except that the following signage elements are permitted when a coordinated sign program is provided as described in Subsection Below.

**B.** A sign program for residential and mixed use projects should be submitted for review pursuant to the procedures outlined in Sections 2-21-2 and 2-31-3 of the Zoning Code. The approval body for the sign program should be as specified in Section 2-21-4 of the Zoning Code, with the exception of neon signs, which are permitted pursuant to this section as part of the required sign program.

1. Awning signs and projecting signs are permitted for buildings with ground floor commercial uses.
2. Thematic elements or three-dimensional object or non-habitable structure such as a gateway, tower, sculpture, spire, and similar architectural features to entertain pedestrians are permitted.

3. Public Art. A coordinated Public Art Program is required and should be approved by the Director of Community Development and the Director of Community Services prior to the issuance of residential building permits. The Public Art Program should be equivalent to 1% of the total project building permit valuation. Criteria will be developed within six months of the adoption of this code. The Public Art Program may include but is not limited to installations at public parks, gateway features, decorative paving, street furniture, and urban plazas. Public art within a development project shall be an integral part of the development including gates, fences, courtyard features, and private recreation sites. Static public art installations are also eligible for art program credit. The Public Art Program will follow the procedures for the new IBC 1% art requirements.

## **9.0 Parking Structure, Parking Demand, Loading, and Vehicle Access**

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### **A. Townhomes, Live/Work and Courtyard Homes**

Townhomes, live/work, and courtyard homes should be rear-loaded with access to garages by private service drives located at the rear or side of the building. Garages access is prohibited on primary street frontages except where necessary to provide access to podium or subterranean parking.

### **B. Freestanding Parking Structure Treatments**

Portions of any parking structure facing a street should be “lined” with residential units or community/commercial facilities so that at least 70% of the parking structure is visually screened from the street. Exceptions to this guideline are private service streets or parking decks located in industrial buffer zones. In such instances landscape and decorative architectural treatments are permitted as screening devices.

1. Parking structures that are located along property lines, not directly adjacent to streets and/or parks or within an industrial buffer zone should utilize architectural detailing, façade treatment, artwork, or other architectural features to enhance the façade.
2. The landscape area should be a minimum of 8 feet in depth at the ground level where the landscaping is the only means of visual screening.
3. Upper levels of any structures should be of similar color and material to adjacent buildings. View of cars should be screened by a 42-inch high parapet.
4. Parking structures should incorporate a squeal-free floor treatment.

### **C. Podium Parking Structure Treatments**

Podium parking garages should be depressed so that no more than 3.5 feet above grade is exposed to public or private streets. Exposed portions should be architecturally

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treated with stoops, porches, courtyards, vents and screened with landscape plantings.

Exceptions are the following:

1. Along an arterial street up to 5 feet of enclosed or naturally ventilated parking structure may be exposed. Such exposed areas should be screened with berming, landscape material, or other devices.
2. Where it can be demonstrated that water table conditions preclude the prescribed maximum 3.5 foot podium height without incurring extraordinary costs, up to 5 feet may be exposed. In addition to stoops and porches, such exposed areas should be screened with berming, landscape material, or other devices.
3. Where existing site slope conditions preclude maintaining the maximum 3.5 foot podium height, up to 50% of a podium side may extend up to 5 feet above grade.
4. Where a podium parking structure extends higher than 3.5 feet above grade (or 5 feet on an arterial street), except in the cases noted above, it should be treated as a freestanding parking structure with at least 70% of the exposed parking structure lined with residential, community or commercial uses. In such a case the same exceptions shall also be granted as listed for free standing parking structures.

**D. Parking Demand Study.** The integration of multiple uses to capitalize on shared parking dynamics leading to reduced parking requirements and intensification of use is highly encouraged.

1. A shared parking analysis, analysis may be requested by the applicant for including the design of the parking areas, including ingress and egress. Reductions in standard parking requirements, should be determined as part of the discretionary case application based upon information contained in a parking demand study prepared by a licensed traffic engineer.
2. The parking demand study should be prepared at the property owner/developer's expense and be provided during the at the time of discretionary application for the use.

**E. Number of Spaces for Residential Uses.** Parking requirements for residential uses should be as provided in Chapter 4 of the Zoning Code; except however, in such an instance when the parking demand study supports a different parking ratio as approved by the Planning Commission as part of the discretionary action.

1. **Valet Parking.** Valet parking may be permitted pursuant to Section 4-8-1 provided that valet services are provided for and managed by an on-site management company or homeowner's association.
2. **Drop-off and Pick-up Locations.** Drop-off and pick-up locations should be incorporated into the design of parking areas, as determined by an access study to be submitted at the time of the discretionary case application.

- F. Trip Reduction.** Applicants may request a reduction in vehicle trips calculated for a project by submitting a Trip Reduction Analysis prepared pursuant to a methodology proscribed by the Director of Public Works. This analysis should be included with or during the discretionary application submittal.
- G. Vehicle Access.** All vehicle access should be designed and improved in accordance with the City of Irvine Standards and Designs manual.
- H. Credit for On-Street Parking.** Residential visitor parking required by the Zoning Ordinance may be located on new streets created by the residential or mixed-use development pursuant to this overlay Zone.
- I. Shared Visitor Parking.** For mixed-use residential projects, up to 80% of the retail parking requirement may be shared with residential visitor parking requirements, but no more than 15% of the residential visitor parking requirement may be met by shared retail parking. Existing local streets that are deemed by Director of Public Works for on-street parking may also be credited for visitor parking. Required parking for recreational areas will not be eligible for shared visitor parking.
- J. Parking Location.** The location of spaces for residential uses should be provided per in Chapter 4.3, except that the location of visitor parking may not exceed 500 feet from the primary entrance to the residence..
1. Parking entrances to subterranean garages and/or driveways should be located to the side or rear of each lot.
- K. Loading Areas.** Off-street loading spaces should be provided as follows:
1. **Non-residential.** Non-residential off-street loading requirements should be located as far as feasible from residential units to minimize noise and odor impacts.
  2. **Residential.**
    - a. Residential uses should have one1 off-street loading space or moving plaza for every 150 units.
    - b. Loading spaces or moving plazas should be located near entries and/or elevators.
    - c. Loading spaces or moving plazas should be incorporated into the design of vehicular access areas.
    - d. Decorative paving, removable bollards, and potted plants are permitted and encouraged to enhance loading spaces or moving plazas .plazas.
    - e. Loading spaces or moving plazas may be located on a local streets, or private ways subject to the approval of the Director of Public Works. The adjacent parkway and setback landscape treatment should be designed to allow for loading and unloading.

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## 10.0 Park and Recreation Standards

- A. Purpose.** This section identifies the range of park types and alternative park design standards for parks to be developed in the IBCRMU Overlay District. Private Neighborhood Parks may be accommodated entirely on the subject property or combined with an adjacent property being developed through dedication or through payment of in-lieu fees to comply with the requirements of this section.
- B. Approvals - Park Credit Exceptions.** Parks should be designed in compliance with the standards of this section, and Section 2-22 of the Zoning Ordinance and Section 5-5-1004 of the Irvine Municipal Code subject to the review of the Community Services Commission and approval of the Planning Commission. Areas not eligible for park credits are: required setbacks, fire lanes, sidewalks that provide access to individual units, trails, leasing offices, property management offices, business centers, conference rooms, and other non-recreational spaces.
- C. Park Dedication Distribution.** Parks should be provided as required in Section 5-5-1004 of the Municipal Code Park Dedication at five acres per 1,000 residents. Community Parks Dedication in the IBCRMU should only be provided through payment of in-lieu fees for the two acres per 1,000 residents Community Park requirement. However within the IBCRMU Overlay, the public/private distribution of neighborhood park land should be allocated as follows:
- |                       |           |
|-----------------------|-----------|
| Public                | Two acres |
| Public and/or Private | One acre  |
- D.** When 750 units are provided within a project (31 dwelling units/acre or greater) the public neighborhood park requirement should be met on-site and must be accessible for the general public. This park should be at least one acre in size.
- E.** For projects over 375 units but less than 750 units, the property owner has the option to provide a 0.5 acre public park that is privately maintained. This park will count towards the public park requirement if public access is retained in perpetuity.
- F. Locations of Public Parks.** Public parks should not be located along streets designated as arterials, freeway onramps or off-ramps, bridges, or similar areas, and should be subject to the City noise attenuation requirements for exterior residential areas. Parks should be located in such a way as to minimize pedestrian hazards and maximize pedestrian access.

**G. Playgrounds in IBC Residential Projects.** For residential projects less than 275 units, tot-lots will not be required on site. For projects with 275 or more units, tot-lots will be required at a rate of 1.2 sq.ft. per person, and will be located on site. The minimum tot-lot size shall be 400 sq.ft. and should allow use of space efficient play features such as climbing rocks, sculptures designed for children, and interactive water features. Projects with fewer than 500 units will be exempt from this requirement if located within ¼ mile walking distance from a public playground.

**H. Allowable Types and Requirements.** The following urban open space types are summarized in Table 10-1, Types and Requirements of Neighborhood Parks. In addition, each type is further described and its specific design and programmatic standards are identified.

**Table 10-1: Types and Requirements of Neighborhood Parks**

Public Park Types	Requirements and Characteristics		
	Minimum Size (ac)	Parking Required	Public Park Credit
Urban Plaza/Square	0.25 ac	No	Yes
Neighborhood Park	0.5 ac	Yes*	Yes**
Community Building	750 sq. ft.	Yes	Yes

\* No, if street parking is available on adjacent street.

\*\* If HOA maintained with public access in perpetuity or publicly maintained.

Private Park Types	Requirements and Characteristics		
	Minimum Size (ac)	Parking Required	Private Park Credit
Courtyard, ungated	6,000 sq. ft	No	Yes
Urban Plaza/Square	0.25 ac	No	Yes
Roof Garden	0.1 ac	No	Yes
Recreational Area	0.1 ac	Yes	Yes
Neighborhood Park	1ac	Yes	Yes
Community Building	750 sq. ft	Yes	Yes

1. **Courtyard.** The smallest of park types, the ungated courtyard is intended to satisfy passive park needs between streetscapes at the corners of development, within projects or between developments, to create areas of urban recreational space within the neighborhood.

a. **Spatial Configuration.**

(1) Minimum size: 6,000 square feet (.137 acres).



- (2) Minimum dimension: Height of the tallest adjacent building or 50 feet, whichever is greater.
  - (3) Public Streets Siding Park: Not required.
  - (4). Pedestrian access. Ungated with at least two pedestrian access points required.
  - b. Typical Program and Use.**
    - (1) Seating area, landscaping, picnic tables, tot lot, water feature, garden, and/or structure (i.e. gazebo) - 1,000 square feet maximum.
    - (2) Parking: none.
  - c. Design and Style**
    - (1) Landscape coverage: 10% minimum.
    - (2) Tree size: Minimum 24-inch box
- 2. Urban Plaza/Square.** A public urban space, framed by less intense buildings and typically located adjacent to streets, or as focal points. Buildings shall define edges.
- a. Spatial Configuration.**
    - (1) Size: 0.25 to 0.75 acre.
    - (2) Minimum Public Streets Siding Park: one; two are preferred
    - (3) Access: Unrestricted.
  - b. Typical Program and Use.**
    - (1). Urban/civic space, benches, amphitheater, shade trees, water feature, artwork, pavilion - 1,500 square feet maximum.
    - (2) Parking: none.
  - c. Design and Style.**
    - (1) Landscape coverage: 10% minimum.
    - (2) Tree size: Minimum 24-inch box
- 3. Roof Garden.** A private garden or urban space on top of the roof or upper floors of a building or a parking structure, which provides usable outdoor space in an urban setting. The size of the structure restricts the size and form of the space.
- a. Spatial Configuration.**
    - (1) Size: 6,000 square feet (0.137 acre).
    - (2) Minimum Public Streets Siding Park: not applicable.
    - (3) Access: Restricted (considered private neighborhood park).
    - (4) Pedestrian Circulation.
  - b. Typical Program and Use.**
    - (1) Swimming pool, spa, sun terrace, running track, athletic courts, gardens, structure.
    - (2) Parking: none.
  - c. Design and Style.**
    - (1) Landscape Coverage: 5% minimum.

(2) Tree size: Minimum 24-inch box.

4. **Private Recreational Area.** A recreational area with recreational facilities to meet the needs of the residents within the site.

a. **Spatial Configuration.**

- (1) Size: 0.33 acre minimum.
- (2) Minimum number of public streets siding park: Not required
- (3) Access: Restricted (considered private neighborhood park).

b. **Typical Program and Use.**

- (1) Athletic courts, swimming pool, playground, walking/fitness trail, dog park, putting green, restrooms, private community building or structures: 1,500 square feet maximum.
- (2). Parking: Per the Zoning Ordinance.

5. **Neighborhood Park.** A public or private park situated between or at the center of neighborhoods that accommodates various recreational needs, such as a neighborhood gathering space, open turf, tennis or basketball courts, picnic area, dog parks, play equipment, but excludes large muscle sport facilities.

a. **Spatial Configuration.**

- (1) Size: Minimum 0.5 acre with a minimum dimension of 100 feet.
- (2) Minimum Public Streets Siding Park: one; two are preferred.
- (3) Access: Can be public or private ownership. Pool area, courts, or buildings may have restricted access in private parks. If public park credit is requested, the park must be publicly maintained, or be privately maintained with public access retained in perpetuity.

b. **Typical Program and Use.**

- (1) Athletic courts, fitness trail, walking trail, restrooms, dog park, playground, pool complex, community building, multi-use turf area structures: 1,500 square feet maximum.
- (2) Parking: Per the Zoning Ordinance.

c. **Location.** Public neighborhood parks receiving park credits cannot be located on major arterials, unless it meets the General Plan Noise Standards for parks.

6. **Community Building.** A building, where the community can meet and have social interaction with other residents. Typically community buildings act as a focal point within the development, located adjacent to important streets.

a. **Spatial Configuration.**

- (1) Size: Minimum 750 square feet.
- (2) Minimum Public Streets Adjacent to Building:  
Public buildings: one.  
Private buildings: zero.

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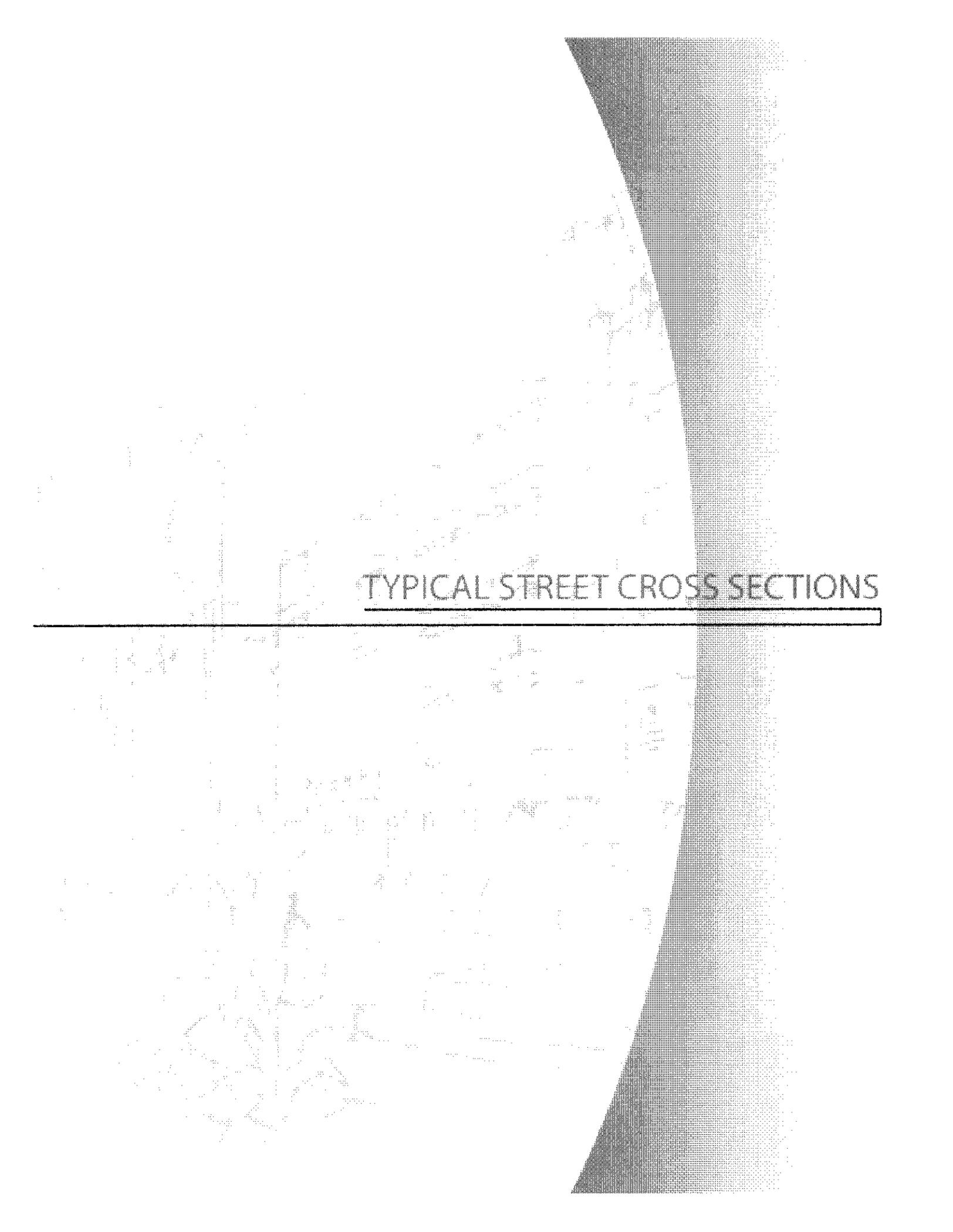
(3) Access: Can be restricted for private facilities.

**b. Typical Program and Use.**

(1) Meeting rooms, open play area, fitness center, arts and crafts rooms, restrooms.

(2) Parking: Per City Code.

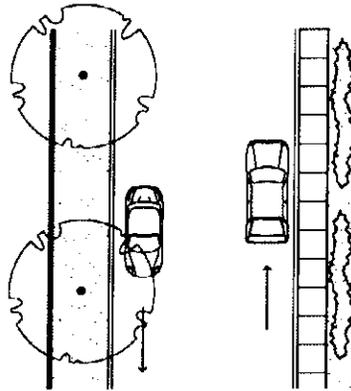
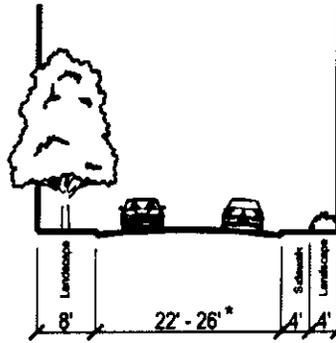
**c. Location.** Community buildings can be located in public or private space.



# TYPICAL STREET CROSS SECTIONS

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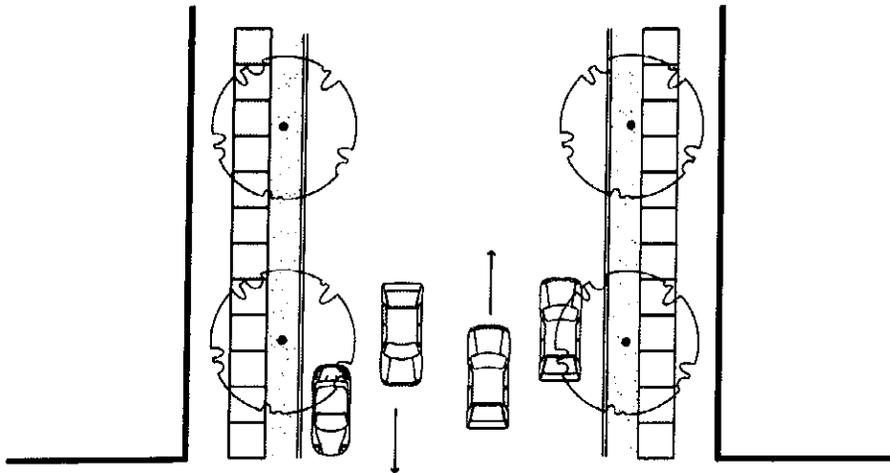
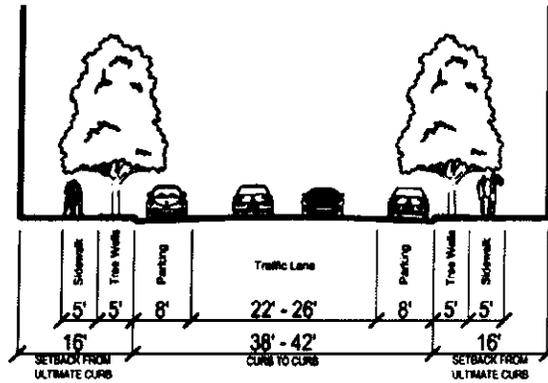
Typical IBC Private Service Street



Note: 26 feet wide when adjacent building height is greater than 65 feet.

- |                      |                       |                   |  |
|----------------------|-----------------------|-------------------|--|
| • Design Speed       | 20 mph                | • Curb Radius     | 20 feet                                  |
| • Curb to Curb Width | 22 feet to 26 feet    | • Sidewalk Width  | 4 feet on one side                       |
| • Right of Way Width | N/A                   | • Parkway Width   | None                                     |
| • Traffic Lanes      | 1 lane each direction | • Planted Area    | 4 feet on one side, 8 feet on other side |
| • Bike Lane          | None                  | • Median          | None                                     |
| • Parking            | None                  | • Transit         | None                                     |
| • Curb Type          | Vertical              | • Street Lighting | City Standard                            |

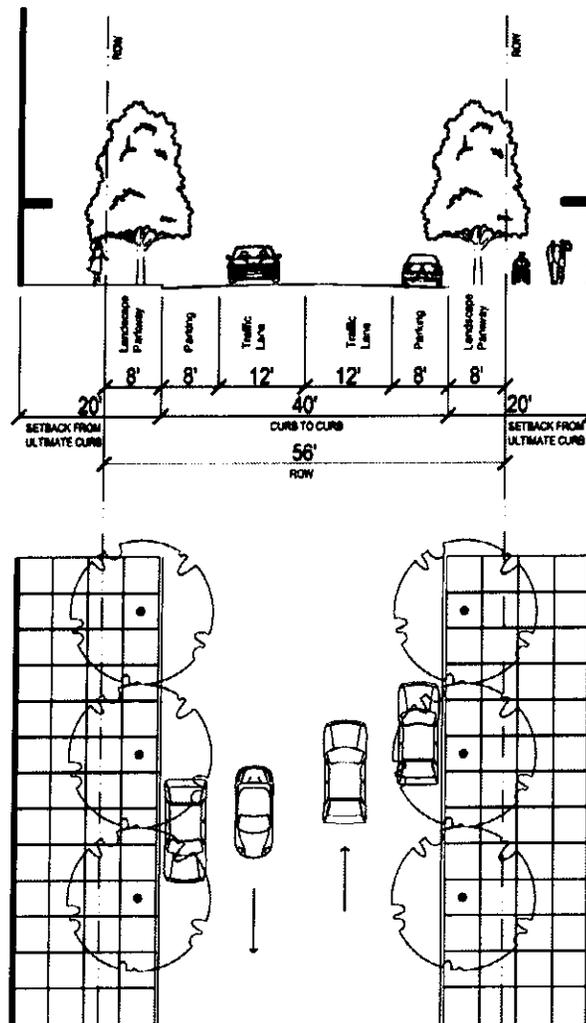
## Typical IBC Private Way



Note: 26 feet required when adjacent building height is greater than 65 feet.  
On-street parking is required where residential fronts the street.

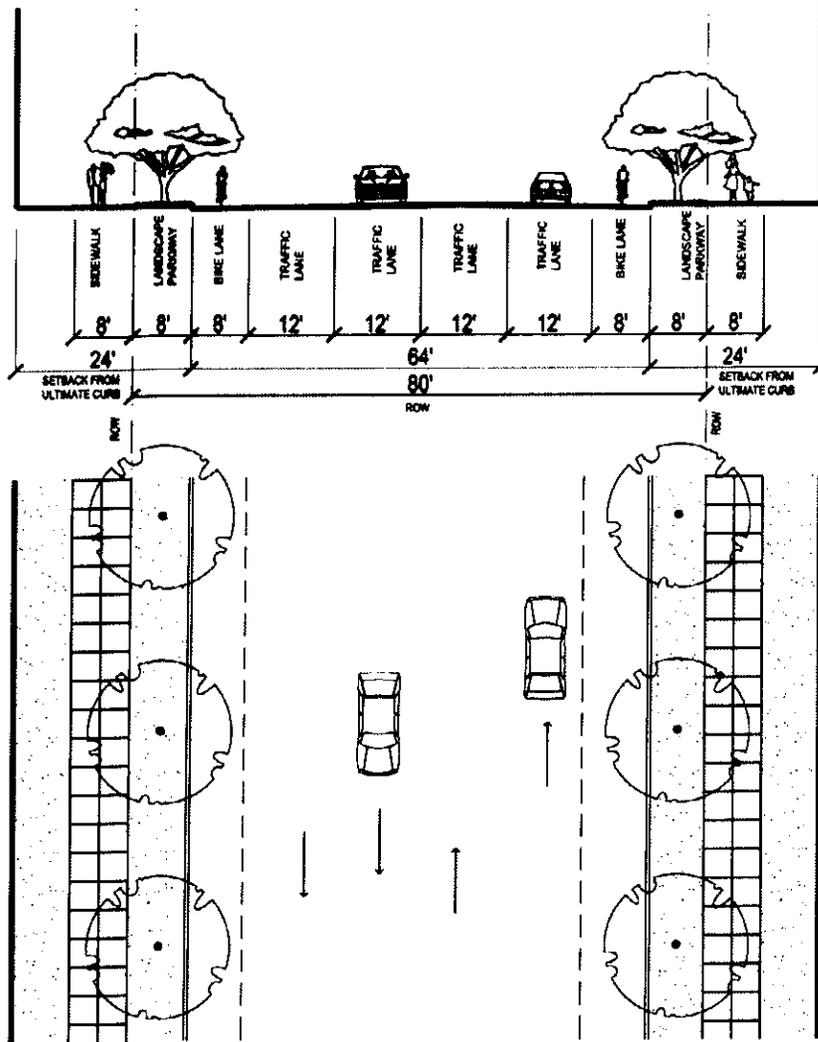
- |                      |                       |                   |               |
|----------------------|-----------------------|-------------------|---------------|
| • Design Speed       | 20 mph                | • Curb Radius     | 20 feet       |
| • Curb to Curb Width | 38 feet to 42 feet    | • Sidewalk Width  | 5 feet        |
| • Right of Way Width | N/A                   | • Parkway Width   | None          |
| • Traffic Lanes      | 1 lane each direction | • Planted Area    | 5 feet        |
| • Bike Lane          | None                  | • Median          | None          |
| • Parking            | Parallel parking      | • Transit         | None          |
| • Curb Type          | Vertical              | • Street Lighting | City Standard |

White Road and Cartwright Road—South of Main Street



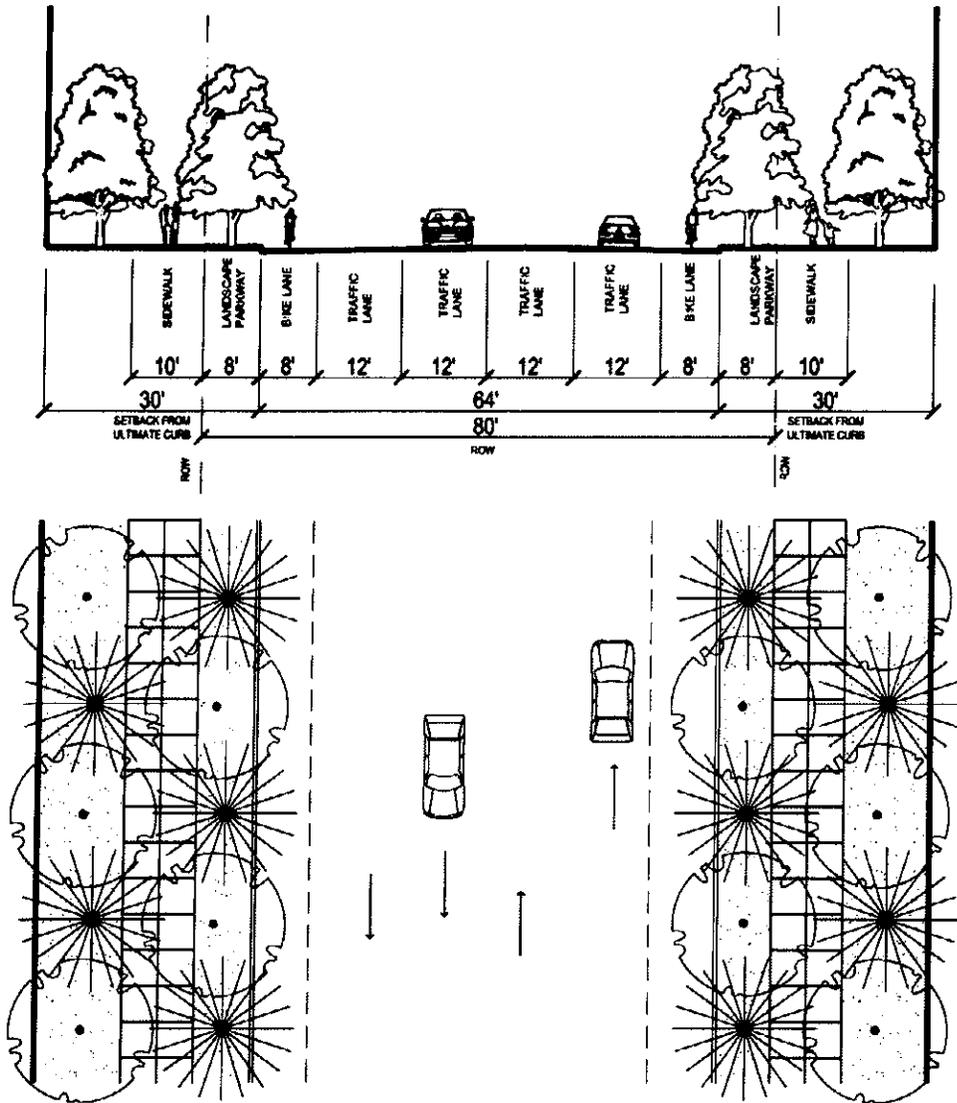
- Design Speed 35 mph
- Curb to Curb Width 40 feet
- Right of Way Width 56 feet
- Traffic Lanes 1 lane each direction
- Bike Lane None
- Parking Parallel parking
- Curb Type Vertical
- Curb Radius 35 feet
- Sidewalk Width 20 feet with 5 feet tree wells
- Parkway Width 8 feet
- Planter Type Tree wells—5 feet wide
- Median None
- Transit None
- Street Lighting Special Type

## Dupont Drive



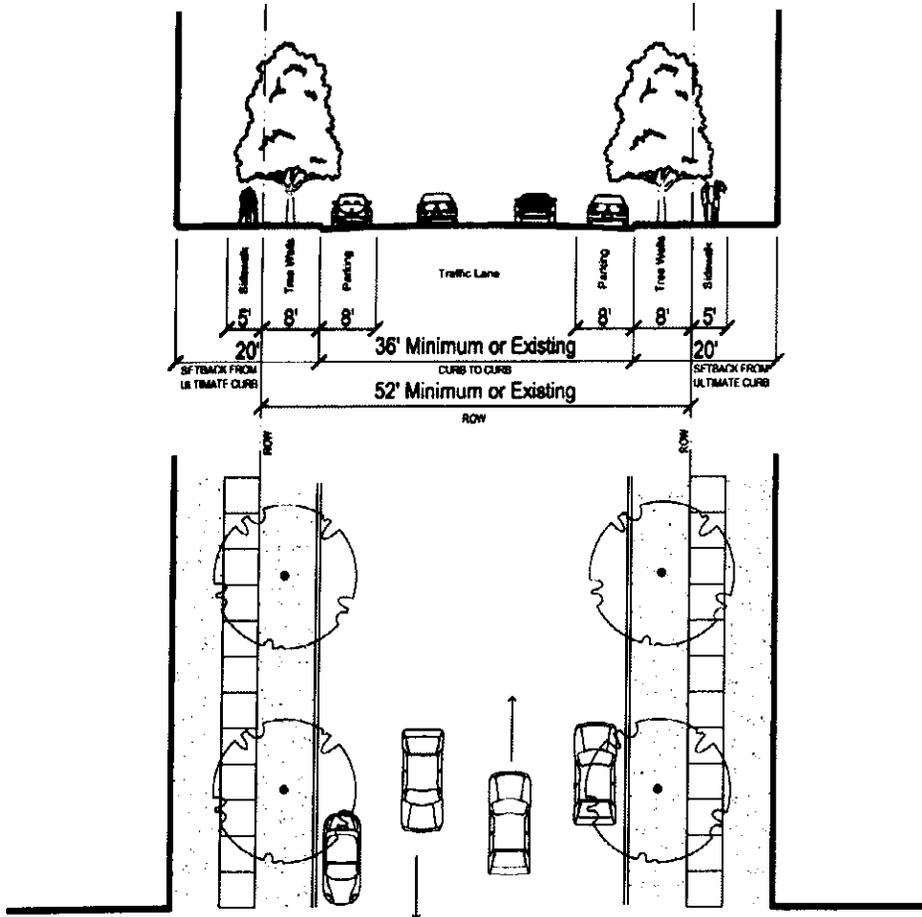
- |                      |                       |                   |                              |
|----------------------|-----------------------|-------------------|------------------------------|
| • Design Speed       | 35 mph                | • Curb Radius     | 35 feet                      |
| • Curb to Curb Width | 64 feet               | • Sidewalk Width  | 8 feet                       |
| • Right of Way Width | 80 feet               | • Parkway Width   | 8 feet                       |
| • Traffic Lanes      | 2 lane each direction | • Planter Type    | Continuous landscape parkway |
| • Bike Lane          | 8 feet                | • Median          | None                         |
| • Parking            | None                  | • Transit         | None                         |
| • Curb Type          | Vertical              | • Street Lighting | Special Type                 |

McGaw Avenue



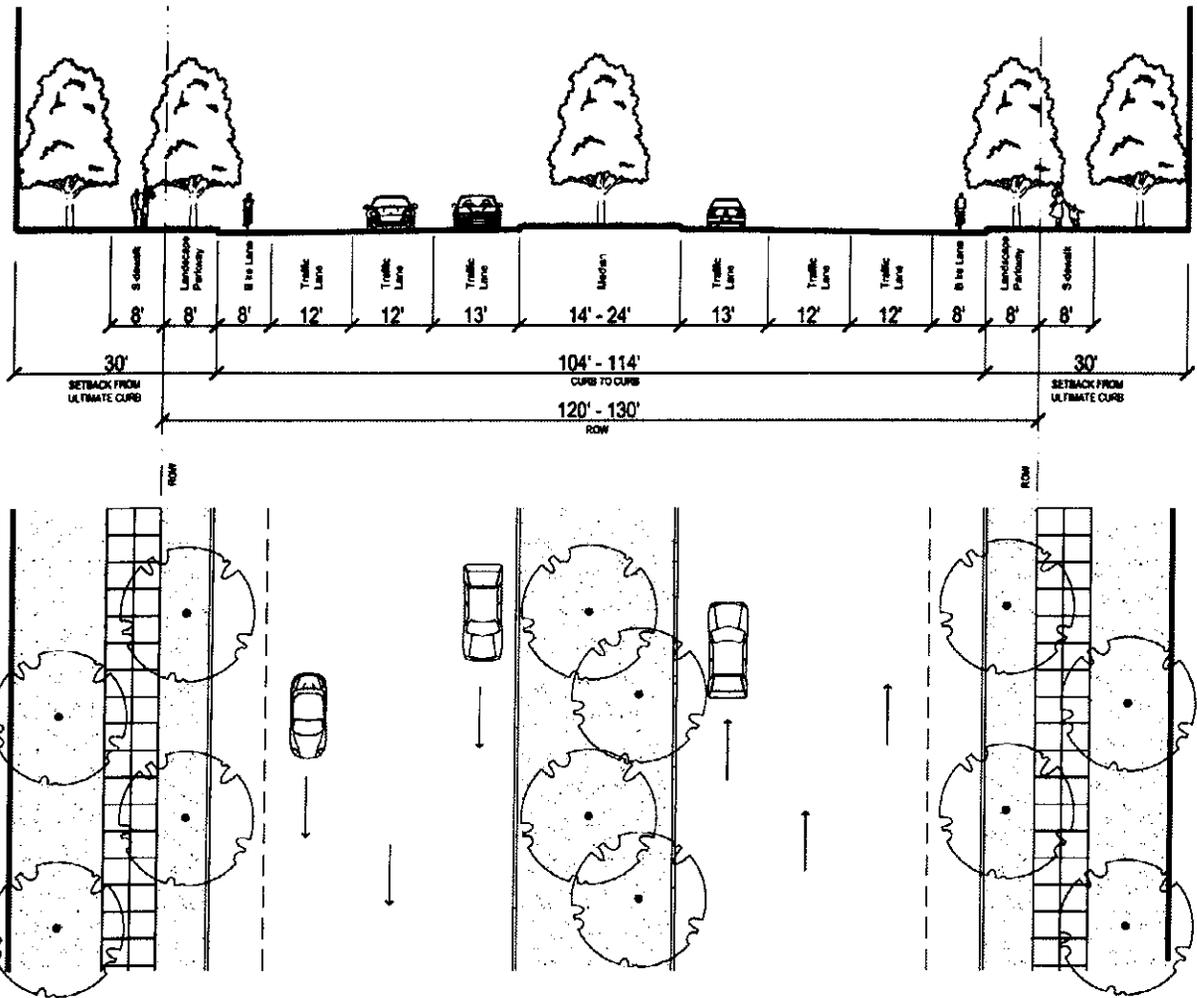
- Design Speed 35 mph
- Curb to Curb Width 64 feet
- Right of Way Width 80 feet
- Traffic Lanes 2 lanes each direction
- Bike Lane 8 feet
- Parking None
- Curb Type Vertical
- Curb Radius 35 feet
- Sidewalk Width 10 feet
- Parkway Width 8 feet
- Planter Type Continuous landscape parkway
- Median None
- Transit None
- Street Lighting City Standard

## Typical Local Street



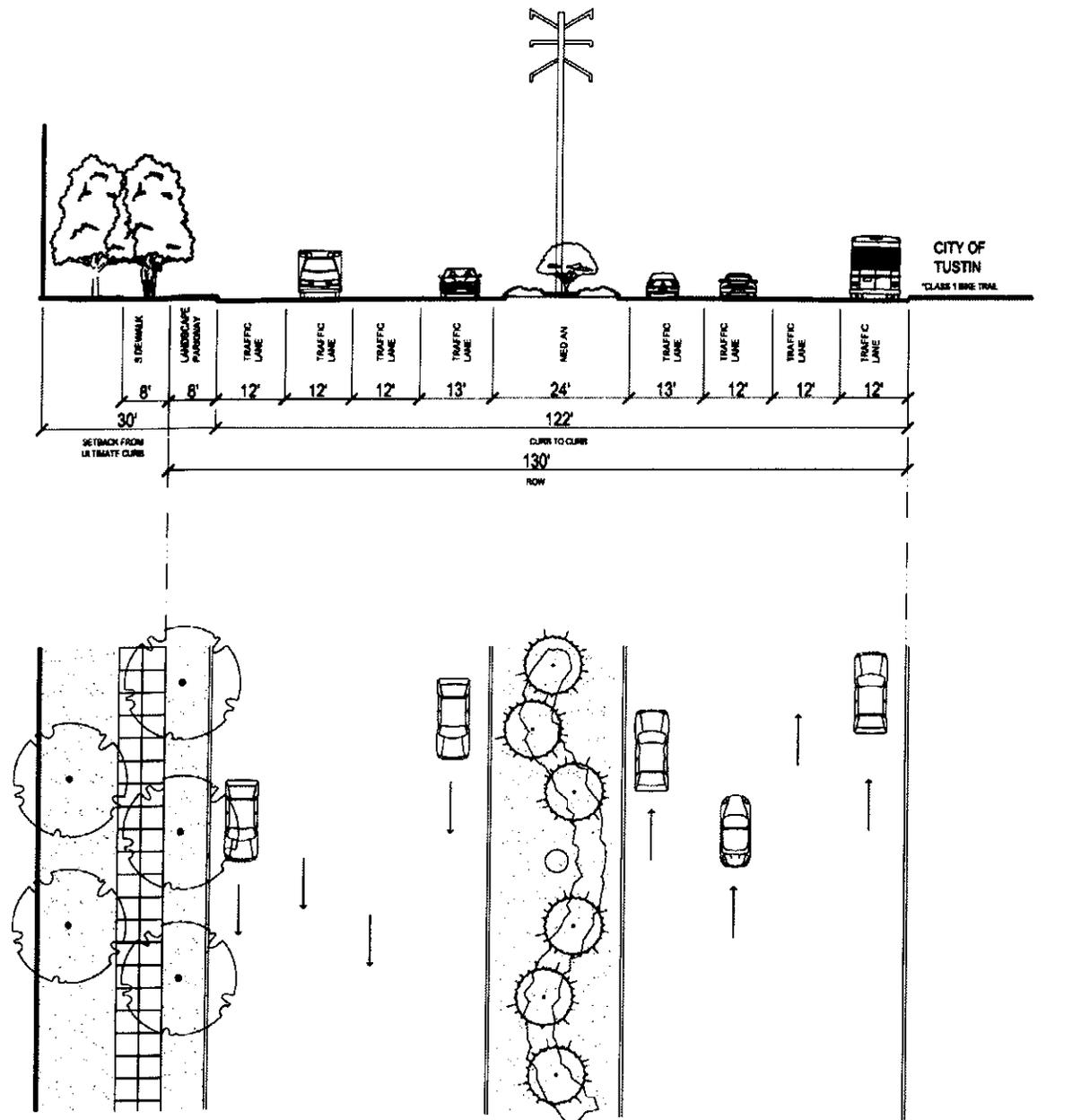
- |                      |   |                   |                              |
|----------------------|---|-------------------|------------------------------|
| • Design Speed       | 25 mph  | • Curb Radius     | 25 feet                      |
| • Curb to Curb Width | 36 feet minimum or existing                       | • Sidewalk Width  | 5 feet                       |
| • Right of Way Width | 52 feet minimum or existing                       | • Parkway Width   | 8 feet                       |
| • Traffic Lanes      | 1 lane each direction                             | • Planter Type    | Continuous landscape parkway |
| • Bike Lane          | None  | • Median          | None                         |
| • Parking            | Parallel as permitted by Director of Public Works | • Transit         | None                         |
| • Curb Type          | Vertical  | • Street Lighting | City standard                |

Alton Parkway—Murphy Avenue to Red Hill Avenue—Major Highway



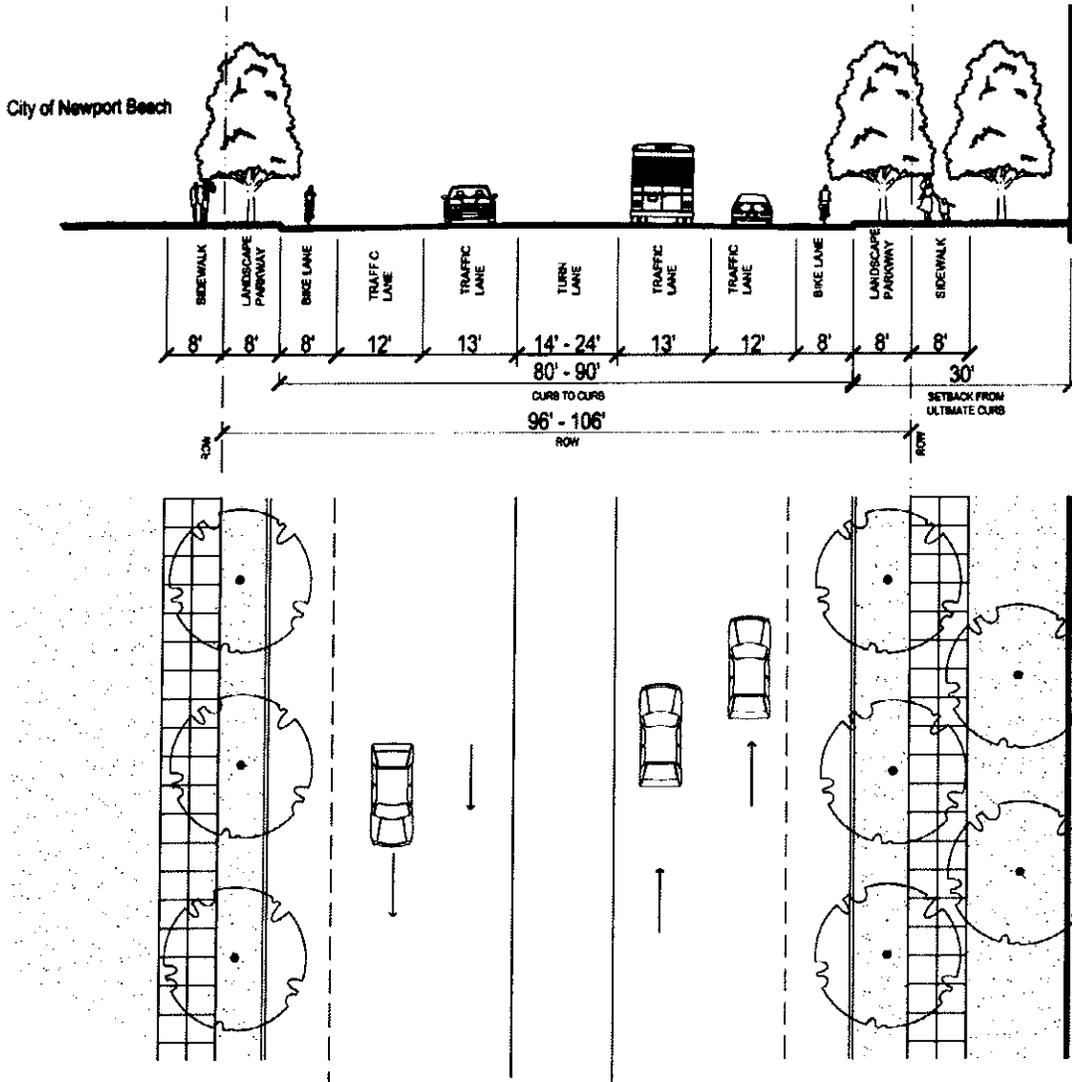
- |                      |                        |                   |                               |
|----------------------|------------------------|-------------------|-------------------------------|
| • Design Speed       | 60 mph                 | • Curb Radius     | 35 feet                       |
| • Curb to Curb Width | 104 feet to 114 feet   | • Sidewalk Width  | 8 feet                        |
| • Right of Way Width | 120 feet to 130 feet   | • Parkway Width   | 8 feet                        |
| • Traffic Lanes      | 3 lanes each direction | • Planter Type    | Continuous landscape parkway  |
| • Bike Lane          | 8 feet                 | • Median          | 14 feet to 24 feet landscaped |
| • Parking            | None                   | • Transit         | Bus turnouts at bus stops     |
| • Curb Type          | Vertical               | • Street Lighting | City Standard                 |

# Barranca Parkway—Major Highway



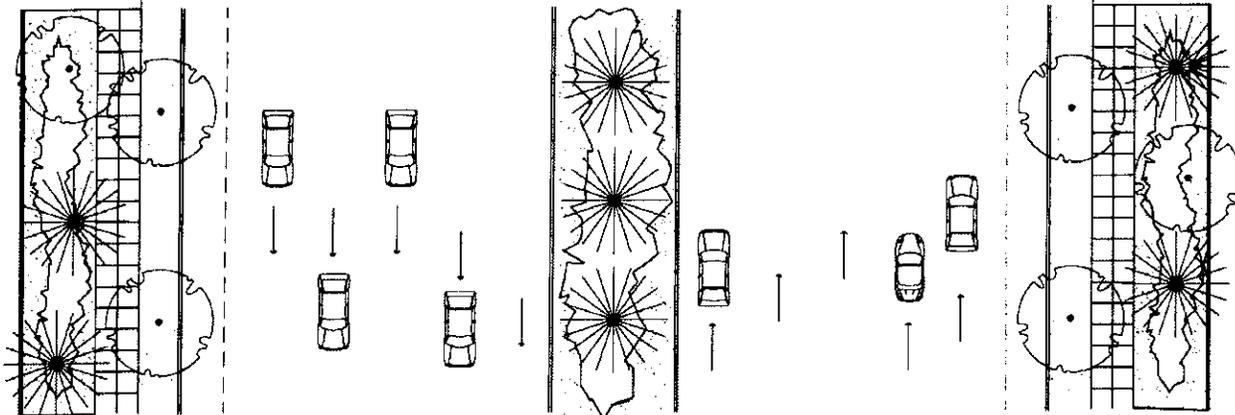
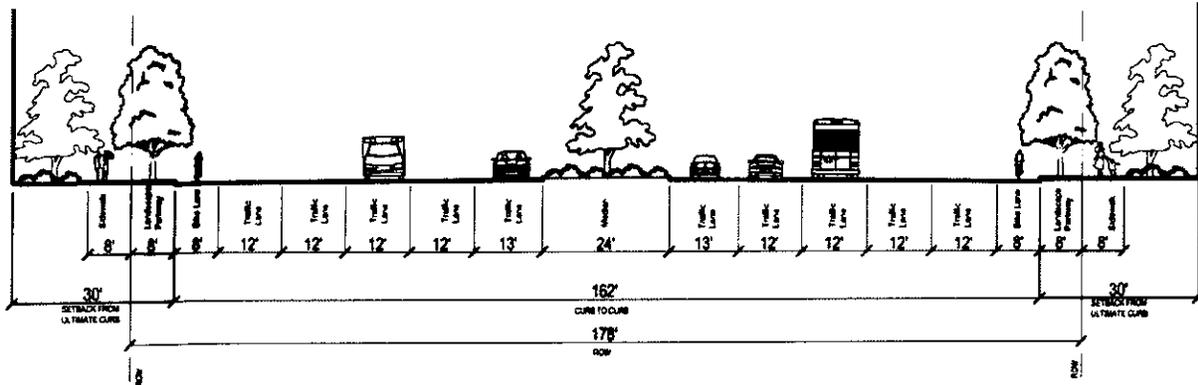
- Design Speed 60 mph
- Curb to Curb Width 122 feet
- Right of Way Width 130 feet
- Traffic Lanes 4 lanes each direction
- Bike Lane 8 feet
- Parking None
- Curb Type Vertical
- Curb Radius 35 feet
- Sidewalk Width 8 feet
- Parkway Width 8 feet
- Planter Type Continuous landscape parkway
- Median 24 feet landscaped
- Transit Bus turnouts at bus stops
- Street Lighting City Standard

Campus Drive—Primary Highway (Carlson to Jamboree – Secondary Highway)



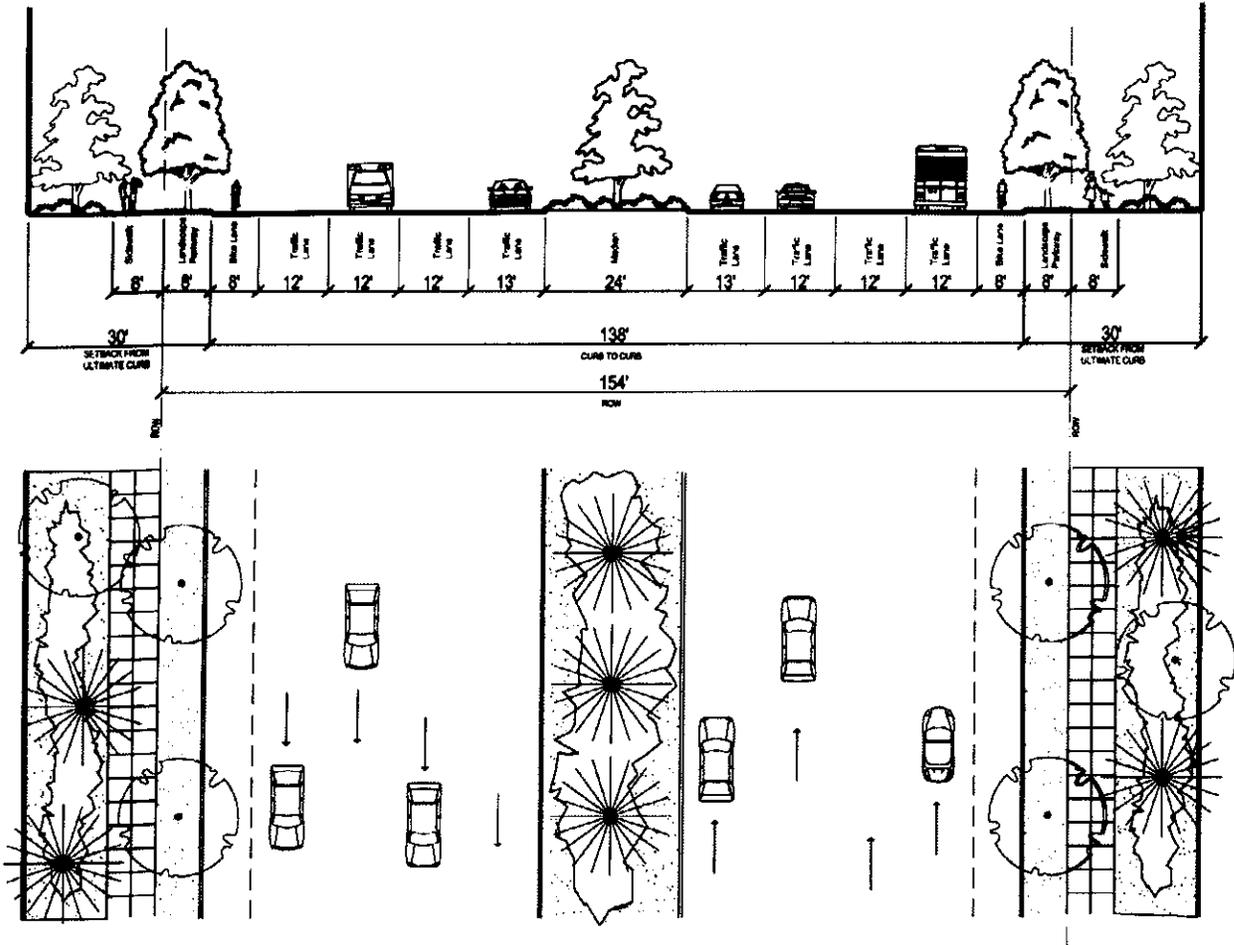
- |                      |                        |                   |                              |
|----------------------|------------------------|-------------------|------------------------------|
| • Design Speed       | 55 mph                 | • Curb Radius     | 35 feet                      |
| • Curb to Curb Width | 80 feet to 90 feet     | • Sidewalk Width  | 8 feet                       |
| • Right of Way Width | 96 feet to 106 feet    | • Parkway Width   | 8 feet                       |
| • Traffic Lanes      | 2 lanes each direction | • Planter Type    | Continuous landscape parkway |
| • Bike Lane          | 8 feet                 | • Median          | 14 feet to 24 feet paved     |
| • Parking            | None                   | • Transit         | Bus turnouts at bus stops    |
| • Curb Type          | Vertical               | • Street Lighting | City Standard                |

# Jamboree Road—Barranca Parkway to McGaw Avenue—Major Highway



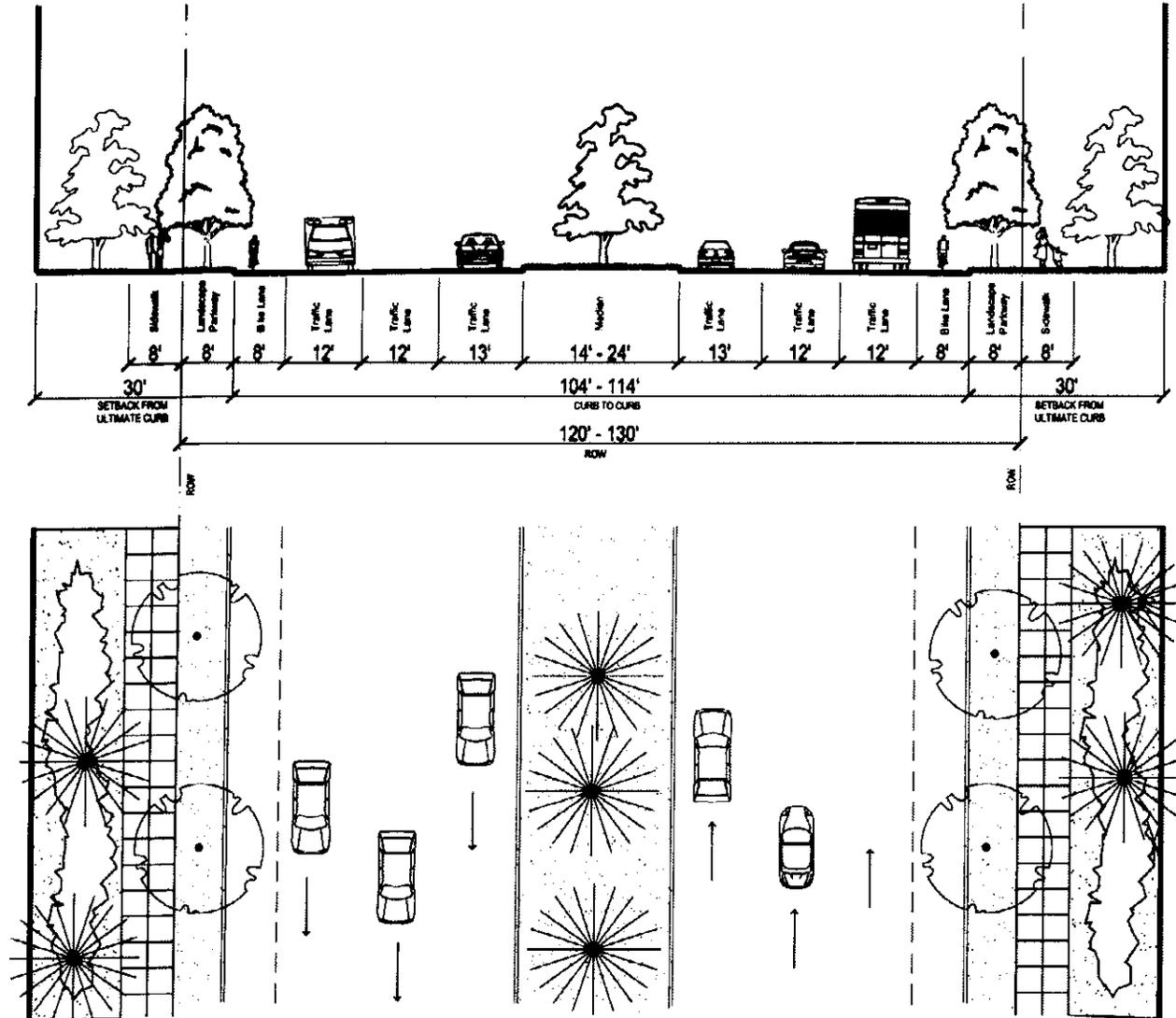
- Design Speed 60 mph
- Curb to Curb Width 162 feet
- Right of Way Width 178 feet
- Traffic Lanes 5 lanes each direction
- Bike Lane 8 feet
- Parking None
- Curb Type Vertical
- Curb Radius 35 feet
- Sidewalk Width 8 feet
- Parkway Width 8 feet
- Planter Type Continuous landscape parkway
- Median 24 feet landscaped
- Transit Bus turnouts at bus stops
- Street Lighting City Standard

Jamboree Road—McGraw Avenue to Main Street—Major Highway



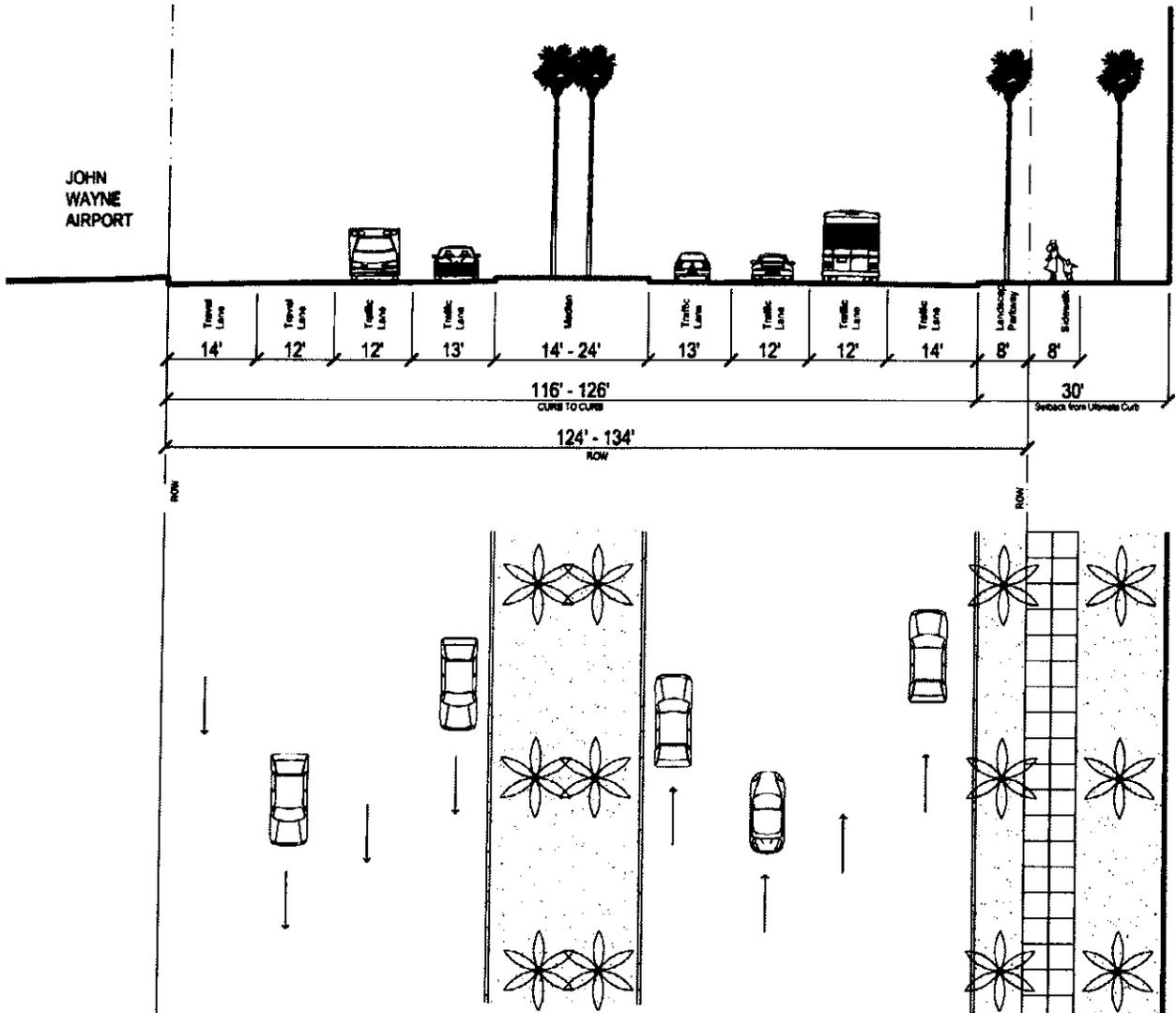
- |                      |                        |                   |                              |
|----------------------|------------------------|-------------------|------------------------------|
| • Design Speed       | 60 mph                 | • Curb Radius     | 35 feet                      |
| • Curb to Curb Width | 138 feet               | • Sidewalk Width  | 8 feet                       |
| • Right of Way Width | 154 feet               | • Parkway Width   | 8 feet                       |
| • Traffic Lanes      | 4 lanes each direction | • Planter Type    | Continuous landscape parkway |
| • Bike Lane          | 8 feet                 | • Median          | 24 feet landscaped           |
| • Parking            | None                   | • Transit         | Bus turnouts at bus stops    |
| • Curb Type          | Vertical               | • Street Lighting | City Standard                |

# Jamboree Road—Michelson Drive to Campus Drive—Major Highway



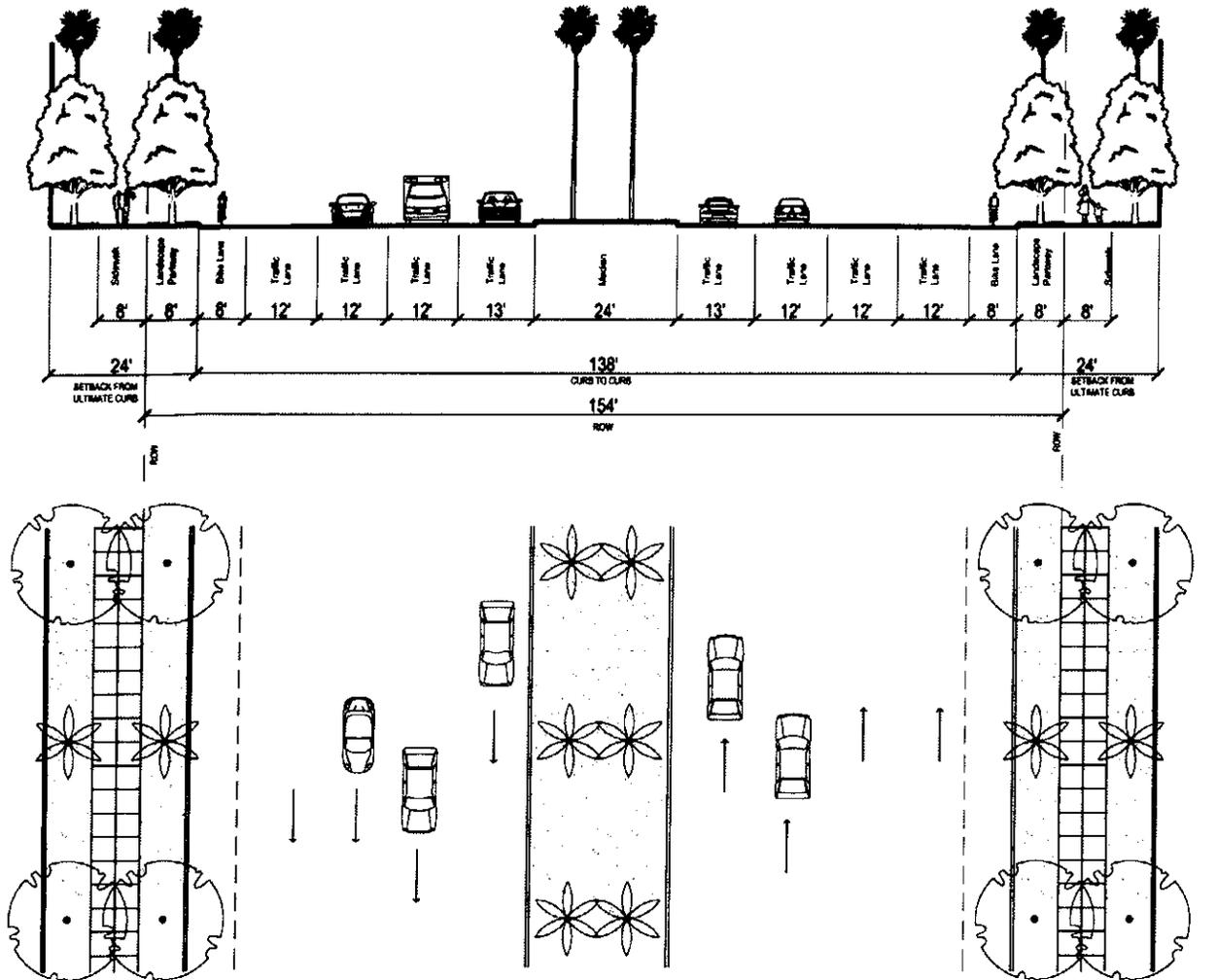
- Design Speed 60 mph
- Curb to Curb Width 104 feet to 114 feet
- Right of Way Width 120 feet to 130 feet
- Traffic Lanes 3 lanes each direction
- Bike Lane 8 feet
- Parking None
- Curb Type Vertical
- Curb Radius 35 feet
- Sidewalk Width 8 feet
- Parkway Width 8 feet
- Planter Type Continuous landscape parkway
- Median 14 feet to 24 feet landscaped
- Transit Bus turnouts at bus stops
- Street Lighting City Standard

MacArthur Boulevard—I- 405 SB Ramp to Campus Drive—Major Highway



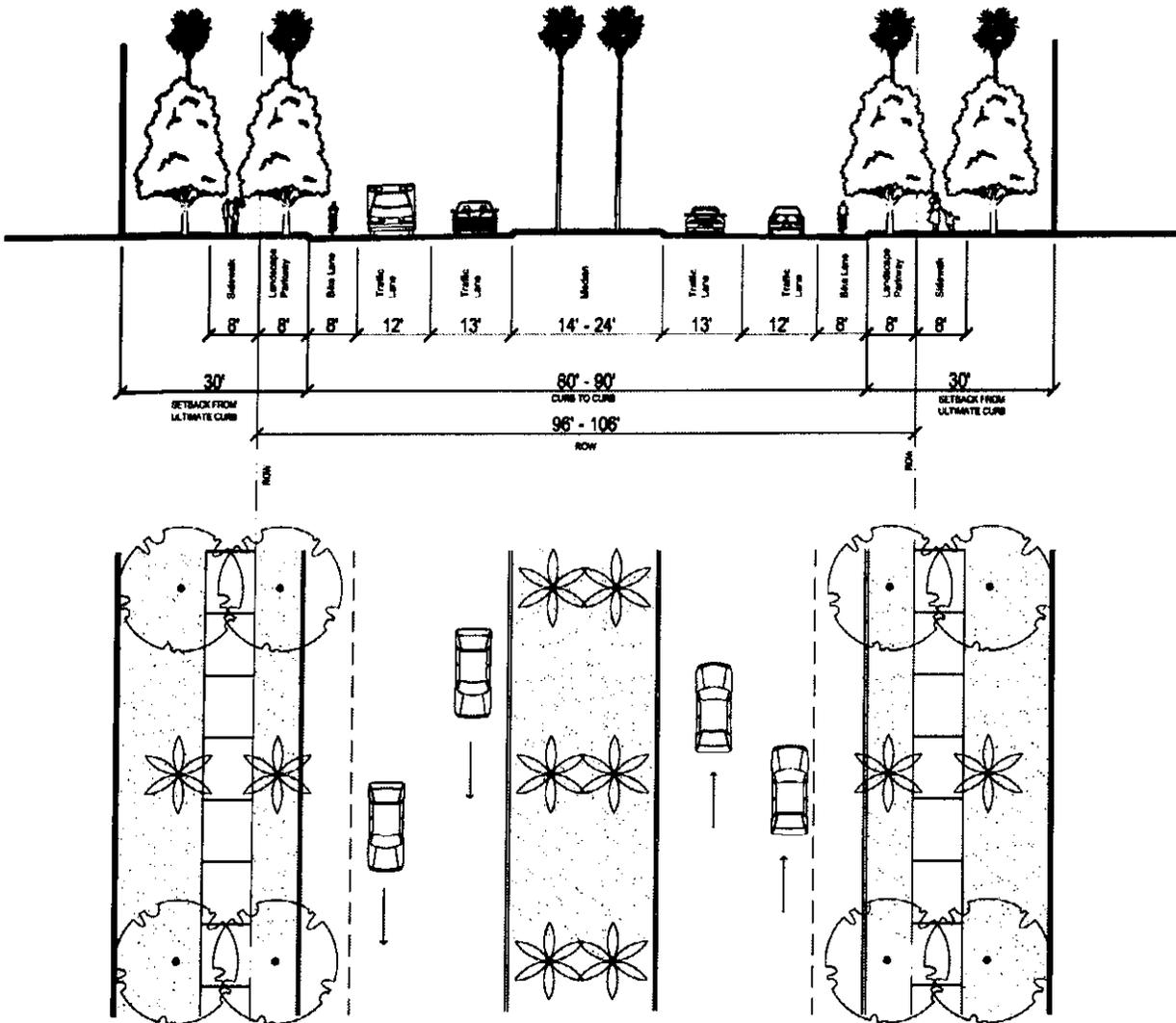
- |                      |                        |                   |                               |
|----------------------|------------------------|-------------------|-------------------------------|
| • Design Speed       | 60 mph                 | • Curb Radius     | 35 feet                       |
| • Curb to Curb Width | 116 feet to 126 feet   | • Sidewalk Width  | 8 feet                        |
| • Right of Way Width | 124 feet to 134 feet   | • Parkway Width   | 8 feet                        |
| • Traffic Lanes      | 4 lanes each direction | • Planter Type    | Continuous landscape parkway  |
| • Bike Lane          | None                   | • Median          | 14 feet to 24 feet landscaped |
| • Parking            | None                   | • Transit         | Bus turnouts at bus stops     |
| • Curb Type          | Vertical               | • Street Lighting | City Standard                 |

Main Street—San Diego Creek to SR 55—Major Highway



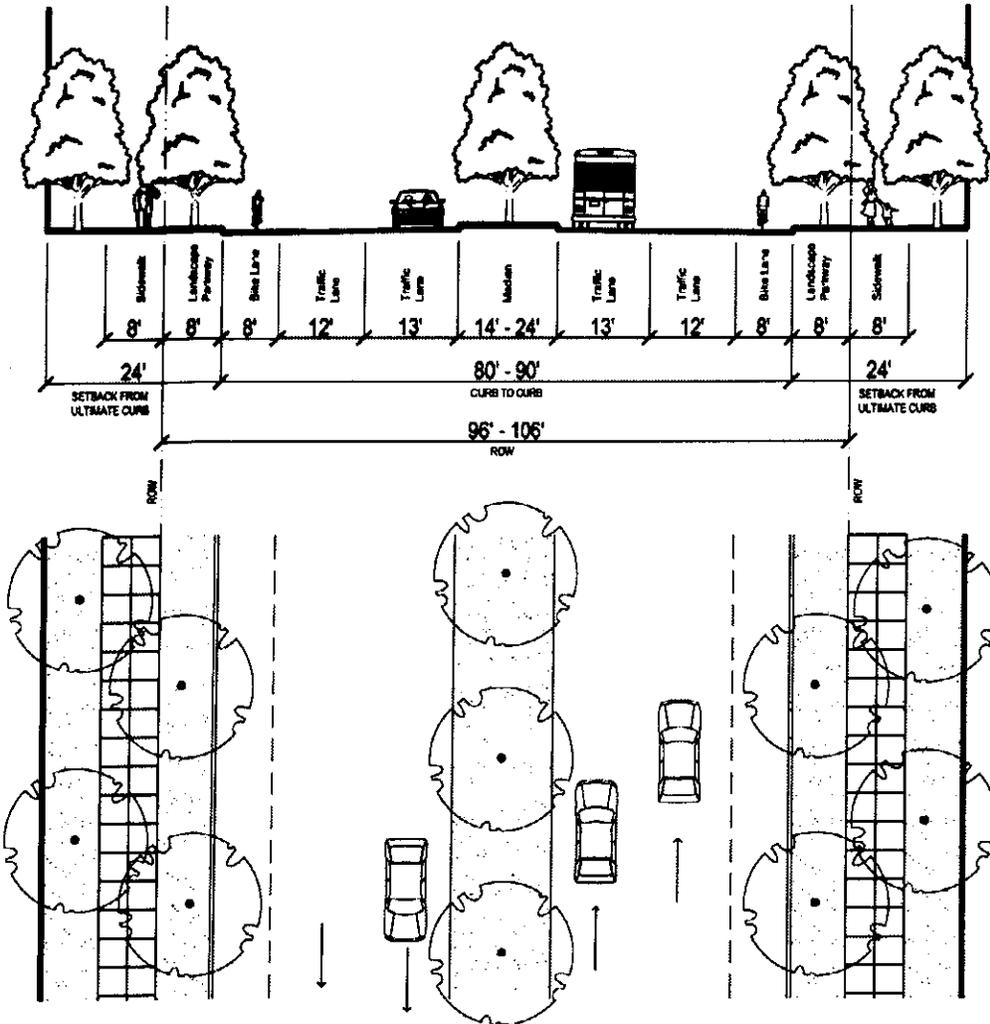
- |                      |                        |                   |                              |
|----------------------|------------------------|-------------------|------------------------------|
| • Design Speed       | 60 mph                 | • Curb Radius     | 35 feet                      |
| • Curb to Curb Width | 138 feet               | • Sidewalk Width  | 8 feet                       |
| • Right of Way Width | 154 feet               | • Parkway Width   | 8 feet                       |
| • Traffic Lanes      | 4 lanes each direction | • Planter Type    | Continuous landscape parkway |
| • Bike Lane          | 8 feet                 | • Median          | 24 feet wide                 |
| • Parking            | None                   | • Transit         | Bus turnouts at bus stops    |
| • Curb Type          | Vertical               | • Street Lighting | City Standard                |

Michelson Drive— MacArthur Boulevard to Jamboree Avenue—Secondary Highway



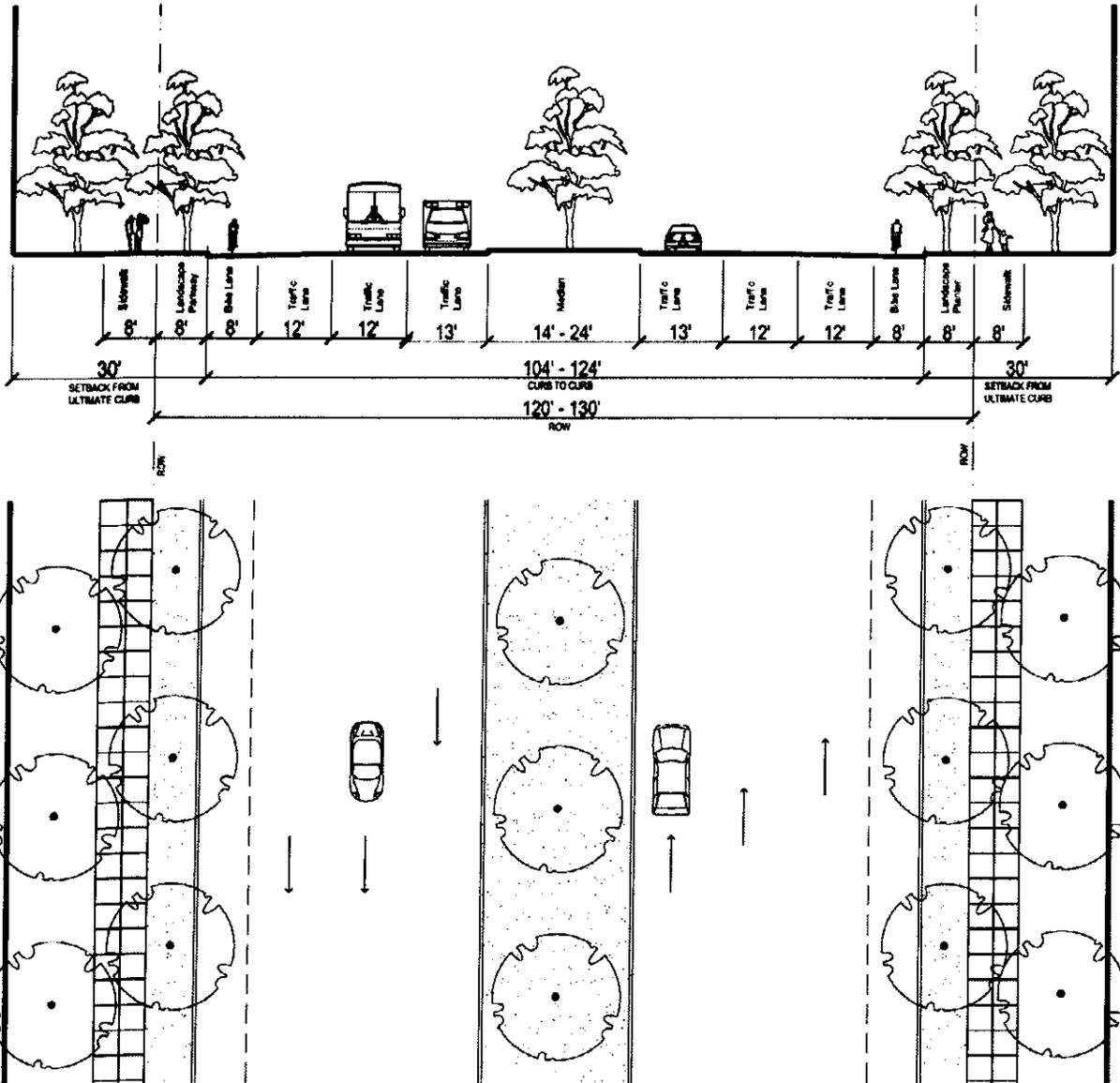
- Design Speed 50 mph
- Curb to Curb Width 80 feet to 90 feet
- Right of Way Width 96 feet to 106 feet
- Traffic Lanes 2 lanes each direction
- Bike Lane 8 feet
- Parking None
- Curb Type Vertical
- Curb Radius 35 feet
- Sidewalk Width 8 feet
- Parkway Width 8 feet
- Planter Type Continuous landscape parkway
- Median 14 feet to 24 feet landscaped
- Transit Bus turnouts at bus stops
- Street Lighting City Standard

Michelson Drive—Jamboree Avenue to Carlson Avenue—Primary Highway



- |                      |                        |                   |                               |
|----------------------|------------------------|-------------------|-------------------------------|
| • Design Speed       | 55 mph                 | • Curb Radius     | 35 feet                       |
| • Curb to Curb Width | 80 feet to 90 feet     | • Sidewalk Width  | 8 feet                        |
| • Right of Way Width | 96 feet to 106 feet    | • Parkway Width   | 8 feet                        |
| • Traffic Lanes      | 2 lanes each direction | • Planter Type    | Continuous landscape parkway  |
| • Bike Lane          | 8 feet                 | • Median          | 14 feet to 24 feet landscaped |
| • Parking            | None                   | • Transit         | Bus turnouts at bus stops     |
| • Curb Type          | Vertical               | • Street Lighting | City Standard                 |

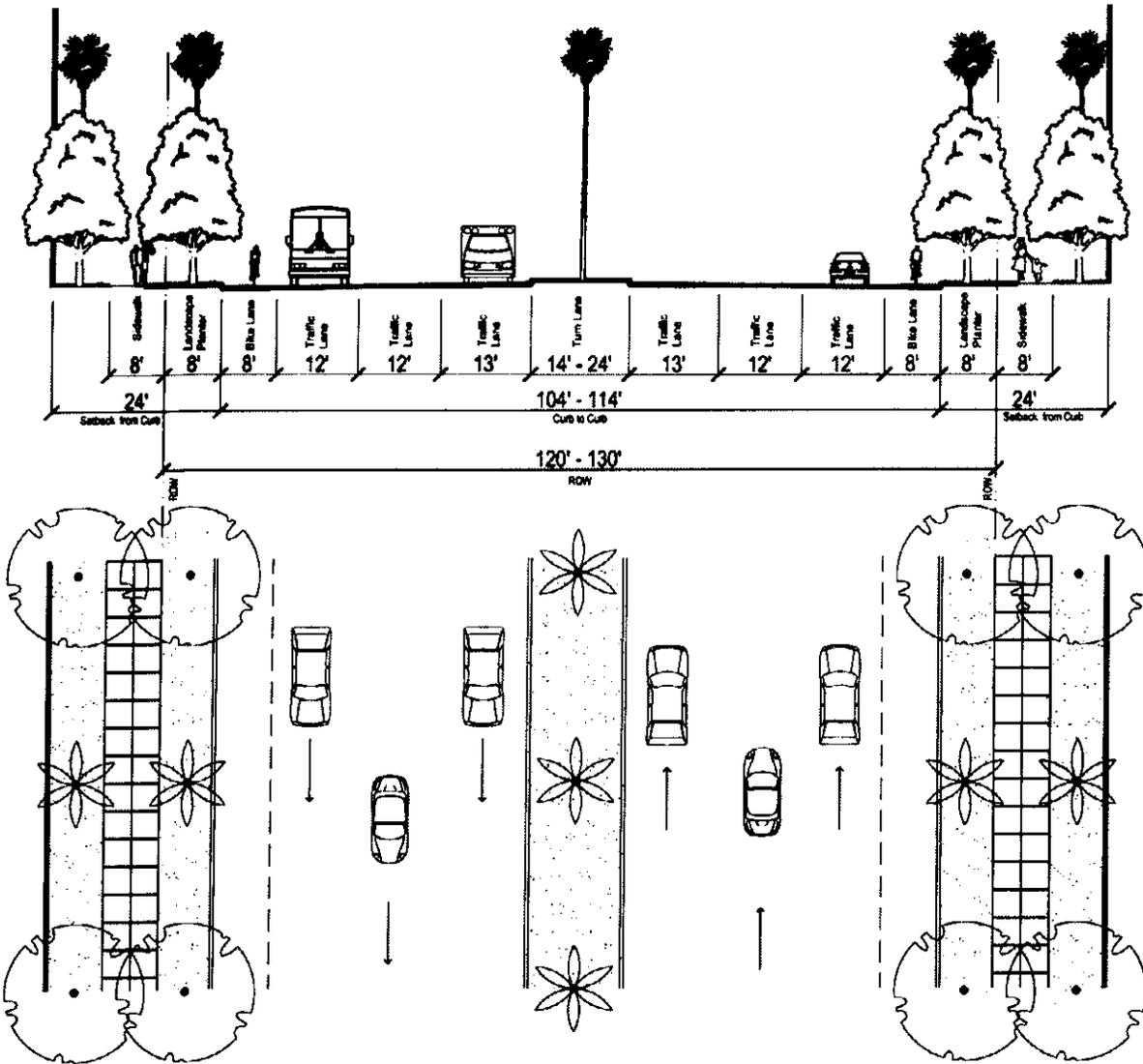
Von Karman Avenue—Main Street to Barranca Parkway—Major Highway



- Design Speed 50 mph
- Curb to Curb Width 104 feet to 124 feet
- Right of Way Width 120 feet to 130 feet
- Traffic Lanes 3 lanes each direction
- Bike Lane 8 feet
- Parking None
- Curb Type Vertical

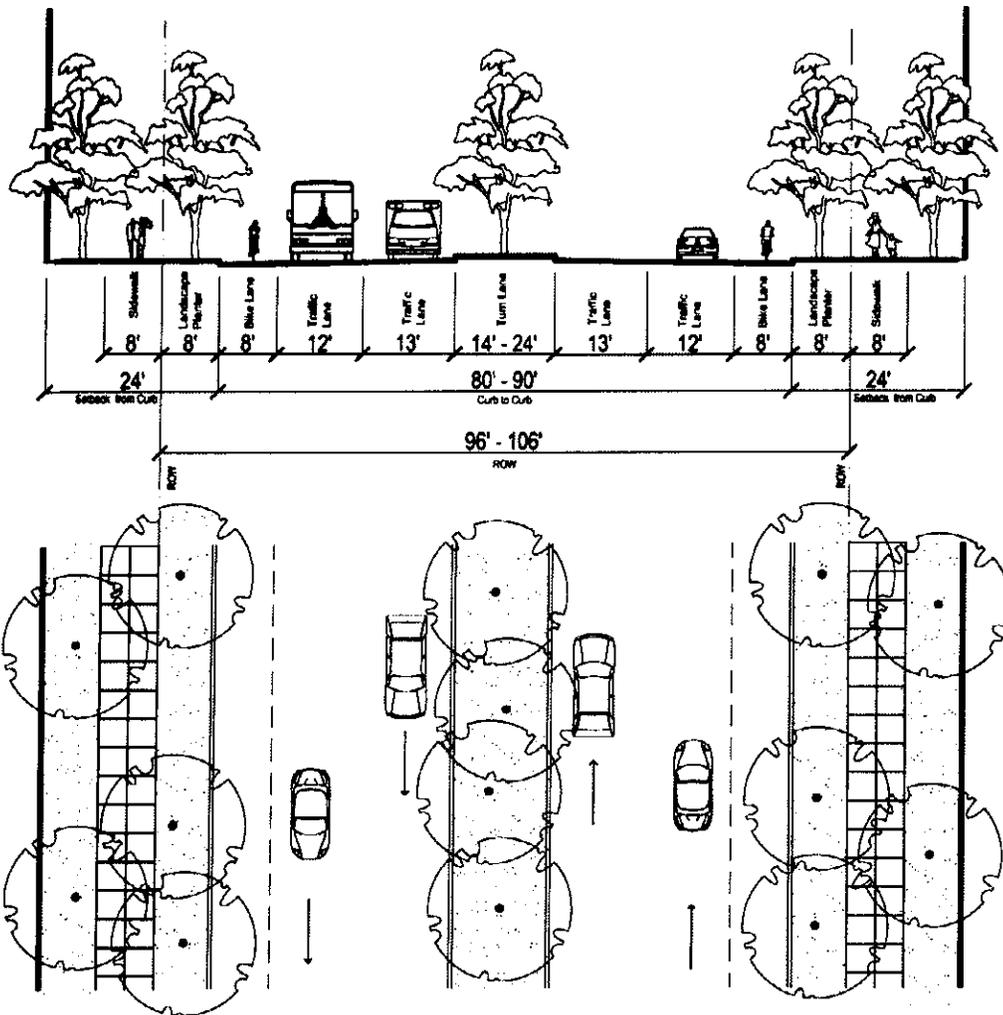
- Curb Radius 35 feet
- Sidewalk Width 8 feet
- Parkway Width 8 feet
- Planter Type Continuous landscape parkway
- Median 14 feet to 24 feet landscaped
- Transit Bus turnouts at bus stops
- Street Lighting City Standard

Von Karman Avenue—Main Street to Michelson Drive—Major Street

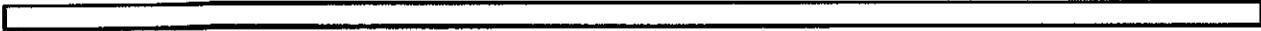


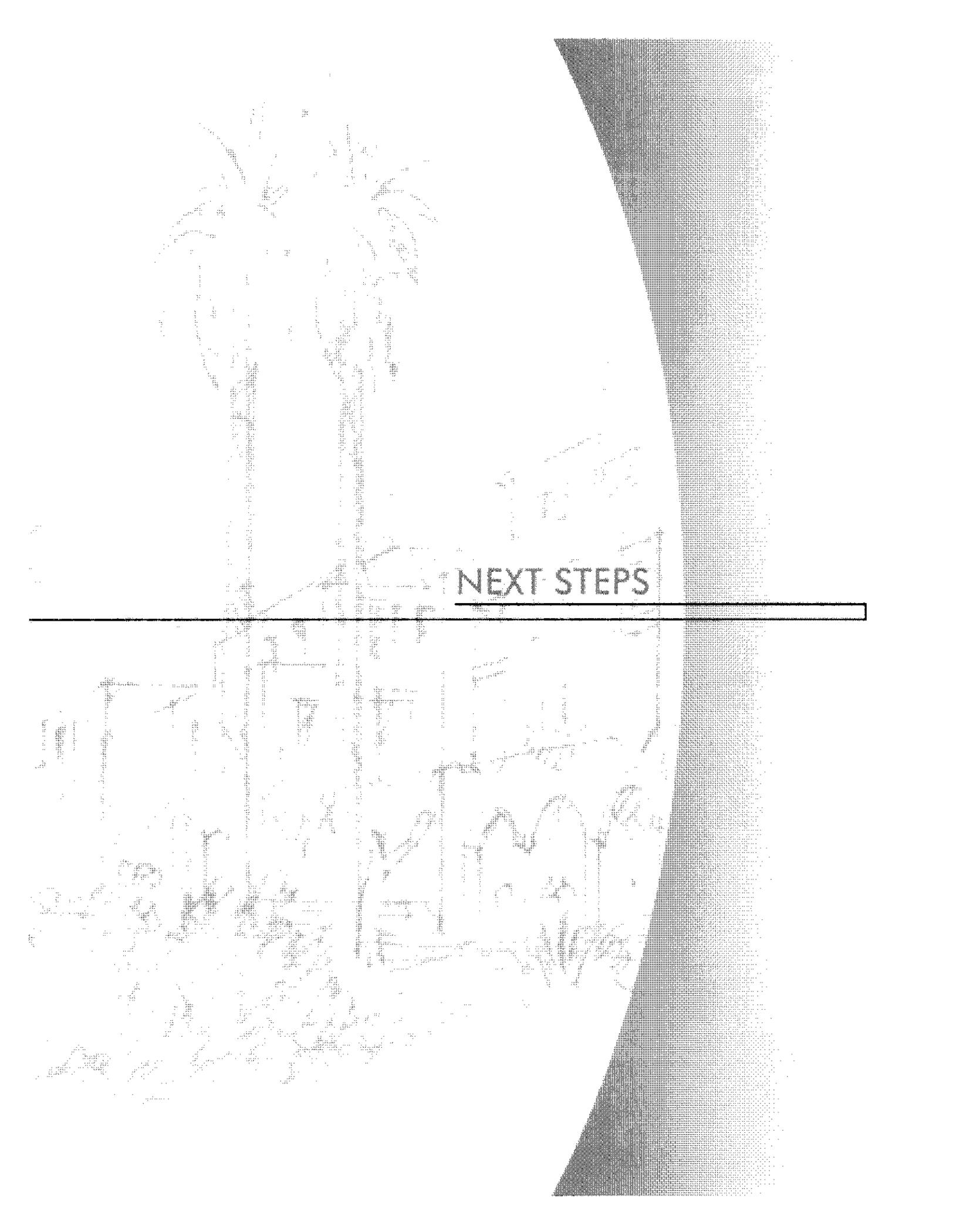
- Design Speed 60 mph
- Curb to Curb Width 104 feet to 114 feet
- Right of Way Width 120 feet to 130 feet
- Traffic Lanes 3 lanes each direction
- Bike Lane 8 feet wide
- Parking None
- Curb Type Vertical
- Curb Radius 35 feet
- Sidewalk Width 8 feet
- Parkway Width 8 feet
- Planter Type Continuous landscape parkway
- Median 14 feet landscaped
- Transit Bus turnouts at bus stops
- Street Lighting City Standard

Von Karman Avenue—Michelson Drive to Campus Drive—Secondary Highway



- |                      |                        |                   |                               |
|----------------------|------------------------|-------------------|-------------------------------|
| • Design Speed       | 50 mph                 | • Curb Radius     | 35 feet                       |
| • Curb to Curb Width | 80 feet to 90 feet     | • Sidewalk Width  | 8 feet                        |
| • Right of Way Width | 96 feet to 106 feet    | • Parkway Width   | 8 feet                        |
| • Traffic Lanes      | 2 lanes each direction | • Planter Type    | Continuous landscape parkway  |
| • Bike Lane          | 8 feet                 | • Median          | 14 feet to 24 feet landscaped |
| • Parking            | None                   | • Transit         | Bus turnouts at bus stops     |
| • Curb Type          | Vertical               | • Street Lighting | City Standard                 |





## NEXT STEPS

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## Next Steps

The Vision Plan is one part of a comprehensive strategy to make the IBC a walkable community and is intended to work with the IBC Residential Mixed-Use Overlay District Zone and a new implementation program for needed infrastructure improvements in the IBC. To further implement the IBC Vision Plan, the City should undertake a number of additional planning activities once the Vision Plan and IBC Overlay Zone have been adopted. These activities include the following:

- Refinement of implementation program for reimbursement of costs for needed improvements identified in this plan.
- Development of a Streetscape Plan, including street furniture, light fixtures and landscape.
- Development of Art in Public Places Plan to define the use of the one percent arts assessment required by the IBC Overlay Zone.
- Preparation of an economic/market analysis of the IBC, including identification of opportunities for mixed-use development.
- Purchase of property in the IBC for a community park.
- Easements or land dedications for IBC Rails-to-Trails program.

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## Definitions

**A. Purpose.** This Section provides definitions of terms and phrases used in this Code that are technical or specialized, or that may not reflect common usage. If any of the definitions in this Section conflict with definitions in the Zoning Ordinance or other provisions of the Municipal Code, these definitions shall control for the purposes of this Code. If a word is not defined in this Section, or in other provisions of the Municipal Code, the Director of Community Development shall determine the correct definition.

**B. Definitions of Specialized Terms and Phrases.**

**1. Terms and Phrases.** As used in this Code, each of the following terms and phrases shall have the meaning ascribed to them in this Section, unless the context in which they are used clearly requires otherwise.

**Arcade:** A series of arches linked together, usually as an element of a building.

**Architectural (Building) Type:** A structure defined by the combination of configuration, placement and function.

**Avigation Easement:** As defined by the Airport Land Use Commission.

**Block:** The aggregate of private lots, passages, common drives and, lanes, circumscribed by thoroughfares.

**Buffer:** Physical separation between uses.

**Civic:** The term defining not-for-profit organizations dedicated to the arts, culture, education, government, transit, and municipal parking facilities.

**Civic, Governmental and Culture:** This land use type applies to community facilities, municipal offices, district headquarters, education, theaters, museums, galleries and other similar gathering places for the purpose of public meetings or events.

**Civic Space:** An open area dedicated for public use, typically for community gatherings. Civic Space Types are defined by the combination of certain physical constants defined by the relationship between their intended use, their size, their landscaping, and their enfronting buildings.

**Colonnade:** A series of columns similar to an arcade but spanned by straight lintels rather than arches, linked together, usually as an element of a building.

**Context:** The particular combination of elements that create a specific environment. A Context Zone (e.g., UN) is administratively similar to the land use zones in conventional zoning ordinances, except that in addition to specifying the building use, density, height and setback, all the relevant elements and characteristics of the intended environment are integrated. The integration includes the characteristics of the private lot and building as well as those of the enfronting public streetscape. Their combination and the ratio of natural-urban intensity is determined by their location on the Transect.

**Curb:** The edge of the vehicular pavement detailed as a raised curb or a swale. The curb usually incorporates the drainage system.

**Design Speed:** The velocity at which a thoroughfare can be comfortably driven without the constraints of signage or enforcement. There are 4 ranges of speed: Very Low: below 20mph, Low: 20-25mph, Moderate: 25-35mph and High: above 35mph. This factor determines the character and context for a particular segment of the Thoroughfare system.

**Elevation (Building):** The exterior walls of a building not along a frontage. Also referred to as 'Facade' when the elevation is along a frontage line.

**Entrance (Principal):** The principal point of access for pedestrians to a building. In the support of pedestrian activity, the Principal Entrance should address the frontage rather than to the parking.

**Facade:** The exterior wall of a building that is set along a frontage line. Facades support the public realm and are subject to frontage requirements additional to those required of elevations.

**Flats:** A single floor residence.

**Flex space:** An integrated residence and working space.

**Forecourt:** A semi-public exterior space partially surrounded by a building and also opening to a thoroughfare. These spaces usually lead to a Court, which is a private exterior space. It is often used as a vehicular entrance or drop-off, and its landscape may be improved with paving.

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**Frontage Type:** The architectural element of a building between the public right-of-way and the private property associated with the building. Frontage Types combined with the public realm create the perceptible streetscape.

**IBC Service Street:** An IBC Service Street is a street providing access to service and parking within a project, not a through street typically connected to the general street system.

**IBC Private Way:** An IBC Private Way is a new street created to reduce the block size within the IBC conceptually located as per the Vision Plan.

**IBC Vision Plan:** The IBC residential neighborhood framework adopted by City Council Resolution \_\_\_\_.

**IBC Walking Street:** A pedestrian connection used to create smaller blocks in the IBC (See Section 5-8-13 G.).

**Key Business:** Businesses requiring a buffer from residential uses and identified on the Regulating Plan.

**Liner:** A building that conceals a larger building, such as a public garage, that is designed for occupancy by retail, service, and/or office uses on the ground floor, with upper floors also configured for those uses or for residences.

**Live/Work:** An integrated residence and working space, occupied and utilized by a single household in a structure, either single-family or multi-family, that has been designed or structurally modified to accommodate joint residential occupancy and work activity.

**Loft:** A two-story volume residence with a mezzanine. Second stories of lofts on the top level of a building shall be counted as a separate story for purposes of the Zoning Ordinance. Exceptions to this definition are permitted as allowed by the Building Code for purposes of building plan check.

**Lot Width:** The length of the Principal Frontage Line.

**Mixed-Use Main Street:** A Mixed Use Main street is a street characterized by continuous active ground floor retail storefronts and convenient parking to encourage pedestrian activity.

**Moving Plaza:** Temporary loading area for deliveries to a residential complex.

**Net Developable Area:** The area defined by blocks which is not to remain for public uses such as Plazas, Squares, Streets or Streetscapes.

**Planter:** The layer of the streetscape which accommodates street trees. Planters may be continuous or individual according to the Thoroughfare and location within the neighborhood.

**Podium:** A building type with a partially or fully submerged parking garage that uses the deck of the garage as the base of the building.

**Porch:** An open air room added to the mass of a building with floor and roof, with no walls on at least two sides. Different from a balcony or deck as surrounds main entry; provides transition from the public space of the street to the private space of the dwelling unit.

**Rear-loaded:** A Rear Loaded residential building is one that has vehicular access from the back of the building accessible through a service way.

**Service Rooms:** Residential rooms such as laundry rooms or closet which do not serve as sleeping, dining, cooking or gathering rooms.

**Sidewalk:** The paved layer of the public frontage dedicated exclusively to pedestrian activity.

**Stoop:** A small porch or platform at the entrance of a residence. This element is typically raised 1.5 to 3 feet from grade to correspond to the adjacent first floor. The building types that use this element do so to maintain the occupant's sense of privacy because of their typically short distance from the frontage line. A stoop provides a transition from the public space of the street to the private space of the dwelling unit.

**Thoroughfare:** A vehicular way incorporating moving lanes and parking lanes (except private service streets/lanes) within a right-of-way.

**Townhomes:** Attached residential units that are two to three stories high.

**Tuck-under parking:** Individual parking garages that are located under the living unit of residential buildings but still accessed by surface driveways.

**Type:** A form physically defined by its function, its disposition on the lot and its configuration, including frontage and height.

Irvine Business Complex  
Residential Mixed-Use Overlay District  
Prepared for: City of Irvine, CA  
June 19, 2006  
**Administrative Draft**

City of Irvine Zoning Code

**CHAPTER 5-8. IRVINE BUSINESS COMPLEX RESIDENTIAL MIXED-USE  
OVERLAY DISTRICT**

- Sec. 5-8-1. Purpose.
- Sec. 5-8-2. Applicability.
- Sec. 5-8-3. Regulating Plan and Districts.
- Sec. 5-8-4. Special Development Requirements.
- Sec. 5-8-5. Industrial Adjacency Assessment.
- Sec. 5-8-6. Urban Neighborhood (UN) Standards.
- Sec. 5-8-7. Multiple Use (MU) Standards.
- Sec. 5-8-8. Business Complex (BC).

**5-8-1. Purpose.**

The Irvine Business Complex Residential and Mixed-Use (IBCRMU) Overlay District establishes districts that are intended to provide for the orderly transition of certain portions of the IBC from exclusively industrial and/or office areas into pedestrian-oriented districts that accommodate a mixture of retail, office, and residential uses, while protecting existing businesses.

This Overlay District implements the following IBC Vision Plan Goals:

- A. Protect the existing job base;
- B. Develop mixed-use cores;
- C. Provide transportation, pedestrian, and visual connectivity;
- D. Create usable outdoor areas; and
- E. Develop, safe well-designed neighborhoods.

These goals are further implemented through the following objectives:

- A. Create a walkable urban environment that encourages on-street pedestrian activity and reduces dependence on the automobile for everyday needs.
- B. Develop an urban framework to ensure the appearance, location, and scale of buildings that compliments the character of the area in which they are located.
- C. Ensure compatibility between existing and proposed businesses within the IBC.
- D. Provide a mix of building types allowing variety and choice in urban living.
- E. Provide a variety of outdoor areas for both passive and active recreation as an amenity for residents and employees.
- F. Establish sustainable new urban development within the IBCRMU Overlay District.

## City of Irvine Zoning Code

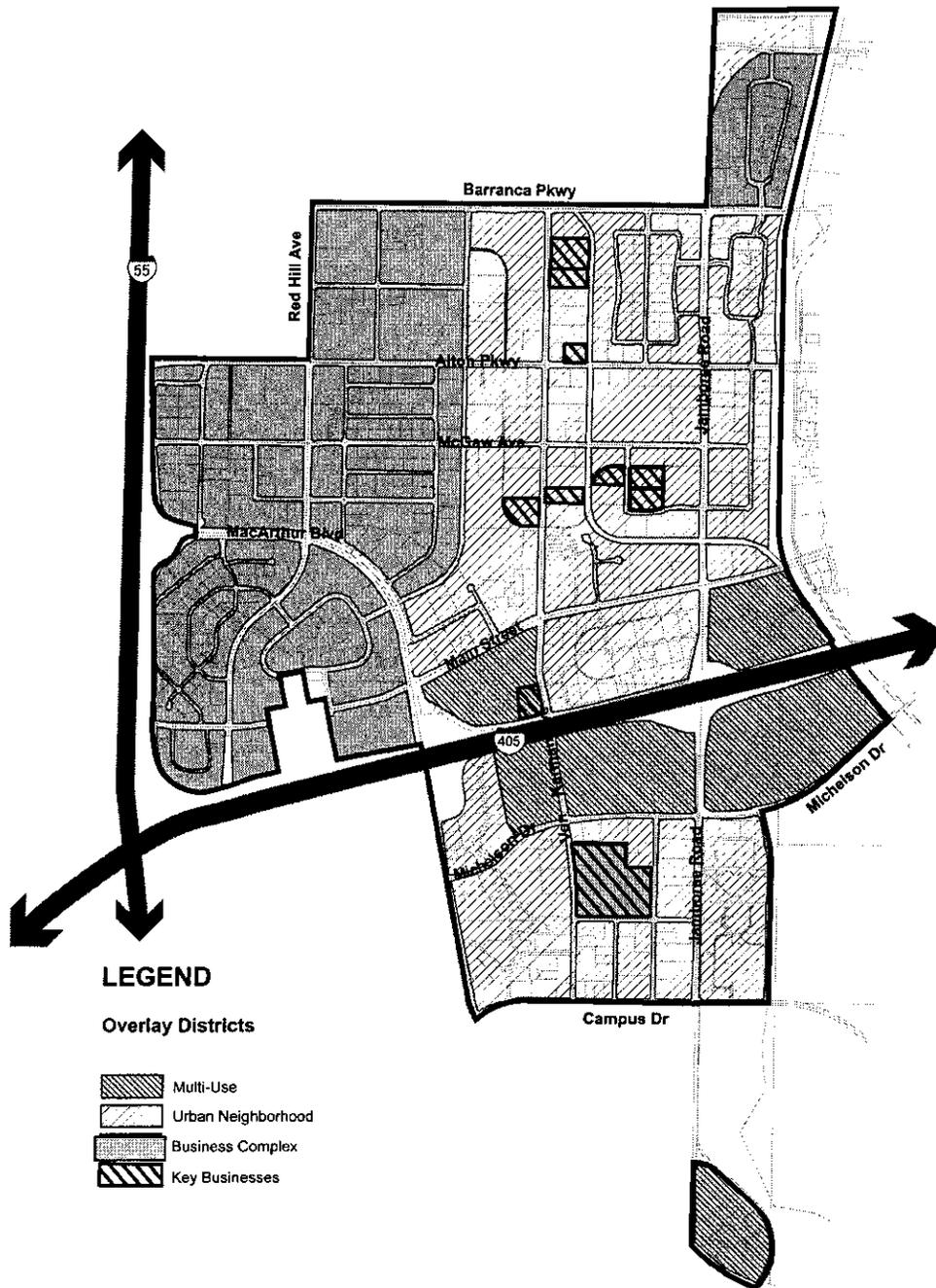
### **5-8-2. Applicability.**

All proposed residential development/redevelopment, subdivisions, and new residential land uses within the IBCRMU Overlay shall comply with all applicable requirements of this Chapter, including the provisions outlined below:

- A. Regulating Plan.** The Regulating Plan (Section 5-8-3) defines and identifies the three IBCRMU Overlay Districts as follows: Urban Neighborhood (UN), Multiple Use (MU), and Business Complex (BC).
- B. Additional Applicable Requirements.** All development pursuant to this Overlay Zone is subject to the vehicle trip caps established in Section 9-36 of the Zoning Code.
- C. Administrative Relief.** Requests for administrative relief shall be considered by the Planning Commission in conjunction with the associated discretionary review application and shall be subject to the requirements of Chapter 2.2 of the Zoning Code. In order for the Planning Commission to approve administrative relief from the overlay zone requirements, except where noted in this section, the approval body shall find that:
  - 1. The proposed project meets the intent of the IBCRMU Overlay Zone and Vision Plan.
  - 2. The request will not negatively impact the appearance of the project site or the surrounding properties.
  - 3. The proposed project will not adversely impact operations of adjacent non-residential uses.

**5-8-3. Regulating Plan and Districts.**

- A. Purpose.** This Section establishes the districts applied to property within the IBCRMU Overlay by the Regulating Plan. The Regulating Plan divides the area within the IBCRMU Overlay into separate districts. The districts allocate land uses and suggest architectural types as well as provide as well as provide guidelines for building placement and height.
- B. Zones Established.** The following districts are established for the purposes of the IBCRMU Overlay District, and are applied to property within the Overlay Zone boundary as shown on the Regulating Plan, as provided in Section 5-8-3.



# City of Irvine Zoning Code

## 5-8-4. Special Development Requirements.

**A. Compatibility Standards.** The following standards are intended to ensure the compatibility of uses within a residential or mixed-use project.

1. **Security.** Residential units shall be designed to ensure the security of residents through the provision of secured entrances and exits that are separate from the non-residential uses. Non-residential and residential uses shall not have common entrance hallways or common balconies. These separations shall be shown on the development plan and the separations shall be permanently maintained.
2. **Restriction on Activities.** Commercial uses within mixed-use projects shall be designed and operated so that neighboring residents are not exposed to offensive noise, especially from traffic, trash collection, routine deliveries, or late night activity.
3. **Lighting.** Outdoor lighting associated with commercial uses shall be shaded and directed to minimize impact to surrounding residential uses, but shall provide sufficient illumination for access and meet the Uniform Security Code requirements for lighting. Such lighting shall not blink, flash or oscillate.
4. **Windows.** Residential windows of buildings directly adjacent to industrial uses shall generally be directed away from loading areas and docks, unless architectural elements such as view baffles or other devices are utilized.

### **B. Public Safety Standards.**

1. Plans submitted for discretionary review of residential development shall include the following safety features:
  - a. Recreation areas shall be located adjacent to residential uses whenever possible. These areas shall be visible to residents from within their dwellings to allow for "eyes on the street" surveillance. Placement of windows, landscaping, lighting, and recreation uses shall be coordinated to enhance resident surveillance opportunity, but not to detract from the recreational use.
  - b. General utilization of the concepts of Crime Prevention through Environmental Design (CPTED) in the planning and development stages.
2. The inclusion of the following items shall be verified by the Public Safety Department prior to issuance of the first building permit for a residential unit.
  - a. Development of a security plan for residential and/or mixed-used projects that includes:
    - (1) Management contact for public safety issues available 24-hours a day;
    - (2) Cameras for monitoring and recording vehicles and persons entering the site;
    - (3) Comprehensive tenant screening process for apartments;
    - (4) Quick removal of graffiti; and
    - (5) Enforcement of restricted parking spaces.



## City of Irvine Zoning Code

- (5) General proposed vehicular circulation; and
  - (6) Documentation that any CC&R prohibition of residential uses has been removed from the site.
- b. Site Context Materials.** The Industrial Adjacency Assessment submittal shall also include the following materials for review of project context in relation to adjacent sites:
- (1) A plan, key map, and photos illustrating the site context in terms of existing development and land uses within 500 feet of the exterior boundaries of the site;
  - (2) Site sectional drawings illustrating site profile in relation to streets and other sites within 500 feet of the exterior boundaries of the site; and
  - (3) Adjacent site(s) layout of sites within 500 feet of the exterior boundaries of the site (building pads, parking, storage, landscaping), including labeling of land uses. An aerial photo is acceptable for this purpose.
- c. Analytical reports.** The assessment shall include the following analytical reports. For purposes of this Subsection, "current" information shall mean within the previous six months from date of submittal of the Industrial Adjacency Assessment to the City.
- (1) **Inventory of Adjacent Operations.** An inventory of pre-existing non-residential uses (including railroads) within 1,000 feet of the project site property line in terms of:
    - (a) Business operations relating to hours of operation, transportation activities (e.g., volume type, and timing of delivery traffic, etc.);
    - (b) Ambient and projected noise levels, including short term, intermittent and/or low level noise sources and levels;
    - (c) Hazardous materials stored, used, and disposed, including applicable methods; and
    - (d) Odors.The inventory shall include detailed maps depicting sources/locations of deliveries, truck traffic, noise, odors, and hazardous materials.,
  - (2) **Phase 1 site assessment.** A Phase I site assessment for the property conducted by a Registered Environmental Assessor or documentation of the current status of the site if it is under the supervision of a regulatory agency for remediation due to contamination or has entered into a Voluntary Cleanup with an administrative agency.
  - (3) **Contamination assessment.** Current information regarding the potential presence of contamination on adjacent sites (within 1,000 feet of project site) or any nearby site where the contamination may be reasonably expected to affect the project site (i.e., the project site is down gradient from a source site of contaminated groundwater that is sufficiently mobile such that the plume may extend into the project site).
  - (4) **Hazardous materials assessment.** Current information on the use of hazardous materials (categories 1-3) at facilities on or within 1,000 feet of project site.
  - (5) **Air emissions.** Current information on permitted air emissions from adjacent and nearby facilities.
  - (6) **Risk Management Program information.** Current information on facility Risk Management Program worst case scenarios where the geographic impact zone includes the project site.
  - (7) **Health Risk Assessments.** Current information on facility Health Risk Assessments where air dispersion modeling, and soil and groundwater monitoring identifies significant risks (as defined by adopted state and federal significance criteria) covering the geographic area that includes the project site.

## IBCRMU Overlay District

- (8) **Hazardous waste generators.** Current information on hazardous waste generators on or within 1,000 feet of the project site, including generator status and types of waste.
- (9) **Potential threats.** If the collected information identifies any potential threats to human health on the subject site (i.e., the subject site is contaminated or adjacent to a contaminated site, adjacent to facilities that emit hazardous air pollutants, or within the impact zone of an RMPP or Air Toxic Hot Spot release profile) the following materials shall also be submitted:
  - (a) If the proposed project site is contaminated or adjacent to one or more contaminated sites where there is likelihood that the contamination affects will affect occupants of the proposed site: A Health Risk Assessment performed by a qualified risk assessor evaluating the cumulative cancer and non-cancer risks from all sources to the expected occupants shall be required.
  - (b) If the project is in proximity to facilities with permitted air emissions of hazardous air pollutants: Air monitoring by a qualified air quality specialist that identifies ambient air concentrations at the proposed project site during periods of representative activities at the adjacent facilities.
  - (c) If the proposed project site is within geographic impact zones identified by RMPPs or Air Toxic Hot Spots Health Risk Assessments: A report by a qualified analyst that identifies the potential risk due to exposures from planned or unplanned releases to the expected occupants.
  - (d) Report of project compliance with Orange County Fire Authority requirements control of accidental risk of upset, including shelter in place requirements.
- (10) **Additional Characteristics.** If the proposed project includes any of the following characteristics, an evaluation of these features shall be included in the Industrial Adjacency Assessment submittal materials for the potential to increase risks to human health or adversely affect environmental conditions:
  - (a) Subterranean features such as elevator pits, foundation pilings, parking garages, occupied basement areas, pools, ponds, wells that provide water to ponds or for irrigation, and sump pumps.
  - (b) On grade features such as tot lots and other types of children's recreational areas with permeable surfaces.

## City of Irvine Zoning Code

### **5-8-6. Urban Neighborhood (UN) Standards.**

The UN District incorporates portions of the IBC appropriate for sustainable residential neighborhoods, employment, and mixed-use blocks in buildings of up to seven stories. This district is intended for residential projects to cluster in nodes around local services. Small scattered residential projects are discouraged within the UN District. Mixed-use is encouraged with ground floor uses including residential, retail, offices, and restaurants, and upper floors accommodating offices or residential. New, smaller, non-arterial streets within this district are proposed to be pedestrian-oriented with highly articulated residential frontages. Roadways will be defined by both residential and non-residential building facades and characterized by a lush, dominant landscape.

- A. Maximum Building Height:** Seven (7) stories or as specified in Section 5-8-4C Airport Restrictions, whichever is lower.
- B. Creekwalk.** All properties abutting the San Diego Creek channel shall consider the San Diego Creek edge as a street frontage. Where feasible, private ways, public and private streets shall be located adjacent to the Creek edge.

### **5-8-7. Multiple Use (MU) Standards.**

The MU District incorporates portions of the IBC where a more contemporary era of development exists and is characterized by a horizontal or vertical mix of land uses within a campus of multiple buildings. Opportunities for future intensification include freestanding residential or ground floor retail, offices, and restaurants, with upper floors accommodating offices or residential. Lodging, entertainment, and civic uses also are encouraged. Street frontages throughout the district shall become more pedestrian-oriented with streetscapes providing continuity and connectivity throughout the campus areas. New streets are encouraged to provide smaller block sizes where possible.

- A. Maximum Building Height:** Twenty (20) stories or as specified in Section 5-8-4C Airport Restrictions, whichever is lower.

### **5-8-8. Business Complex (BC)**

The intent of the Business Complex District is to maintain the existing industrial character of the northwesterly portion of the IBC, consistent with the Council-adopted goal of protecting existing businesses in the IBC. Due to a number of constraints, including the proximity of John Wayne airport and the extent of existing industrial uses, residential uses are not appropriate for this area and are therefore prohibited. Properties in the BC District are subject to the requirements of the underlying IBC base zoning.

City of Irvine  
Department of Community Development  
P. O. Box 19575  
Irvine, CA 92623-5975



## DRAFT NEGATIVE DECLARATION

**Project Title:** Irvine Business Complex (IBC) Residential Mixed Use Overlay Zone and Vision Plan (00409688-PZC)

**Lead Agency/Project Sponsor Name and Address:** City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575

**Contact Person/Phone:** Bill Jacobs, 949-724-6521, [bjacobs@ci.irvine.ca.us](mailto:bjacobs@ci.irvine.ca.us), or Michael Haack, 949-724-6401, [mhaack@ci.irvine.ca.us](mailto:mhaack@ci.irvine.ca.us)

**Project Location:** The Irvine Business Complex (IBC, Planning Area 36), generally bounded by Barranca parkway to the north, the 55 freeway and MacArthur Blvd. to the west, Campus Drive to the South, and Carlson Avenue and the San Diego Creek Channel to the east.

**Description of Project:** The proposed project is City-initiated Zone Change 00409688-PZC to create the Irvine Business Complex (IBC) Residential Mixed Use Overlay Zone, as part of an overall vision plan policy statement for the IBC to be considered by the City Council in conjunction with the zone change. The proposed zone change would create a new overlay zone establishing specific development requirements for new residential projects approved pursuant to the City's General Plan Amendment, Zone Change and Conditional Use Permit processes.

## FINDING

The Community Development Department has conducted an initial study for the above project in accordance with the City of Irvine's procedures regarding the implementation of the California Environmental Quality Act. The determination is that an Environmental Impact Report (EIR) need not be prepared because there is no substantial evidence that the project will have a significant effect on the environment.

The initial study which provides the basis for this finding is on file and available for review at the Community Development Department, (949) 724-6308 or on the City of Irvine website at [http://www.cityofirvine.org/depts/cd/planningactivities/ibc\\_graphics.asp](http://www.cityofirvine.org/depts/cd/planningactivities/ibc_graphics.asp).

**Draft Prepared by:** Bill Jacobs, Principal Planner **Date:** January 25, 2006

**Public Review Period:** January 26- February 16, 2006

## PUBLIC NOTICE

The public is invited to comment on the Draft Negative Declaration during the review period. The appropriateness of the Mitigated Negative Declaration will be reconsidered in response to the comments received.

Comments received on draft: --Yes --No Initial Study revised: --Yes --No

Accepted as complete by: Tina Christiansen, Director of Community Development

Initial Study  
IBC Residential Mixed Use Overlay Zone  
January 25, 2006

Page 1

## ATTACHMENT 7

**CITY OF IRVINE  
INITIAL STUDY AND ENVIRONMENTAL EVALUATION**

1. **Project Title:** Irvine Business Complex (IBC) Residential Mixed Use Overlay Zone (409688-PZC)
2. **Lead Agency Name and Address:** City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575
3. **Project Sponsor's Name and Address;** City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575
4. **Contact Person/Phone:** Michael Haack, 949-724-7298 mhaack@ci.irvine.ca.us  
Bill Jacobs, 949-724-6521 bjacobs@ci.irvine.ca.us
5. **Project Location:** The Irvine Business Complex (IBC, Planning Area 36), generally bounded by Barranca parkway to the north, the 55 freeway and MacArthur Blvd. to the west, Campus Drive to the South, and Carlson Avenue and the San Diego Creek Channel to the east. (Figure 1, IBC Location Map).
6. **General Plan Designation:** Urban and Industrial
7. **Zoning:** 5.0 IBC Mixed Use/5.1 IBC Multi-Use/5.3 IBC Residential
8. **Description of Project:** The proposed project is City-initiated Zone Change 409688-PZC to create the Irvine Business Complex (IBC) Residential Mixed Use Overlay Zone, as part of an overall vision plan policy statement for the IBC as directed by the City Council. The proposed zone change would create a new overlay zone establishing development requirements for new residential projects, if and when such projects are approved pursuant to the City's General Plan Amendment, Zone Change and Conditional Use Permit processes. The zone change would not permit new residential development; rather, it will serve as a tool for ensuring urban design and land use compatibility if and when new residential developments are approved through the pre-existing planning and entitlement processes applicable within the IBC. New development standards are proposed to encourage new building types, public and private open spaces, and a "smaller-grain" roadway network within specific overlay zone districts within the IBC, to ensure that, if otherwise approved, new residential uses develop within a well planned neighborhood framework. No additional intensity is proposed with this zone change, as the existing trip caps in the existing IBC zoning will remain in place, and may be converted to residential trips via the General Plan Amendment, Zone Change for individual projects. Accompanying the zone change is a refinement of the Council-adopted vision statement policy outlining/depicting the neighborhood context to be created if residential development is approved in the IBC area.
9. **Existing Land Use**

The Irvine Business Complex (IBC), Planning Area 36, is a mixed-use complex covering approximately 2,700 acres and is located within the western portion of the City of Irvine in south/central Orange County. The majority of the project site is zoned multi-use. The

prominent land use is office, with substantial amounts of industrial/warehouse uses and several acres of medium density residential use totaling approximately 5,700 units. A 40-acre parcel of the IBC is detached and located to the south of the main body of the IBC project site. This parcel is bounded by the San Joaquin Marsh and is adjacent to the City of Newport Beach. The IBC is bordered by the cities of Newport Beach to the south, Santa Ana and Costa Mesa to the west, and Tustin to the north. The residential village of Westpark is located adjacent to the IBC on the east. Adjacent to the IBC, on the north, is the City of Tustin and the former MCAS Tustin, currently being redeveloped with residential and commercial uses.

**10. Surrounding Land Uses and Setting:**

On the east, separated by the San Diego Creek Channel, the IBC abuts the village of Westpark (within Irvine). Although a predominantly residential village, Westpark includes a District Commercial Center and the Irvine Civic Center. The San Joaquin Marsh is located south of the 405 Freeway and abuts most of the eastern edge of the Irvine Business Complex. The San Joaquin Marsh, a preserved natural area, is the upper-most extension of Upper Newport Bay and is the only remaining portion of a once extensive marsh which previously covered a good portion of Irvine flatlands. Southeast of the IBC, adjacent to the marsh, is the University of California, Irvine-North Campus. The City of Newport Beach is also located south of IBC. There is no distinct edge clarifying the boundary between the IBC and the City of Newport Beach, as similar multi-use developments overlap each other forming a rather cohesive urban form across the City border. The John Wayne Airport is located adjacent to the southwest portion of the Irvine Business Complex. The airport is currently served by several hotels and restaurants within the cities of Newport Beach and Irvine. The Newport Freeway (State Route 55) forms the northwest edge of the IBC and separates it from the cities of Costa Mesa and Santa Ana. Although currently strong, this edge will become less pronounced over time as additional freeway over crossings are constructed. Because of the scale and quality of development in the area, projects such as Hutton Center, MacArthur Place, and Pacific Center in Santa Ana and the South Coast Metro areas of Costa Mesa, will help to visually extend the IBC urban form across the freeway. As the Sakioka Farms property is developed (in Costa Mesa), a major office and commercial corridor between the IBC and the South Coast Metro/Performing Arts Center will be established. Adjacent to the IBC, on the north, is the City of Tustin and the former MCAS Tustin, which is currently being redeveloped with residential and commercial uses.

**11. Other public agencies whose approval is required: None**



**Figure 1- IBC Location Map**

Initial Study  
IBC Residential Mixed Use Overlay Zone  
January 25, 2006

**Environmental Factors Potentially Affected:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

	Aesthetics		Agriculture Resources		Air Quality
	Biological Resources		Cultural Resources		Geology/Soils
	Hazards & Hazardous Materials		Hydrology/Water Quality		Land Use/Planning
	Mineral Resources		Noise		Population/Housing
	Public Services		Recreation		Transportation/Traffic
	Utilities/Service Systems		Mandatory Findings of Significance		

**Determination (To be completed by the Lead Agency):**

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.	X
I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.	
I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.	
I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION, pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	



Tina Christiansen, AIA  
 Director of Community Development

1/26/06  
 Date

## Evaluation of Environmental Impacts:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3)(D). In this case, a brief discussion should identify the following:

a) Earlier Analysis Used. Identify and state where they are available for review.

b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:

- a) the significance criteria or threshold, if any, used to evaluate each question; and
- b) the mitigation measure identified, if any, to reduce the impact to less than significance

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
<b>I. AESTHETICS: Would the project:</b>				
a) Have a substantial adverse effect on a scenic vista?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X
<b>II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:</b>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to nonagricultural use?				X
<b>III. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:</b>				
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?			X	
e) Create objectionable odors affecting a substantial number of people?			X	

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
<b>IV. BIOLOGICAL RESOURCES: Would the project:</b>				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinances?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X
<b>V. CULTURAL RESOURCES: Would the project:</b>				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
<b>VI. GEOLOGY AND SOILS: Would the project?</b>				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				X
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
ii) Strong seismic ground shaking?				X
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
<b>VII. HAZARDS AND HAZARDOUS MATERIALS: Would the project:</b>				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			X	
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X
<b>VIII. HYDROLOGY AND WATER QUALITY: Would the project:</b>				
a) Violate any water quality standards or waste discharge requirements?				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g. the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off- site?				X

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner in which would result in flooding on- or off-site?				
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff and/or generate NPDES compliance issues pursuant to the following list? <ul style="list-style-type: none"> <li>- Potential impact of project construction on storm water runoff;</li> <li>- Potential impact of project's post-construction activity on storm water runoff;</li> <li>- Potential for discharge of storm water pollutants from areas of material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas, loading docks or other outdoor work areas;</li> <li>- Potential for discharge of storm water to affect the beneficial uses of the receiving waters;</li> <li>- Potential for significant changes in the flow velocity or volume of storm water runoff to cause environmental harm; and</li> <li>- Potential for significant increases in erosion of the project site or surrounding areas.</li> </ul>				X
f) Otherwise substantially degrade water quality?				X
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?			X	
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?			X	
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?				X

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
<b>IX. LAND USE AND PLANNING: Would the project:</b>				
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
<b>X. MINERAL RESOURCES: Would the project:</b>				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X
<b>XI. NOISE: Would the project result in:</b>				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?			X	
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
<b>XII. POPULATION AND HOUSING: Would the project:</b>				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
<b>XIII. PUBLIC SERVICES:</b>				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire Protection?			X	
Police Protection?			X	
Schools?			X	
Parks?				x
Other Public Facilities?			X	
<b>XIV. RECREATION:</b>				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			X	
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			X	
<b>XV. TRANSPORTATION/TRAFFIC: Would the project:</b>				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				X
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Result in inadequate parking capacity?				X
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X

Issues:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact
<b>XVI. UTILITIES AND SERVICE SYSTEMS: Would the project:</b>				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects??				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects – and/or would the project include a new or retrofitted storm water treatment control Best Management Practice (BMP), (e.g. water quality treatment basin, constructed treatment wetlands), the operation of which could result in significant environmental effects (e.g. increased vectors and odors)?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X
<b>XVII. MANDATORY FINDINGS OF SIGNIFICANCE:</b>				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

## ENVIRONMENTAL EVALUATION- EXPLANATION OF CHECKLIST RESPONSES

This section provides an evaluation of the impact categories and questions contained in the checklist, and identifies mitigation measures, if applicable.

### Aesthetics

#### **a) Have a substantial adverse effect on a scenic vista?**

**No Impact.** The IBC is an urbanized area of Irvine and new development under current codes would not obstruct a view or have a direct effect on a scenic vista. There are no scenic vistas in the vicinity of the IBC. The proposed overlay zone standards would be either consistent with or more restrictive than existing height limitations in the IBC, therefore any new residential construction would be of a scale as not to impact scenic vistas.

#### **b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?**

**No Impact.** There are no state scenic highways within the IBC area.

#### **c) Substantially degrade the existing visual character or quality of the site and its surroundings?**

**No Impact.** As stated in the project description, the new development standards are proposed to encourage new building types, public and private open spaces, and a "smaller-grain" roadway network within specific overlay zone districts within the IBC to ensure that new residential uses develop within a well planned neighborhood framework (if and when general plan amendments and/or zone changes allowing residential development are approved). These standards ensure a more cohesive visual neighborhood framework in the IBC. Therefore, no adverse visual impacts are anticipated.

#### **d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?**

**No Impact.** No changes are proposed to the City's lighting requirements. Pursuant to existing City of Irvine standards, lighting for new projects is required to be confined to the project site so that adjacent properties are protected from spillover light and glare. Consistent with Standard Subdivision Condition 3.2, applicants for residential development projects are required to submit an electrical engineer's photometric survey prior to the issuance of building permits to demonstrate that lighting requirements, as set forth in the Irvine Uniform Security Code, are met. As a result, no additional impacts are anticipated.

## **Agriculture Resources**

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland.

**a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

**No Impact.** No agricultural zoning or operations exist within the IBC area and the site is not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. As a result, no impacts are anticipated.

**b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?**

**No Impact.** The City's Land Use Element of the General Plan designates the project site as Urban and Industrial. The IBC is not zoned or used for agricultural production. No Williamson Act contracts exist on the project site and no impacts are anticipated.

**c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?**

**No Impact.** The IBC is developed with office, industrial and residential uses and are is not used as farmland or for agricultural purposes. The proposed project would not result in the conversion of Farmland to nonagricultural use. As a result, no impacts are anticipated.

## **Air Quality**

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

**a) Conflict with or obstruct implementation of the applicable air quality plan?**

**b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?**

**c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?**

**(a-c) No Impact.** The proposed zone change would not increase the allowable development intensity within the project site. Development in the IBC would continue to be governed by the existing vehicle trip caps established in the existing IBC zoning and developers could change

trip types from non-residential to residential through the general plan amendment and zone change process, while remaining within the existing trip caps. Air Quality Impacts of individual projects would be evaluated on a case by case basis. Therefore, the proposed project would not create additional air quality impacts.

**d) Expose sensitive receptors to substantial pollutant concentrations?**

**e) Create objectionable odors affecting a substantial number of people?**

**(d-e) Less than Significant.** The proposed project creates new standards for residential development in the IBC, if such uses are permitted through the general plan amendment and zone change process. The proposed code provisions include a requirement for a land use adjacency and compatibility analysis for each individual residential project to ensure that odors and pollutants from adjacent uses will not adversely affect new residences. Therefore potential impacts are anticipated to be less than significant.

### **Biological Resources**

**a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?**

**No Impact.** The IBC includes office, industrial and residential uses, and does not contain habitat that would support sensitive species. As a result, no impacts to sensitive or special status species are anticipated.

**b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?**

**No Impact.** The IBC includes office, industrial and residential uses, and does not contain habitat that would support sensitive species. The properties within the project area do not contain any riparian habitat or sensitive natural communities identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife. The riverwalk discussed within the IBC vision is proposed along the banks outside of the San Diego Creek channel. As a result, no impacts are anticipated.

**c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

**No Impact.** The properties subject to the proposed overlay zone do not contain any wetlands or riparian vegetation. The riverwalk discussed within the IBC vision is proposed along the banks outside of the San Diego Creek channel. As a result, no impacts to federally protected wetlands are anticipated as a result of project implementation.

**d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**

**No Impact.** As stated above, the properties subject to the proposed overlay zone do not contain any wetlands or riparian vegetation, and do not support or have the potential to support any federal or state threatened or endangered species. The riverwalk discussed within the IBC vision is proposed along the banks outside of the San Diego Creek channel. The IBC includes office, industrial and residential uses with no native habitat. As a result, no interference with wildlife movement or native wildlife nursery sites is anticipated.

**e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?**

**No Impact.** The project will not affect any protected biological resources. However, a number of eucalyptus trees are located throughout the project site. Development projects are required to comply with the City of Irvine's Urban Forestry Ordinance. Therefore, implementation of the project will not cause any impacts related to these issues.

**f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?**

**No Impact.** The NCCP for the Central/Coastal Subregion does not designate the IBC for preservation or open space uses. As a result, the proposed project will not conflict with adopted NCCP/HCP or other habitat conservation plan, and no impacts are anticipated.

### **Cultural Resources**

**a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?**

**No Impact.** The City of Irvine General Plan (Figure E-1) does not identify any historic resources within the IBC. Existing structures to be demolished as part of subsequent development projects will be reviewed for historic significance in conjunction with the general plan amendment, zone change, and conditional use permit process.

**b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?**

**No Impacts.** There are no known archaeological resources at the project site according to the City of Irvine General Plan (Figure E-1). The project does not propose or permit any specific construction, and therefore poses no threat to destroy archaeological pursuant to § 15064.5. Further, if and when general plan amendments and zone changes are granted to allow residential construction activities within the project area, the City will impose its Standard Subdivision Condition 2.1, which requires that an archaeologist monitor the ground disturbing activities for the presence of subsurface artifacts. Because the IBC has been previously

disturbed and has not been identified for a high likelihood of archaeological remains in the General Plan, the monitoring is required for excavations at a depth of 10 feet or greater. Monitoring is not required for excavations within 10 feet of the surface. As a result, no significant impacts are anticipated.

**c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**

**No Impact.** The project site is located within a low paleontological sensitivity zone according to the City of Irvine General Plan (Figure E-2). The project does not propose or permit any specific construction, and therefore poses no threat to destroy paleontological resources or unique geologic features. Further, if and when general plan amendments and zone changes are granted to allow residential construction activities within the project area, the City will impose its Standard Subdivision Condition 2.1, which requires that a paleontologist will monitor ground disturbing activities during construction. Because the IBC has been previously disturbed and has not been identified for a high likelihood of paleontological remains in the General Plan, no significant impacts are anticipated.

**d) Disturb any human remains, including those interred outside of formal cemeteries?**

**No Impact.** No known human burial sites are located on or in the surrounding areas of the project site. The project does not propose or permit any specific construction, and therefore poses no threat to disturb any human remains. Further, if and when general plan amendments and zone changes are granted to allow residential construction activities within the project area, the City will impose its Standard Subdivision Condition 2.1, an archeologist will be required to monitor ground disturbing activities during construction. Additionally, the site has been previously disturbed and has not been identified for a high likelihood of containing human remains. As a result, no significant impacts are anticipated.

**Geology And Soils**

**a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:**

**i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning map, issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.**

**No Impact.** According to Figures D-1 and D-2 of the City of Irvine General Plan, no known faults traverse the IBC area. Additionally, the IBC is not located within a fault-rupture hazard zone, as defined by the Alquist-Priolo Special Studies Zones Act. Therefore, no impacts are anticipated.

## **ii) Strong seismic ground shaking?**

**No Impact.** Although the project is located within seismically active Southern California (Seismic Zone 4, encompassing most of Southern California), no known faults traverse the IBC. The Newport- Inglewood fault and the Chino fault are considered to be the most significant active faults with respect to the project site. The Newport-Inglewood fault is located approximately 6 miles southwesterly of the IBC. The Chino fault is located approximately 15 miles north of the IBC. The principal seismic hazard to the IBC is strong ground shaking from earthquakes produced from the local faults. Individual projects will be constructed and designed to resist ground shaking through the use of shear panels and reinforcement. Additionally, project construction will conform to the latest Uniform Building Code (UBC). No changes to existing building codes are proposed with this project. Therefore, no significant impacts are anticipated even in the event of a strong seismic event in the project area.

## **iii) Seismic-related ground failure, including liquefaction?**

**No Impact.** The IBC area is designated as Seismic Response Area (SRA) 1 (Soft soils, high groundwater) as depicted in Figure D-3 of the City of Irvine General Plan. This is an area considered to have a greater potential for ground failure in the form of liquefaction, in comparison to other seismic response areas. Soils and geologic studies are required as part of individual discretionary development applications, therefore specific site conditions would be identified at that time. The proposed overlay zone does not include any changes to this requirement. In addition, City of Irvine Standard Subdivision Condition 2.11 requires the applicant to submit a site-specific geotechnical study for each proposed structure prior to issuance of grading permits. Furthermore, project construction will conform to the latest Uniform Building Code (UBC) and liquefaction is not expected to occur for all earthquakes or over the whole of SRA-1. Therefore, no significant impacts are anticipated.

## **iv) Landslides?**

**No Impact.** Slope failures are common during strong seismic shaking in areas of significant relief. Since the site is located on a relatively flat alluvial plane, the potential hazard of earthquake-induced slope instability is not considered to be applicable to the site. As a result, no impacts are anticipated.

## **b) Result in substantial soil erosion or the loss of topsoil?**

**No Impact.** The proposed overlay zone would not result in substantial soil erosion or loss of topsoil. As a result, no impacts are anticipated.

## **c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?**

**No Impact.** The IBC is generally flat and no landslides exist on-site. As stated above, the site is designated as Seismic Response Area (SRA) 1 (Soft soils, high groundwater) according the

City of Irvine General Plan. The site is not located on a geologic unit or soil that is unstable. As a result, no impacts are anticipated.

**d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?**

**No Impact.** Soils and geologic studies are required as part of individual discretionary development applications, therefore specific site conditions would be identified at that time. The proposed overlay zone does not include any changes to this requirement. In addition, City of Irvine Standard Subdivision Condition 2.11 requires the applicant to submit a site-specific geotechnical study for each proposed structure prior to issuance of grading permits. Also, in accordance with the City of Irvine's existing regulations, project design and grading operations will be in conformance with the applicable City of Irvine Grading Ordinance, and with the most recent version of the Uniform Building Code for Seismic Zone 4. As a result, no impacts are anticipated.

**Hazards and Hazardous Materials**

**a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?**

**No Impact.** The project consists of new development standards for residential uses only and will not involve the routine transport, use, or disposal of hazardous materials. No impacts are anticipated.

**b) Create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**

**Less Than Significant Impact.** The proposed overlay zone creates development standards for new residential development in an area traditionally occupied by commercial and industrial uses. The overlay zone in itself does not permit residential development, but creates regulations for more orderly development of residential uses where there currently are none. The overlay zone includes requirements for a land use adjacency and compatibility analysis to ensure that proposed residential uses would not be adversely impacted by surrounding existing non-residential uses. Impacts are therefore anticipated to be less than significant.

**c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

**No Impact.** The project consists of development standards for new residential uses only and will not create new conditions for hazardous emissions or handling of hazardous or acutely hazardous materials, substances, or waste. Additionally, there are no schools within one-quarter mile of the IBC area. Therefore, no impacts are anticipated.

**d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?**

**No Impact.** There are a number of project sites within the IBC listed on various hazardous materials lists. These sites are required to be identified through the existing discretionary and environmental review process for new residential development applications. The proposed overlay zone includes requirements for a land use adjacency and compatibility analysis to ensure that proposed residential uses would not be adversely impacted by any listed sites surrounding existing non-residential uses. Impacts are therefore anticipated to be less than significant.

**e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?**

**No Impact.** The proposed Mature Industrial sub-zone within the overlay zone includes the John Wayne Airport crash hazards as identified in the City's General Plan (Figure J-4). No residential development is proposed or permitted within this sub-zone.

**f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?**

**No Impact.** There are no private airstrips located in the vicinity of the project area. Therefore, development in the area would not cause a safety hazard.

**g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

**No Impact.** The proposed project is not expected to interfere with an adopted emergency response or evacuation plan. Individual project review by both the City's Public Safety Department and the Orange County Fire Authority (OCFA) is required. Discretionary projects within the overlay zone are currently required to incorporate all applicable design and safety requirements as set forth in the Uniform Security Code, Uniform Building Code, Fire Code, and OCFA standards and requirements. The overlay zone further articulates these requirements by requiring additional roadways in project sites for improved access. Additionally, Knox boxes for emergency vehicles, as required by the Uniform Security Code, are required installed on all gated parking structure entries. Furthermore, all construction activities will be performed per City and OCFA standards and codes, thereby avoiding any interference with emergency response or evacuation plans. As a result, no impacts are anticipated.

**h) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?**

**No Impact.** The IBC is surrounded by urban development and is not adjacent to, or intermixed with, wildlands. Further, the project site is not located within a high fire severity zone as designated in Figure J-2 of the City of Irvine General Plan. Therefore, no impact is anticipated.

### **Hydrology And Water Quality**

#### **a) Violate any water quality standards or waste discharge requirements?**

**No Impacts.** The overlay zone will not impact existing water quality standards/requirements, as it does not authorize any residential development, but rather merely establishes standards for such development if and when it is otherwise authorized through the general plan amendment and zone change process.. Further, no long-term impacts on water quality are anticipated from residential development (if and when it is approved) in the IBC, although there may be some short-term impacts on water quality from runoff of water and dirt due to construction. However, projects will be required to comply with the State National Pollution Discharge Elimination System (NPDES) Storm Water Permit Program and City requirements. Under the municipal Orange County NPDES permit issued by the Santa Ana Regional Water Quality Control Board, the City of Irvine is required to ensure that discharges from its municipal storm drain systems do not cause or contribute to exceedances of receiving water quality standards (designated beneficial uses and water quality objectives) for surface waters or groundwaters. In accordance with City of Irvine Standard Subdivision Condition 2.10, the applicants are required to submit for approval a Water Quality Management Plan (WQMP) prior to issuance of precise grading permits. The WQMP will identify best management practices (BMPs) that will be used to minimize pollutants in runoff from the site after construction of the project. The WQMP must specifically address existing impairments of receiving waters. IBC projects will be developed within an existing developed area, and no additional sources of polluted runoff are anticipated. The WQMP prepared for each project will identify BMPs required to reduce impacts to water quality and to ensure that no additional impairments of the San Diego Creek occurs as a result of the project. Therefore, implementation of the WQMP will reduce impacts to water quality to less than significant levels. However, no impacts are associated with implementation of the overlay zone.

#### **b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?**

**No Impact.** The overlay zone will not impact groundwater supplies. No groundwater will be used for IBC projects and no interference with groundwater recharge is expected. Therefore, no impacts are anticipated.

#### **c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in a substantial erosion or siltation on- or off-site.**

**d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?**

**e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?**

**(c-e) No Impact.** The proposed overlay zone will not alter the course of any stream or river nor are residential development projects expected to substantially alter the existing drainage pattern. Requirements for residential landscaping are more stringent than those for non-residential projects. Therefore, if anything, the decrease of impervious surfaces would improve water quality on residential project sites. Further, projects will be required to comply with NPDES Storm Water Permit Program and City requirements. Therefore, no impacts are anticipated.

**f) Otherwise substantially degrade water quality?**

**No Impact.** Implementation of the overlay zone will not degrade water quality, therefore no impacts are anticipated.

**g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?**

**h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?**

**(g-h) Less Than Significant Impact.** The majority of the IBC area is located outside the Flood Hazard Areas as identified in Figure J-3 of the City's Safety Element of the General Plan. A small portion of property adjacent to the Barranca channel is located within the 100-year flood hazard area, which is currently developed with light industrial and office uses. Existing City regulations require new construction in this zone to be elevated so as to be above the line of the flood plain. As a result, potential impacts are anticipated to be less than significant.

**i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?**

**No Impact.** The IBC area is not within a dam or levee inundation area. Therefore, no impacts are anticipated.

**j) Inundation by seiche, tsunami, or mudflow?**

**No Impact.** A seiche is a surface wave created when a body of water is shaken, usually by earthquake activity. Seiches are of concern relative to water storage facilities because inundation from a seiche can occur if the wave overflows a containment wall, such as the wall of a reservoir, water storage tank, dam, or other artificial body of water. The IBC is not located near any standing bodies of water or any water storage facilities. Therefore, risk of seiche is

not present. The project site is several miles from the Pacific Ocean and is not subject to a tsunami hazard. Finally, the IBC area is flat and is not subject to mudflows. Therefore, no impacts are anticipated.

### **3.9 Land Use and Planning**

#### **a) Physically divide an established community?**

**No Impact.** The overlay zone will serve as tool for growth control by creating standards to allow for orderly residential development where currently no such standards exist. The proposed standards will serve to physically unify the IBC area, and therefore, no adverse impacts are anticipated.

#### **b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?**

**No Impact.** The overlay zone will serve as tool for growth control by creating standards to allow for orderly residential development where currently no such standards exist. The overlay zone implements a vision for mixed use opportunities in the IBC adopted by the City Council, a vision which is consistent with the goals and polices of the City's General Plan.

#### **c) Conflict with any applicable habitat conservation plan or natural community conservation plan?**

**No Impact.** The Natural Community Conservation Plan for the Central/Coastal Orange County Subregion of the Coastal Sage Scrub Natural Community Conservation Program (NCCP) does not designate the IBC for preservation or open space uses. Therefore, no impacts are anticipated.

### **Mineral Resources**

#### **a) Result in the loss of availability of a known mineral resource that would be a value to the region and the residents of the state?**

**No Impact.** The IBC is developed with office, commercial, industrial and residential uses. The IBC and surrounding areas are not recognized as sources of important mineral resources. Therefore, this project would have no impact on such resources.

#### **b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?**

**No Impact.** The IBC is developed with office, commercial, industrial and residential uses.. No locally important mineral resource recovery sites are located on or near the project site. Therefore, this project would have no impact on such resources.

## Noise

- a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
- b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

**(a-b) Less Than Significant Impact.** The primary existing noise sources in the project area are transportation facilities. Vehicular traffic on major arterial roadways are a steady source of ambient noise. As new residential development would be required to occur within the existing vehicle trip cap for the IBC, no new vehicular traffic no associated noise would occur as a result of the overlay zone. Takeoffs and landings at John Wayne Airport, a commercial airport, contribute to the intermittent aircraft noise in the project area. Because the overlay zone does not authorize, or even designate as a permitted use, any specific residential development, the scale and amount of short term noise impacts that may at some future time be caused as a result of future discretionary permit applications is speculative. As a result, site specific noise impacts would be addressed as part of the discretionary review for new residential projects.

The proposed overlay zone creates development standards for new residential development in an area traditionally occupied by commercial and industrial uses. The overlay zone in itself does not permit residential development, but creates regulations for more orderly development of residential uses where there currently are none. The overlay zone includes requirements for a land use adjacency and compatibility analysis to ensure that proposed residential uses would not be adversely impacted by surrounding existing non-residential uses, including noise and ground-borne vibration impacts. Impacts are therefore anticipated to be less than significant.

- c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

**Less Than Significant Impact.** As new residential development would be required to occur within the existing vehicle trip cap for the IBC, no new vehicular traffic no associated noise would occur as a result of the overlay zone. Site specific noise impacts would be addressed as part of the discretionary review for new residential projects to mitigate noise impacts to a less than significant level.

- d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

**Less Than Significant Impact.** As stated above, the Project does not involve the authorization of any residential (or other) development. Further, if and when such development is approved, site specific noise impacts would be addressed as part of the discretionary review and environmental analysis.

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

**No Impact.** Takeoffs and landings at John Wayne Airport, a commercial airport located approximately one quarter mile west of the project site, contributes to the intermittent aircraft noise in the project area. However, potential significant noise from activity at John Wayne Airport is not an issue at for the IBC overlay zone because the Mature Industrial sub-zone encompassing the area above the 65 CNEL contour prohibits residential development for this reason. As a result, no potential impacts are anticipated.

**f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?**

**No Impact.** The project is not located within the vicinity of a private airstrip and no potential impacts are anticipated.

### **Population and Housing**

**a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?**

**Less Than Significant Impact.** The proposed zone change would create a new overlay zone establishing specific development requirements for new residential projects approved pursuant to the City's General Plan Amendment, Zone Change and Conditional Use Permit processes. The zone change would therefore not permit new residential development, but rather serve a tool for urban design and land use compatibility if and when new residential developments are otherwise authorized within the IBC. New development standards are proposed to create new building types, public and private open spaces, and a "smaller-grain" roadway network within specific overlay zone districts within the IBC, to ensure that new residential uses develop within a well planned neighborhood framework. No additional intensity is proposed with this zone change, as the existing trip caps in the existing IBC zoning will remain in place, and may be converted to residential trips via the General Plan Amendment, Zone Change for individual projects. However, the conversion of existing non-residential intensity to residential use could create an additional population of 13,000 in the IBC, based on an assumption of 10,000 new units ( $10,000 * 1.3 = 13,000$ ). The calculation of the number of residents is reached by using the population ratio of the City of Irvine's General Plan Land Use Element for the multi-use land use category, which is 1.3 residents per dwelling unit. The assumed increase in the allowable IBC residential intensity would, if authorized through the general plan amendment and zone change processes, assist the City in improving the jobs/housing balance with the development of 10,000 residential dwelling units within the mixed-use IBC area. As a result, adverse impacts on population growth are anticipated to be less than significant and, if authorized, new residential development would in fact be a beneficial impact on population and housing.

**b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?**

**No Impact.** The proposed project would not displace any housing. The overlay zone only creates new development standards for residential development and does not propose specific development on specific sites. Therefore, no impacts are anticipated.

**c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?**

**No Impact.** The proposed project would not displace any residents in the IBC. The overlay zone only creates new development standards for residential development and does not propose specific development on specific sites which could potentially displace residents. Therefore, no impacts are anticipated.

**Public Services**

**a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:**

**Less Than Significant Impact.** Although it authorizes no development, the proposed overlay zone would create a neighborhood design framework for an additional 10,000 units in the IBC area. The site design provisions in the overlay zone serve to minimize impacts to public services by creating additional on-site public open space and private roadways for improved public safety access, thus minimizing impacts to public services. The accompanying vision plan outlines specific additional public infrastructure improvements proposed to help create the neighborhood framework for future residential uses, and the overlay zone requires developers to pay these costs through execution of a development agreement as part of the individual discretionary project approvals. Impacts to public services are therefore anticipated to be less than significant.

**i) Fire protection?**

**Less Than Significant Impact** Primary fire protection services to the project site are provided by the Orange County Fire Authority (OCFA). The site design provisions in the overlay zone serve to minimize impacts to public services by creating additional on-site public open space and private roadways for improved public safety access, thus minimizing impacts to public services. Additional site specific requirements would be evaluated through the individual discretionary project processing. Impacts to fire protection are therefore anticipated to be less than significant.

**ii) Police protection?**

**Less Than Significant Impact.** Primary police services to the project are provided by the Irvine Police Department. Based on the desired ratio of 1.5 sworn officers per 1,000 residents, the buildout of the anticipated 10,000 units in the IBC would generate a need for an additional 19.5 (13,000 persons/1000 \* 1.5 = 0.16) officers. The site design provisions in the overlay zone serve to minimize impacts to public services by creating additional on-site public open space and private roadways for improved public safety access, and mandated Crime Prevention Through Environmental Design (CEPTED) features, thus minimizing impacts to public services to a less than significant level.

### iii) Schools?

**Less Than Significant Impact.** The proposed project does not authorize any residential development within IBC, but rather creates development standards that will be applicable if and when such residential development is approved through the general plan amendment and zone change processes. Further, both Santa Ana and Tustin Unified School Districts have indicated that they sufficient capacity to accommodate anticipated additional population from the IBC, with the required payment of impact fees. Impacts to schools are therefore anticipated to be less than significant.

### iv) Parks?

**No Impact.** The proposed project does not authorize any residential development within IBC, but rather creates development standards that will be applicable if and when such residential development is approved through the general plan amendment and zone change processes. Further, even assuming that the City were to in the future authorize an increase of 10,000 housing units within the IBC area, that increase would cause a corresponding increase in the need for recreation services and facilities. Based on the City's standard of five acres per 1,000 residents, the assumed increase in residential intensity would generate a need of 65 acres (13,000 persons/1000 \* 5 = .65) of parkland. The City's current Zoning Code requires that each proposed residential project provide for neighborhood and community parks. This requirement is typically served by the on-site private recreation areas and new on-site public open spaces required by the overlay zone for new residential development. Developers in the IBC have been paying in-lieu fees for community parks, for which the Community Services Department is currently evaluating sites within the IBC. The proposed new public park/open space requirements in the overlay zone create new requirements for park facilities and therefore benefit, as opposed to adversely impacting, park services.

### v) Other public facilities?

**Less Than Significant Impact.** No other public facilities are anticipated to be adversely impacted by the proposed overlay zone.

### Recreation

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur or be accelerated?

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

**(a-b) Less Than Significant Impact.** The proposed project does not authorize any residential development within IBC, but rather creates development standards that will be applicable if and when such residential development is approved through the general plan amendment and zone change processes. However, if 10,000 new units are in the future approved for development in

the IBC that would create a need for new neighborhood and regional park facilities. As noted above under the Public Services discussion, the proposed new public park/open space requirements in the overlay zone create new requirements for park facilities and therefore do not create an adverse impact on recreational facilities.

### **Transportation/Traffic**

**a) Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?**

**b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?**

**(a-b) No Impact.** Vehicle Trips within the IBC are limited by existing trip caps, which would not be altered by the proposed overlay zone. Therefore no additional vehicle trips are anticipated through implementation of the overlay zone.

**c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?**

**No Impact.** Project implementation would not require any changes in air traffic patterns and no impacts are anticipated.

**d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?**

**No Impact.** The overlay zone includes roadway design requirements to allow for improved access to project sites. These requirements, in conjunction with existing City roadway design requirements, would decrease hazards due to design. Therefore, no impacts are anticipated.

**e) Result in inadequate emergency access?**

**No Impact.** The overlay zone includes roadway design requirements to allow for improved access to project sites. These requirements, in conjunction with existing City roadway design requirements, would facilitate emergency access. Additionally, Knox key switches for emergency vehicles as required by the Uniform Security Code will be installed on all gated parking structure entries. As a result, no impacts are anticipated.

**f) Result in inadequate parking capacity?**

**No Impact.** The overlay zone allows for a reduction in parking for mixed use projects based on industry-accepted procedures for analysis of parking demand. The decrease in required parking would encourage the development of mixed use projects for which less parking would be needed. Therefore, no adverse impacts on parking are anticipated.

**g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?**

**No Impact.** The overlay zone and accompanying vision outline requirements designed to concentrate mixed uses into defined areas and provide funding for transit and bicycle amenities, consistent with the City's general Plan and pending Bicycle Master Plan. Therefore, no adverse impacts are anticipated.

### **Utilities and Service Systems**

**a) Exceed waste water treatment requirements of the applicable Regional Water Quality Control Board?**

**b) Require or result in the construction of new water or waste water treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

**(a-b) No Impact.** Wastewater from proposed projects in the IBC would be serviced by the Irvine Ranch Water District (IRWD), which provides wastewater treatment to the IBC area. The proposed overlay zone would not generate the need for additional wastewater facilities, however, the City is working with IRWD to identify means to provide wastewater and treatment facilities for up to 10,000 new units in the IBC area. No impacts are anticipated from implementation of the overlay zone.

**c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

**No Impact.** Stormwater drainage will be accommodated within the internal streets and drainage capacity within the San Diego Creek drainage system. The proposed overlay zone would not create a need for additional stormwater facilities, therefore, no impacts are anticipated.

**d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?**

**No Impact.** Water service for proposed projects in the IBC would be serviced by the Irvine Ranch Water District (IRWD), which provides water to the IBC area. The proposed overlay zone would not generate the need for additional water supply facilities, however, the City is working with IRWD to identify means to provide water supply facilities for up to 10,000 new units within the IBC area. No impacts are anticipated from implementation of the overlay zone.

**e) Result in a determination by the waste water treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

**No Impact.** Wastewater from proposed projects in the IBC would be serviced by the Irvine Ranch Water District (IRWD), which provides wastewater treatment to the IBC area. The proposed overlay zone would not generate the need for additional wastewater facilities, however, the City is working with IRWD to identify means to provide wastewater and treatment facilities up to 10,000 new units within the IBC area. No impacts are anticipated from implementation of the overlay zone.

**f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?**

**No Impact.** The proposed overlay zone would not generate the need for additional solid waste facilities. Further, even if up to 10,000 new units were, by subsequent discretionary action, authorized within the IBC area, the City of Irvine is under contract with Waste Management of Orange County for solid waste hauling and disposal. The Frank R. Bowerman Landfill, located at 11002 Bee Canyon Access Road in Irvine, is the closest facility for solid waste disposal. The Frank R. Bowerman Landfill, which is operated by the Orange County Integrated Waste Management Department (IWMD), opened in 1990 and is scheduled to operate until approximately 2022. The current rate of disposal for the landfill is a maximum of 8,500 tons per day. No deficiencies currently exist at the Frank R. Bowerman Landfill, as there is adequate daily surplus capacity to accept additional solid waste. In addition, IWMD is planning for the future expansion of the landfill until 2053, for which an EIR is being prepared. The proposed overlay zone does not authorize new development in the area, and specific impacts to the landfill will be evaluated with in conjunction with review of specific development proposals. Therefore, No impacts are associated with the proposed overlay zone.

**g) Comply with federal, state, and local statutes and regulations related to solid waste?**

**No Impact.** The overlay zone does not conflict with any federal, state, or local statutes and regulations related to solid waste. As a result, no impacts are anticipated.

**Mandatory Findings of Significance**

**a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

**No Impact.** The IBC is located within a developed urban area and there are no rare or endangered plant or animal species on-site. Therefore, the proposed project does not have the potential to degrade the quality of the natural environment and will not impact important biological and archaeological/historical resources.

**b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a**

project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)

**Less Than Significant Impact.** The overlay zone will serve as tool for growth control by creating standards to allow for orderly residential development where currently no such standards exist. The proposed standards will serve to physically unify the IBC area, and therefore, no adverse impacts are anticipated. Individual residential projects are current reviewed on a case-by case basis, with no set of consistent residential development standards to guide development in the area. The proposed overlay zone would lessen adverse cumulative impacts of individual projects by creating a unifying neighborhood framework.

**c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?**

**Less Than Significant Impact.** As stated throughout this Initial Study, implementation of the proposed project would not result in significant impacts related to air quality, hydrology and water quality, land use and planning, noise, public services, recreation and traffic.

## **References**

### **No. Reference**

1. City of Irvine General Plan, March 1999. (With Supplements 1, 2, and 3, February 2005).
2. City of Irvine Zoning Ordinance, as amended through March 1998. (With Supplements through August 2005).
3. Irvine Business Complex Environmental Impact Report (IBC EIR) No. 88-ER-0087 (State Clearinghouse Number 91011023), October 27, 1992.
4. State of California, Governor's Office of Planning and Research, California Environmental Quality Act Statutes and Guidelines, as amended through January 2005 and July 2005, respectively.
5. State of California Dept. of Conservation website: for list of cities affected by faults pursuant to Alquist-Priolo Act: <http://www.consrv.ca.gov/CGS/rghm/ap/affected.htm>





February 16, 2006

**VIA FACSIMILE (949) 724-6440**

Mr. Bill Jacobs, Principal Planner  
Community Development Department  
City of Irvine  
One Civil Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575

Re: Irvine Business Complex Residential Mixed Use Overlay Zone and Vision Plan  
00409688-PZC

Dear Mr. Jacobs:

As you know, the Tustin Unified School District ("District") sent a letter last week requesting additional time in which to submit comments to the City of Irvine ("City") with respect to the proposed Irvine Business Complex ("IBC") Residential Mixed Use Overlay Zone and Vision Plan ("Project"). Subject to any extension from the City that may allow us to further comment as to the Project, we hereby submit the following initial comments with respect to the City's draft Negative Declaration and related Initial Study (collectively, "ND"). Additional comments may be submitted at a later date.

**1. Sufficiency of Student Capacity to Service Project**

The ND improperly concludes that the Project will have a less than significant impact on public school services based upon the erroneous belief that the District has indicated sufficient capacity to serve Project students. (Initial Study, p. 28.) Though, upon presentation of information as to the Project by the City, District Deputy Superintendent Brock Wagner indicated that the proposed Project was "interesting," we are not aware of any expressed conclusions by the Board, District staff, or any other authorized representative of the District suggesting that the District has sufficient capacity to serve students generated by the Project.

**ATTACHMENT 8**

**BOARD OF EDUCATION**

Jonathan Abelove • Tammie Bullard • Lynn Davis • James Laird • Francine Scinto

To the contrary, the District does not have enough site capacity to handle student growth coming from development within the "Project Area." The District already houses existing students in interim portable buildings, as sufficient permanent school facilities are not available. Based upon the District's current project student generation rate of .296 students per unit for attached multi-family dwellings, the District would project approximately 433 students coming from the proposed development of 1,463 units alone. That number would, of course, increase proportionately for any units approved within the Project Area and the District's boundaries over and above 1,463 units. The District does not currently have the capacity in the Project Area, or any other area of the District, to service an additional 433 students. In fact, the District has been the fastest growing district in Orange County over the past several years.

Accordingly, the District submits that the Project presents potentially significant adverse impacts on the school facilities of the District and the District's ability to educate its existing and future students. As such, the finding of no significant impact in the ND is inaccurate and inappropriate.

We note that the Subsequent EIR ("SEIR") prepared for the Avalon Jamboree Village Residential Project, a single project existing within a portion of the Project Area and also within the District's boundaries, found that impacts from that single project alone would present a substantial change in the impact on public school services, such that revisions were required to the underlying EIR. If a single residential development within the Project Area will have a significant impact on public school services, it does not follow that the potential residential development of a vastly larger portion of the Project Area will have no significant impact on public school services. Accordingly, we request that the City require that an EIR, SEIR, or Master EIR, as may be most appropriate, be prepared in connection with the Project.

## 2. Traffic Impacts

The Vision Plan highlights the creation of new streets, designed to reduce the size of the blocks for pedestrians, thus creating walkable neighborhoods with smaller block sizes. The Vision Plan specifically states that "[t]he new standards in the [Project] will create buildings that are more human-scaled and require the introduction of new connector streets . . ." (Vision Plan, pp. 20, 52.) These statements, which are reiterated elsewhere in the ND (Initial Study, p. 14), are at odds with the ND concluding that providing that the Project will result in no impact upon transportation or traffic.

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These comments are amplified as to additional language within the Vision Plan calling for the widening of Interstate 405 and State Route 55 to 8 to 10 lanes, as well as the widening of Red Hill Avenue, Barranca Parkway, and Jamboree Road to 6 to 8 lanes, Alton Parkway and Von Karman Avenue to 4 to 6 lanes, and the additional East/Westbound auxiliary lane on Main Street. (Vision Plan, p. 43.) At minimum, we would expect environmental review of the Project, as proposed, to include an analysis of the potential of greater traffic and congestion, caused not only by more vehicles and traffic lights, but also by more pedestrians, at related intersections. Furthermore, in whatever environmental document is ultimately prepared, the City should include such proposed improvements in the Project description, so as to fully comply with the requirements California Environmental Quality Act ("CEQA") in connection with such improvements.

These comments are amplified to the extent the General Plan EIR did not consider these newly proposed roadways and increased pedestrian traffic. While our legal counsel attempted to locate and review the General Plan EIR with the assistant of the City's Planning Department, they have thus far been unsuccessful in locating such documentation at this time. The ND, to the extent the City intended to rely upon the analysis previously conducted in connection with the General Plan EIR, has failed to specifically identify that document or indicate how and where such document may be viewed. Through legal counsel, however, we will continue to work with the City in an effort to review that document, and provide further comments as may be necessary.

### 3. Parks and Recreational Space

We note that the ND states that park and recreation space will be provided in connection with any residential development in the amount of 5 acres per 1,000 persons, based on the City's standard requirements. The IBC Vision Plan ("Vision Plan"), however, states that "[t]here are currently no public neighborhood parks or recreational facilities within the IBC." (Vision Plan, p. 15.) Accordingly, we question the City's determination that additional residential development will result in no impact on public park services. Furthermore, to the extent the City's basis for a finding of no impact as to public park services involves the construction of new recreational facilities, the ND does not address how the construction of the same will result in a less than significant impact on the environment.

In addition, we note that the Vision Plan makes reference to the creation of pedestrian linkages that will link parks and urban open spaces within the Project Area to the San Diego Creek, San Joaquin Freshwater Reserve, and ultimately the Great Park. (Vision Plan, p. 21.) The ND, however, concludes, without a basis, that such provisions will have a less than significant impact upon those other existing recreational areas or parks.

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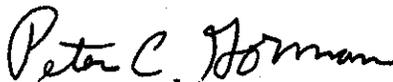
## 6. Cumulative Impact Analysis and Bifurcation of Project

Based upon the above comments, it is the District's belief that the City should prepare an EIR, or, perhaps more appropriately, a Master EIR, to analyze the potential cumulative impacts of the proposed Project. Such a process is the best method to ensure that the cumulative impacts, as well the potential growth inducing impacts, caused by the redevelopment of the IBC Project Area may be fully analyzed before the City undertakes a review of each subsequent project occurring in accordance with the Project. (CEQA Guidelines § 15175.) The failure to conduct such analysis now, when cumulative impacts would most appropriately be evaluated, and, as appropriate, addressed, may violate the mandates of CEQA. By limiting review to a project-by-project basis, the City would appear to be dividing the larger project into several smaller projects, in violation of CEQA. (CEQA Guidelines § 15165; *Whitman v. Board of Supervisors* (1979) 88 Cal. App. 3d 397.) The approval of the Project, as proposed and envisioned, will undoubtedly lead to additional mixed-use projects involving residential development, which in turn will cumulatively have a significant impact upon the environment, based on the elements discussed in this letter, including a significant impact on the District's school facilities.

Furthermore, to the extent the City has either already approved or is specifically considering specific residential developments within the Project Area, including 1,463 residential units within the District's boundaries and 13,018 units throughout the Project, it would appear that the City's Project description is inaccurate and incomplete. By neglecting to include the specifics of those developments already slated to take place in connection with the Project, the City has not provided a full description of the Project, as it exists today, and thus the analysis taking place in connection with the same is itself incomplete.

Consequently, for the reasons discussed above, the District urges the City to reject the Project, as proposed, and require that an EIR, or Master EIR, instead be prepared. Such a step will better ensure that all of the potential environmental impacts resulting from the Project, including, but by no means limited to, those impacts relating to the District's school facilities, may be wholly considered.

Sincerely,



Peter C. Gorman, Ed.D.  
Superintendent

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February 8, 2006

VIA FACSIMILE (949) 724-6440

Mr. Bill Jacobs, Principal Planner  
Community Development Department  
City of Irvine  
One Civil Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575

Re: Irvine Business Complex Residential Mixed Use Overlay Zone and Vision Plan  
00409688-PZC

Dear Mr. Jacobs:

The Tustin Unified School District ("District") has asked its legal counsel, Bowie, Arneson, Wiles & Giannone, to review the Draft Negative Declaration ("DND") prepared by the City of Irvine ("City") in connection with the proposed Irvine Business Complex ("IBC") Residential Mixed Use Overlay Zone and Vision Plan ("Project"). It is our understanding that public comments in connection with the DND must be submitted to the City by February 16, 2006. In light of the Project, as described, including its magnitude and complexity, we respectfully request additional time to submit comments in connection with the Project and the proposed DND.

The Project, as proposed, raises potential concerns as to the adequacy of school sites within the Project area, and the availability of adequate school housing within that portion of the Project located within the District's boundaries. The City's proposal currently involves approximately 1,463 residential units within in the District's boundaries alone, and may very well result in additional units in the future. Our concern as to a lack of school sites is magnified by a lack of recreational areas reserved within the Project area, as well as the lack of joint use opportunities as to school sites and adjacent park acres.

Additionally, the District has concerns relating to the potential traffic congestion, and corresponding air quality and noise impacts resulting from such traffic, that may occur within the District as a result of the conversion of low-density commercial properties to high-density residential dwellings. Likewise, it would seem that such a conversion will have additional impacts on other public services, including fire and police protection, water, and sewer services.

Mr. Bill Jacobs, Principal Planner  
City of Irvine  
February 8, 2006  
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The District is also concerned about what appears to be a bifurcation of the environmental review of the Project. The City's review of the Project, without a simultaneous review of the resulting impacts caused by the zoning changes potentially allowed by the Project, including direct, indirect, and cumulative environmental impacts, may result in a review less adequate than that required by the California Environmental Quality Act ("CEQA"). CEQA specifically requires that "projects" include the whole of an action, even if ultimate approval of such a project may require several discretionary governmental approvals. The CEQA Guidelines are clear that a "project" does not mean each separate governmental approval.

In this instance, it would appear that the City may potentially allow residential development within the Project area, but, in doing so, is deferring the consideration of the potential impacts arising from such development until specific developments are individually considered and approved. Meanwhile, while deferring review of individual projects that "may" occur in the future, the City has already developed a specific list of potential IBC projects specific enough to determine that 13,018 high-density residential units are proposed within the Project area.

Accordingly, we respectfully request that the City allow the District until March 1, 2006, to submit comments for the City's consideration, as the Project is pending before the Planning and Community Service Commissions. Alternatively, the District requests that it be granted such time so that the above concerns may be addressed more thoroughly by the District when the Project is considered by the City Council on March 28, 2006.

We appreciate your consideration of our request, and urge you to contact us if you have any questions or need to further discuss any of the above issues.

Sincerely,



Peter C. Gorman  
Superintendent

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## FAX COVER SHEET

FAX NUMBER TRANSMITTED TO: (949) 724-6440

To: Bill Jacobs  
 Of: City of Irvine  
 From: Law Offices of Robert C. Hawkins  
 Client/Matter:  
 Date: February 16, 2006

DOCUMENTS	NUMBER OF PAGES
Comments on IBC DND	14

COMMENTS:  
 Original will NOT follow. For your files.

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## LAW OFFICES OF ROBERT C. HAWKINS

February 16, 2006

**Via Facsimile and U.S. Mail**

Michael Haack, Planning Director  
Tina Christiansen, Director of Community Development  
Bill Jacobs, Principal Planner  
City of Irvine  
One Civic Center Plaza  
Post Office Box 19575  
Irvine, California 92623-9575

Re: **The City of Irvine's (the "City") Initial Study and Draft Negative Declaration ("DND") for the Irvine Business Complex Residential Overlay District (the "Standards Project")**

Greetings:

Thank you for the opportunity to comment on the captioned document for the "City initiated Zone Change 409688-PZC to create the Irvine Business Complex (IBC) Residential Mixed Use Overlay Zone, as part of an overall vision plan policy statement for the IBC as directed by the City Council." DND, page 2. As you may know, this firm represents individuals and groups in the Orange County area including residents and groups within the City of Newport Beach including the undersigned. These individuals and groups have an interest in the Project and related projects, and environmental issues in the area.

We offer the following comments on the DND.

**I. Introduction: CEQA Standards.**

Generally, the heart of the California Environmental Quality Act, Public Resources Code section 21000 et seq., is an EIR; it is the primary environmental document which:

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

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

However, CEQA Guidelines section 15070 allows for the preparation of a mitigated negative declaration in certain limited circumstances. Among other things, Section 15070 (b) requires that a mitigated negative declaration show that:

“project plans or proposals . . . would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur.”

Id. (Emphasis added.) Further, environmental documents such as the DMND are reviewed using the “Fair Argument Standard.”

“Under this test, the agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a proposed project may have a significant effect on the environment. [Citations.] If such evidence is found, it cannot be overcome by substantial evidence to the contrary.”

Gentry v. City of Murrieta (1995) 36 Cal. App. 4th 1359, 1399-1400.

Further, to the extent that a CEQA document including the DND proposes mitigation measures, it must provide specific measures. It cannot defer such measures until some future date or event. “By deferring environmental assessment to a future date, the conditions run counter to that policy of CEQA which requires environmental review at the earliest feasible stage in the planning process.” Sundstrom v. County of Mendocino (1988) 202 Cal. App. 3d 296, 308. See Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263, 282 (holding that “the principle that the environmental impact should be assessed as early as possible in government planning.”); Mount Sutro Defense Committee v. Regents of University of California (1978) 77 Cal. App. 3d 20, 34 (noting that environmental problems should be considered at a point in the planning process “where genuine flexibility remains”). CEQA requires more than a promise of mitigation of significant impacts: mitigation measures must really minimize an identified impact.

“Deferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan. (Citation omitted.) On the other hand, an agency goes too far when it simply requires a project applicant to obtain a biological report and then comply with any recommendations that may be made in the report.” Defend the Bay v. City of Irvine (2004) 119 Cal. App. 4th 1261, 1276.

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## **II. Summary of Concerns.**

As discussed below, the DND fails to satisfy this Fair Argument Standard for several reasons. First, the DMND's Pipeline Project description fails to include crucial Project features and/or mitigation measures proposed in the DND.

Second and most importantly, the Pipeline Project description improperly segments various components of the real Project including further residential projects which will require general plan amendments, establishing the residential standards themselves, and related projects. The overall project-- the Real Project-- is a re-characterization and re-zoning of the entire Irvine Business Complex which was analyzed and characterized in the 1992 Program Environmental Impact Report for the Irvine Business Complex.

Third, the "environmental analysis" is woefully inadequate: the City merely checked the boxes and included standard boilerplate discussion of the environmental analysis. For instance, the DND recognizes that any project which fits in the Project's overlay zone will require a General Plan Amendment. That is, the Project-- the creation of the overlay zone-- will conflict with the General Plan. Yet, the DND's analysis of land use impacts of the Project is silent on this conflict. As discussed below, this is improper.

Fourth, interestingly, the Notice is inadequate and misleading: it refers ambiguously to the DND as well as a Draft Mitigated Negative Declaration.

## **III. Background: The IBC Program EIR and Master Plan.**

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

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

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

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## **2. The IBC Project and the Program EIR.**

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

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

The southern boundary for Group C, one of the failing intersection groups, is located at the intersection of Jamboree and MacArthur and directly adjacent to the City of Newport Beach. The traffic analysis for Group C that was done for the Program EIR shows that this intersection group failed before any additional trips would be transferred.

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

The second step used to evaluate traffic forecasts in the Program EIR is screenline analysis, which "entails the grouping together of parallel links in the arterial network, and comparing their total assigned traffic volume to their combined roadway capacity." According to the Program EIR, "[e]ven with the extensive mitigation program, two screenlines continue to exceed the [Average Daily Trip] ADT link volume performance criteria: screenline 3 (V/C = 1.05) [Main Street, which intersects Jamboree just north of I-405] and screenline 4 (V/C = 1.11) [Michelson Drive, which intersects Jamboree just south of I-405]. These findings continue to demonstrate the shortage of north-south capacity within IBC." Page IV.A-48. The failure of these two screenlines, particularly at the intersections on Jamboree may have significant impacts to circulation and traffic on MacArthur and Jamboree in the City of Newport Beach. Again, the failure of these intersections was determined before the Project or any projects within the overlay zone or even already approved projects.

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CEQA allows the listing of "relevant past, present and reasonably anticipated future projects" and requires a summary of the projects and a "reasonable analysis of the cumulative impacts of the relevant projects" and an examination of "reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects." However, the Program EIR simply provided a list of proposed projects within a two-mile radius of the IBC area and failed to provide any analysis of the cumulative impacts or feasible options for mitigating those impacts.

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

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

#### IV. Section II: "Project Description."

Under the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000, the project description is one of the key parts of any environmental document. As the Court of Appeal in County of Inyo noted long ago,

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

County of Inyo v. City of Los Angeles (County of Inyo) (1977) 71 Cal. App. 3d 185, 199 (bold emphasis supplied; italics in original). In addition, the CEQA Guidelines section 15124 requires that an environmental document describe the project "in a way that will be meaningful to the public, to the other reviewing agencies, and to the decision-makers." Discussion, Guidelines section 15124.

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DND's brief Project description states that:

"The proposed zone change would create a new overlay zone establishing development requirements for new residential projects, if and when such projects are approved pursuant to the City's General Plan Amendment, Zone Change and Conditional Use Permit processes."

DND, page 2. However, the Project description never discusses those standards or requirements. Moreover, the City has already approved over forty (40) residential projects with over ten thousand (10,000) residential units without these standards. The DND implies that these projects fail to meet any standards. Also, given that "the cow is already out of the barn," it is unclear why this Project is necessary at all.

The DND recognizes that the Project "... would not permit new residential development; rather, it will serve as a tool for ensuring urban design and land use compatibility if and when new residential developments are approved through the pre-existing planning and entitlement processes applicable within the IBC.." This is bizarre: in essence, the Project creates standards for uses not allowed under the General Plan and which themselves require substantial environmental review.

More importantly, the DND proposes to re-zone, again, the IBC area. However, this re-zoning is inconsistent with the re-zoning that occurred through the 1992 Master EIR. Although the City re-zoned the area in 1992 with a Program EIR, the City now proposes to accomplish this herculean re-zoning task in the Project with merely a Negative Declaration. This is inadequate.

Most importantly, the DND impermissibly attempts to segment the Real Project; the residential redevelopment of the IBC. Since its inception, CEQA has forbid "piecemeal" review of the significant environmental impacts of a project. Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 391, fn. 2. This prohibition stems in part from CEQA itself: Public Resources Code section 21002.1(d) requires that an environmental document "consider[] the effects, both individual and collective, of all activities involved in [the] project." Courts have recognized that:

"A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal ... and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR."

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Sacramento Old City Assn. v. City Council (1991) 229 Cal.App.3d 1011, 1023 [280 Cal.Rptr. 478], original italics; Stanislaus Natural Heritage Project v. County of Stanislaus (1996) 48 Cal.App.4th 182, 201.

Further, CEQA Guidelines Section 15165 provides that:

“Where individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the lead agency shall prepare a single program EIR for the ultimate project as described in Section 15168 . . . .”

Under the Guidelines, the term “project” is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably indirect physical change in the environment . . . .” *Id.* at CEQA Guidelines section 15378(a). At the other end of the spectrum, long-range planning proposals are exempt from EIR requirements: “A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR . . . .” CEQA Guidelines section 15262.

The DND’s Project is not simply the re-zoning, the overlay or residential standards: that is but a piece of the larger Real Project: the residential redevelopment of the IBC. The City earlier recognized with the Program EIR that with such a large project, a Program EIR is necessary. It is still necessary. The City should revise the DND, re-circulate it as a Program EIR which fully analyzes the residential redevelopment for the IBC, establishes and fully discusses the design standards, establishes areas for residential development, fully analyze the entire spectrum of potential environmental impacts and propose necessary mitigation. The City should not attempt to circumvent the requirements of CEQA by segmenting the Project into bite size pieces. Courts have long recognized that such an attempt violates the requirements of CEQA.

**V. Section V: the Checklist—“Evaluation of Environmental Impacts.”**

**A. Subsection I. Aesthetics.**

Because the Project includes design standards which are not discussed, the Project will have aesthetic impacts. However, section I and its discussion turn a blind eye towards these impacts. First, Section I a) indicates that the Project will have no aesthetic impacts on scenic resources because the Project will include height limitations which “would be either consistent with or more restrictive than existing height limitations in IBC.” This raises several points. First, the

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Project is not specific: which is it: are the standards more restrictive than current standards or are they current standards? The DND does not answer this, because it fails to discuss any standards.

In response to I c) regarding degradation of existing visual character, the DND finds no impact because the Project "standards ensure a more cohesive visual neighborhood framework (if and when general plan amendments and/or zone changes allowing residential developments are approved)." DND, page 14. Again, this raises several issues. First, and most importantly, this rationale displays the piecemeal character of the Project description: it depends on the other approvals including General Plan amendments and zone changes.

Second, this assumes that "a more cohesive neighborhood framework" will not degrade visual resources. However, this sameness may itself be the impact: an entire row of block buildings done in beige will have significant impacts on visual resources and degrade the visual character. Without discussion and specification of the standards, the public is unable to determine whether or not the Project will have an impact on visual resources.

Third, Section I d) concludes that the Project will have no impact in connection with light and glare impacts. As before, depending upon what the standards are, they may create such impacts.

The DND must be revised, recirculated as an EIR, thoroughly discuss the standards, their impacts on visual resources and propose any mitigation.

**B. Subsection VII: Hazards and Hazardous Materials.**

Section VII recognizes that the Project may create less than significant impacts involving the potential release of hazardous materials into the environment. However, the discussion on this point fails to discuss this less than significant impact. It states:

The overlay zone includes requirements for a land use adjacency and compatibility analysis to ensure that proposed residential uses would not be adversely impacted by surrounding existing non-residential uses. Impacts are therefore anticipated to be less than significant.

DND, Page 20. Huh? If the checklist indicates that the Project may create an impact which is less than significant, the DND should identify the impact and then discuss why it is less than significant. For instance, the environmental document for the Central Park Project at the old Parker Hannifin site recognize that the Project was located on a contaminated site which required substantial design features or mitigation measures to deal with the contamination.

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Because the standards including the land use adequacy and the compatibility requirements are missing, it is unclear how these will affect release of hazardous materials.

The DND should be revised to include a discussion of other hazardous site within the IBC (in addition to the Central Park site), fully discuss and identify all impacts, and if necessary, propose mitigation.

**C. Subsection VIII: Hydrology and Water Quality.**

Subsection VIII analyzes the Project's impacts on hydrology and water quality. Again, this is a mixed bag of confusion. For instance, Section VIII a) states that the Project will have no impact on water quality. However, it recognizes that "... no long-term impacts on water quality are anticipated from residential development (if and when it is approved) in the IBC, although there may be some short-term impacts on water quality from runoff of water and dirt due to construction." DND, Page 22. This again raises several concerns.

First, this discussion again recognizes that the Project analysis is piecemeal: the zone change will have no impacts but the Projects will. Moreover, because the DND recognizes that the Project will cause construction and will create short term impacts, it must discuss those impacts and any mitigation.

Section VIII b) contains the surprising statements:

The overlay zone will not impact groundwater supplies. No groundwater will be used for IBC projects . . ."

DND, page 22. This is surprising for several reasons. First, it again reflects the DND's piecemeal approach: it discusses the projects not the overlay district. Perhaps, the more consistent analysis would say the overlay district would not use any water. However, the DND avoids that flawed but facile approach, and recognizes that the IBC projects will use water.

The second surprising point is that the IBC projects, unlike most of Orange County, will not use groundwater. We understand that the Irvine Ranch Water District is increasing its use of groundwater and blends groundwater supplies with imported supplies. How does the Project propose to use only imported water. Moreover, that would have an impact on imported water supplies which the DND should discuss.

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**D. Subsection IX. Land Use and Planning.**

Subsection IX purports to analyze the Project's impacts on land use and planning, and it fails.

First, Subsection IX a) analyzes the Project's impacts to divide the community physically. Much of the IBC area is commercial and industrial. The Project proposes to provide standards for residential development. The residential development will impact and divide various areas in IBC devoted to industrial and commercial uses.

The DND states: "The proposed standards will serve to physically unify the IBC area . . . ." DND, page 24. The standards do not apply to all uses within the IBC area: they apply only to residential uses. The only way that the Project will unify the IBC area is wholesale conversion of the area from industrial and commercial to residential. This specter carries many concerns and impacts.

First, the piecemeal conversion of IBC to residential will divide, then isolate and then finally eliminate industrial and commercial uses in IBC. That is precisely what Section 9 a) should analyze: the process of isolating and eliminating industrial and commercial uses within IBC.

Second, as mentioned before, because the DND has no standards, it is unclear how those standards can perform any function, either unifying or dividing.

Section IX b) analyzes the Project's consistency with applicable land use plans including the General Plan. It fails utterly. It states in its entirety:

"The overlay zone will serve as tool for growth control by creating standards to allow for orderly residential development where currently no such standards exist. The overlay zone implements a vision for mixed use opportunities in the IBC adopted by the City Council, a vision which is consistent with the goals and policies (sic) of the City's General Plan."

DND, page 24. It fails to note as indicated above that, for any project within the Project overlay district, it will require a General Plan Amendment. That means that the Project is inconsistent with the General Plan, however consistent it is with its goals and policies.

The DND must be revised fully as an EIR to discuss the land use impacts of the Project, its consistency or inconsistency with the provisions of the General Plan, and any mitigation measures.

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Probably, the better practice would be to update the General Plan in this process to provide the necessary framework for the IBC residential standards.

**E. Subsection XI. Noise.**

Section XI analyzes noise impacts of the Project. Sections XI a) and b) recognize that the Project has less than significant impacts by exposing persons to heightened noise levels or groundborne noise levels. This discussion notes that John Wayne Airport may create such excess noise levels but that "...site specific noise impacts would be addressed as part of the discretionary review for new projects." DND, page 25. However, this raises concerns.

First, as before, it again raises the piecemeal criticism: the Project is pregnant with other projects, all of which should be analyzed. Second, it raises the concerns of the non-disclosed standards. Without knowing the standards, the public is unable to determine the impacts.

Third and importantly, it conflicts with the analysis of Section XI e) regarding noise levels from airports within two miles. Section XI e) states:

"... potential significant noise from activity at John Wayne Airport is not an issue at for the IBC overlay zone because the Mature Industrial sub-zone encompassing the area above the 65 CNEL contour prohibits residential development for this reason.

DND, page 26. Although this is interesting, the Project proposes to change IBC restrictions on residential development. Indeed, if XI e) is true, then XI a) is false; and vice versa.

**F. Subsection XIV. Recreation.**

Section XIV attempts to analyze the Project impacts on recreation. Again, it is woefully inadequate: it assumes away the impact.

The DND recognizes that the Project will have a significant impact on recreation but states that the standards will require new park facilities. That answer is easy but it fails.

As before, these standards are not specific and fail to ensure that the Project will have no recreational impacts.

More importantly, likely the standards will result in a net shortfall for recreational opportunities within the IBC area. This will likely drive new residents of the IBC to parks and recreational facilities in other areas including within the City of Newport Beach.

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The DND must be revised as an EIR to discuss fully the Project's features including park requirements, analyze the Project's impacts on recreational facilities within the City and within other areas including the City of Newport Beach and propose necessary mitigation.

#### **G. Subsection XV. Transportation.**

Subsection XV attempts to analyze the Project's impacts on transportation. Subsection XV a) and b) find no impact from Project on traffic and roadways because of the trip budget within the IBC. However, the 1992 Program EIR allowed for transfers of trips and requirements for infrastructure improvements. The Project will have a significant impact on traffic, if improvements are made in a specific area and trips are transferred from that area.

Further, this discussion fails to recognize that the IBC Master Plan created significant and unmitigable traffic impacts. This problem affects all IBC Projects and requires a new program EIR to discuss and analyze the impacts of residential projects given the unmitigable traffic impacts recognized in the 1992 Program EIR.

Subsection XV f) states that the Project will have no impact on parking. It states that the Project includes a reduced parking standard for mixed use but provides no discussion of the impacts of this relaxed standard.

Finally, the Project may create significant traffic impacts outside of the Project area including traffic impacts within the City of Newport Beach.

The DND must be revised as an EIR, analyze and address all traffic impacts of the Project including analyzing the earlier determination regarding unmitigable traffic impacts and parking, and propose any necessary mitigation including mitigation for impacts within the City of Newport Beach.

#### **H. Subsection XVI. Mandatory Findings.**

Section XVI purports to analyze the mandatory findings including, at Section XVI b), impacts which are individually limited but cumulatively considerable. Section 16 b)'s discussion is similar to the rest of the DND: largely boilerplate language with no analysis. It states:

"The overlay zone will serve as tool for growth control by creating standards to allow for orderly residential development where currently no such standards exist. The proposed standards will serve to physically unify the IBC area, and therefore, no adverse impacts are anticipated. Individual residential projects are current reviewed

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on a case-by case basis, with no set of consistent residential development standards to guide development in the area. The proposed overlay zone would lessen adverse cumulative impacts of individual projects by creating a unifying neighborhood framework."

It contains no discussion of past, current or future projects even though the applications, approvals and construction within the IBC for residential projects is staggering.

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Moreover, by creating uniform standards for orderly residential development, the Project will result in impacts which are cumulatively considerable: the Project will facilitate residential development within IBC. The Project may move residential development beyond its staggering character.

The DND is inadequate and fails to analyze fairly and completely the cumulative impacts of the Project. For an analogy, the Project is like the elephant's nose under the tent: It may be insignificant by itself but it portends trouble for those in the tent. The DND must be revised as a Program EIR, analyze all impacts including the cumulative impacts, and propose necessary mitigation.

**I. The DND Notice.**

The Notice for the DND states

"The public is invited to comment on the Draft Negative Declaration during the review period. The appropriateness of the **Mitigated Negative Declaration** will be reconsidered in response to the comments received. "

This is confusing: what mitigated negative declaration is the notice talking about. As indicated below, the City should prepare a full EIR.

**VI. Conclusion.**

As indicated above, the DND is inadequate and fails the "Fair Argument Standard" for many reasons including: the Project Description improperly segments a unified Project residential redevelopment project in the IBC, the DND fails to set forth the standards for the Project, the DND fails to analyze completely and fully the impacts of the Project including land use, recreation, traffic, noise, aesthetics, and the mandatory findings.

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As indicated throughout, the City should follow its former and better practice: prepare a full Program EIR for the residential redevelopment of the IBC.

Again, thank you for the opportunity to comment on the captioned document for the captioned Project. We look forward to participating in the public hearing process, receiving responses to these and other comments, and commenting on those responses at the appropriate public hearings. Of course, should you have any questions, please do not hesitate to contact us.

Sincerely,

LAW OFFICES OF ROBERT C. HAWKINS



By: Robert C. Hawkins

RCH/kw

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February 16, 2006

Bill Jacobs, Principal Planner  
City of Irvine  
Department of Community Development  
P.O. Box 19575  
Irvine, CA 92623-5975

Subject: Initial Study for IBC Mixed Use Overlay Zone and Vision Plan

Dear Mr. Jacobs:

Thank you for the opportunity to review the Initial Study for the proposed Residential Mixed Use Overlay Zone and Vision Plan within the IBC in the context of the Commission's *Airport Environs Land Use Plan for John Wayne Airport (JWA AELUP)*. We wish to offer the following comments and respectfully request consideration of these comments as you proceed with preparation of your Negative Declaration.

The proposed project is within the Federal Aviation Regulation (FAR) Part 77 Imaginary Surfaces aeronautical obstruction area in the vicinity of JWA and is also located on the AELUP Height Restriction Zone Map for JWA. It is suggested that the environmental document address these height restrictions and imaginary surfaces within the Hazards and Hazardous Materials and Transportation/Traffic Sections.

The proposed project is also within JWA noise impact zones. The Noise Section of your environmental document should consider impacts related to development within the 65 dB and 60 dB CNEL contours.

A referral by the City to the ALUC is required for this project due to the location of the proposal within an AELUP Planning Area and due to the nature of the required City approvals (i.e. General Plan Amendment and Zone Change) under PUC Section 21676(b). In this regard, please note that the Commission wants such referrals to be submitted and agendized by the ALUC staff between the Local Agency's expected Planning Commission and City Council hearings. Since the Commission meets on the third Thursday afternoon of each month, submittals must be received in the ALUC office by the first of the month to ensure sufficient time for review, analysis, and agendizing.

Thank you for the opportunity to comment on this initial study. Please contact Lea Umnas at (949) 252-5123 or via email at [lumnas@ocair.com](mailto:lumnas@ocair.com) if you need any additional details or information regarding the future referral of your project.

Sincerely,

*Kari A. Rigoni*

Kari A. Rigoni  
Executive Officer

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cc: Alan Murphy  
Larry Serafini  
John Leyerle



**COUNTY OF ORANGE**  
**RESOURCES & DEVELOPMENT MANAGEMENT DEPARTMENT**

*Bryan Speegle, Director*  
300 N. Flower Street  
Santa Ana, CA  
P.O. Box 4048  
Santa Ana, CA 92702-4048  
Telephone: (714) 834-2300  
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NCL 06-007

(5)

February 16, 2006

Bill Jacobs, Principal Planner  
City of Irvine Community Development Department  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575

**SUBJECT: Draft ND for the IBC Residential Mixed-Use Overlay Zone and Vision Plan**

Dear Mr. Jacobs:

The above referenced item is a Draft Negative Declaration (Draft ND) for the City's Irvine Business Complex (IBC). The proposed zone change would create a new overlay zone establishing specific development requirements for new residential projects approved pursuant to the City's General Plan Amendment, Zone Change and Conditional Use Permit processes.

The County of Orange has reviewed the Draft ND and offers the following comments regarding open space and recreation:

San Joaquin Freshwater Marsh Reserve:

1. Subject proposed overlay zone is sited immediately west of the San Joaquin Freshwater Marsh Reserve contiguous Carlson Avenue. Insofar as the Reserve is home to sensitive species habitat, it is recommended future project approvals within the overlay zone, immediately west of the reserve, be precluded from plantings of invasive plant species to prohibit their spreading into the Reserve. Overlay Zone requirements it is suggested incorporate this prohibition on invasive plants.
2. In order to preclude potential impacts to nocturnal animals, it is recommended projects within the Overlay Zone, immediately adjacent the Reserve, be required to acquire approvals from the City of a lighting plan and low-level light test, including security lighting, in relation to the contiguous Reserve area. Overlay Zone requirements it is suggested include this condition.

### Trails and Bikeways:

3. We support the City's efforts to ensure that a "well-planned neighborhood framework" is in place, if and when new residential projects are approved.
4. Page 2, Number 8: This paragraph mentions a "smaller-grain" roadway network. We suggest explaining this concept within the Transportation/Traffic section.
5. Page 3, "Surrounding Land Uses and Setting": We suggest noting that the subject project site is bordered by the proposed Peters Canyon Regional Trail on the west side of the San Diego Creek Channel, and the existing San Diego Creek Regional Bikeway on the east side of the channel. (The trail will provide an off-road, unpaved surface for equestrians, mountain bicyclists, hikers, and joggers. The existing Class I bikeway provides a paved off-road route for bicyclists and pedestrians.)
6. Recreation and Transportation: It is becoming increasingly important to encourage alternative modes of transportation such as bicycling and walking, especially in a mixed-use environment, where residential areas will be located near shops, parks, and places of employment. Providing improved bicycle and pedestrian circulation is a mitigation measure to help reduce air pollution, traffic congestion, parking congestion, and noise. Class I bikeways in particular, because they are off-road and suitable for bicyclists and pedestrians with a wide range of ages and abilities, serve to encourage bicycling and walking as alternative modes of transportation. Class I bikeways also serve as off-road routes for recreational bicycling and walking.

Associated with this mitigation measure, we offer the following suggestions:

- a. Create a Master Plan of Trails and Bikeways for the Irvine Business Complex.
- b. Explore ways to implement a comprehensive Class I bikeways network. For example, if existing wide boulevards are to be narrowed in order to accomplish a "smaller-grain" roadway network, this may present the opportunity to construct a parallel Class I bikeway (within a landscaped greenway) along each boulevard.
- c. Link the local Class I bikeways network to the proposed Peters Canyon Regional Trail and the existing San Diego Creek Regional Bikeway. (This may require a bike/pedestrian bridge over San Diego Creek, perhaps connecting to San Marco Park or Barber Memorial Park and the Irvine Civic Center.)
- d. Coordinate with developers, the County, and the City of Tustin to further the completion of the Peters Canyon Regional Trail, including undercrossings at Barranca Parkway, Main Street, Coronado, and I-405; also, construction of a trail bridge over the Lane Channel.

- e. Consider conditioning developers to construct portions of the Peters Canyon Regional Trail---and/or local trails and local Class I bikeways that would connect to the regional trail.
- f. Link schools, places of employment, shopping centers, and local parks to the Class I bikeways network.
- g. Consider reserving IBC rail corridors (such as the BNSF lines) for future Class I bikeways. (As land uses change within the IBC, these lines may be abandoned by the railroad companies.)

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- h. Consider utilizing flood control channel levees for Class I bikeways (e.g., Lane and Barranca Channels). Note: the Barranca Channel connects directly to a BNSF rail line.
- i. Consider providing local Class I bikeways that would connect the IBC to the nearby Anton, Flower Street, and Pacific Electric Class I bikeways (in Costa Mesa and Santa Ana). This would provide IBC residents with off-road access to the Santa Ana River Bikeway and Trail (about 4 miles away).
- j. The IBC is centrally located in Orange County. We suggest requiring developers to provide future residents with maps or brochures showing local and regional bikeway and trail routes. Upon completion of local and regional off-road trails and bikeways, IBC residents could travel from their neighborhoods to the Great Park, UCI, Tustin Legacy, San Joaquin Wildlife Sanctuary, Upper Newport Bay, and Irvine Regional Park (for example) completely off-road.
- k. Require commercial and residential buildings to include bike racks and/or bike lockers for employees and residents.

Thank you for the opportunity to respond to the Draft ND. If you have any questions, please contact Charlotte Harryman at (714) 834-2522.

Sincerely,



Ronald L. Tippetts, Chief  
Environmental Planning Division

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

From: Jim Lawson [mailto:lawsonj@uci.edu]  
Sent: Thursday, February 16, 2006 3:42 PM  
To: Michael Haack  
Subject: Draft Negative Declaration , 00409688-PZC

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Michael Haack  
City of Irvine  
Community Development Department

Mr. Haack,

thank you for the opportunity to comment on the Draft Negative Declaration for the Irvine Business Complex (IBC) Residential Mixed Use Overlay Zone and Vision Plan (00409688-PZC). It is the understanding of the University of California, Irvine (UCI) that the proposed zone change does not require an environmental impact report (EIR) because the proposed changes do not exceed the intensities anticipated under the 1992 Irvine Business Complex EIR (State Clearinghouse #91011023).

UCI has no specific comments on the Draft Negative Declaration, but does request that the City of Irvine, in planning efforts related to the IBC, continue to take into account the planned land uses and traffic capacity requirements contemplated under UCI's Long Range Development Plan (LRDP) at UCI's North Campus, immediately adjacent to the IBC. Such planned land uses include up to 650,000 gross square feet of non-residential development (office, research and development and support retail) and up to 300 dwelling units in an area designated Mixed Use by the LRDP along Jamboree Road. In addition, development of a similar intensity is contemplated in an area designated Campus Support by the LRDP at the corner of Jamboree Road and Campus Drive.

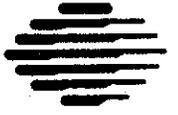
Please contact me if you have any questions.

Jim Lawson

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# ALLERGAN

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February 13, 2006

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William D. Jacobs  
Principal Planner  
City of Irvine  
P.O. Box 19575  
Irvine, CA 92623-9575

Re: IBC/Residential Overlay Zone (Negative Declaration)

Dear Bill:

Allergan has maintained its corporate headquarters in the City of Irvine for 38 years. We believe we have been good corporate citizens of the City and make every effort to stay informed on issues that could affect our campus and facilities. Over the last two years, Allergan has appreciated working with the staff and sharing information on the proposed Irvine Business Complex residential mixed-use overlay zone.

Our position has been consistent: due to the potential impacts of Allergan's medical research and manufacturing at our headquarters site, we believe residential development within 800 feet of the perimeter of the property is incompatible. Allergan is not opposed to residential development in other areas of the IBC and we are on record regarding that point.

In order to fully protect the property rights of Allergan, we have retained the firm of Sedgwick, Detert, Moran & Arnold LLP to provide counsel on land use and municipal law matters. We are advised by Sedgwick that to prevent the possible waiver of any of our legal rights and remedies, the California Environmental Quality Act ("CEQA") and other applicable laws require our counsel to submit comprehensive comments on the draft Negative Declaration for the IBC/Residential mixed use overlay zone and vision plan. Accordingly, attached is the Sedgwick comment letter which I am submitting on behalf of Allergan.

We trust that you will acknowledge our obligations to protect our legal rights by filing this letter. Please understand that Allergan wishes to proceed with our discussion to obtain an appropriate prohibition on residential development nearby the Allergan property and that it is our intent to avoid, if possible, any CEQA legal challenge which might interfere with these discussions.

Very truly yours,

Ray Diradoorian  
Executive Vice President  
Global Technical Operations

February 15, 2006

Bill Jacobs, Principal Planner  
Department of Community Development  
City of Irvine  
P.O. Box 19575  
Irvine, CA 92623-9575

VIA HAND DELIVERY



**Re: Draft Negative Declaration for Irvine Business Complex  
Residential Mixed Use Overlay Zone and Vision Plan (00409688-PZC)**

Dear Mr. Jacobs:

Allergan has received and reviewed the City of Irvine's proposed "Irvine Business Complex Residential Mixed Use Overlay Zone and Vision Plan (00409688-PZC)" and the Draft Negative Declaration prepared in conjunction with that proposed zone change ordinance for the Irvine Business Complex ("IBC"). Even a cursory review of this significant legislative change to the planning law of the City demonstrates that the proposed IBC-wide zone change ordinance will have significant impacts on the environment. Under the California Environmental Quality Act ("CEQA") any project which might have a significant impact on the environment requires the preparation of an Environmental Impact Report ("EIR"). The very purpose of CEQA is to provide the public and elected officials with sufficient information about a project so that a reasoned and informed decision can be made by an informed governmental body acting in front of an informed public. In its present form, the Draft Negative Declaration thwarts this public purpose.

1. **The Project will have Significant Environmental Impacts Requiring Preparation of an EIR.**

Because of the far reaching and significant impacts this IBC-wide zone change will have on aesthetics, air quality, biological resources, geology and soils, hazards and hazardous materials, land use and planning, noise, population and housing, public services, recreation, transportation and traffic, utilities and service systems, the City has an obligation to abandon the proposed Draft Negative Declaration and prepare an EIR. Even the City's project description, the foundation of any CEQA document, is not fixed but varies from section to section of the Draft Negative Declaration. As an example, throughout the Draft Negative Declaration, the City analyzes the addition of 10,000 new residences that will be allowed into the IBC under the proposed ordinance. Oddly, the IBC-wide zone change ordinance itself does not limit or control the number of additional residential units that can be developed within the IBC. Evidently the 10,000 number is a "guesstimate" of City staff and is not based upon any substantial evidence available to the public. In fact, in discussions with the impacted Santa Ana, Irvine, and Tustin Unified School Districts, City staff indicated that the ordinance would allow as many as 30,000 new residential units to be built in the IBC, but that the City would "try to limit" that to about 25,000 new residential units. Without the preparation of an EIR, the City Council will be making a decision without legally sufficient information before a public deprived of the ability to determine the precise impacts of the ordinance.

Not only does the Draft Negative Declaration fail because it does not analyze the ordinance's significant impacts on the environment, it also does not solicit input from other governmental agencies as required by law. Under CEQA, a lead agency, such as the City of Irvine in this case, must provide notice of its intent to adopt a negative declaration to any public agency with jurisdiction over impacted natural resources or transportation affected by the project. If notice is required to be given to any impacted agency, known in CEQA parlance as "responsible agencies," then the City is required to also send notice of its intent to adopt the negative declaration to the State Clearinghouse. If the City is required to give notice to the State Clearinghouse, the public comment period is extended from 20 days to 30 days.

In this case, the IBC-wide zone change ordinance will have impacts on both the San Diego Creek Channel and the San Joaquin Marsh (which, pursuant to prior environmental studies undertaken by the City, contains at least five endangered species). Accordingly, the City was required to provide notice of its intent to adopt a negative declaration to the California Department of Fish and Game, the United States Fish and Wildlife Service, the California State Water Resources Control Board and the United States Environmental Protection Agency. Similarly, the proximity of the project to impacted transportation resources required that notice be given to the California State Department of Transportation, the Orange County Airport Land Use Commission and the Southern California Regional Rail Authority. The City did not provide any of these agencies with notice as required by law. Because of this failing, the City only provided the public with 20 days to comment on the project and not 30 as required by law. Failure to provide required notice to responsible agencies also impacts exhaustion of administrative remedies requirements and can impact statute of limitations.

Finally, one of the fundamental underpinnings of CEQA is that environmental impacts are studied at the first possible opportunity and analysis should never be deferred to some point in the future. CEQA requires that an approving agency study the whole of a project and not "segment" or "piecemeal" a project. The City's use of a negative declaration for the IBC-wide zoning ordinance ignores this fundamental CEQA concept. While acknowledging that the ordinance may lead to the construction of 10,000 new residential units, the Draft Negative Declaration then refuses to analyze the enormous impacts from these new residential units by dismissively stating that each new project will be studied and mitigated in the future. The City's plan under the Draft Negative Declaration allows it to permanently defer study of the cumulative impacts of the approval of its IBC-wide zone change ordinance. As one small piece of residential development after another parades before the City, the City will only have to study the impacts from that one small project thereby avoiding meaningful review of the project as a whole. Such segmentation, piecemealing and deferral are expressly prohibited by CEQA.

Allergan wishes to work cooperatively with the City to develop a coherent comprehensive plan for the IBC that allows increased residential development while protecting the industrial and manufacturing core of the IBC. Providing the public and the City Council with thorough and complete information about the impacts of the proposed ordinance is the first step in this process. Correcting planning issues at the outset of the process will allow stable and predictable

development to the benefit of all of the citizens of Irvine. Detailed below are the areas of the Draft Negative Declaration requiring further study and analysis. Allergan respectfully urges the City to abandon the Draft Negative Declaration and prepare an EIR as required by law.

## **2. The Draft Negative Declaration is Based on a Faulty Project Description**

The proposed project is described in the Draft Negative Declaration as a zone change creating a "new overlay zone establishing specific development requirements for new residential projects approved pursuant to the City's General Plan Amendment, Zone Change, and Conditional Use Permit processes." (Draft Negative Declaration ("DND"), 1, 2.) The City further states that the "zone change would not permit new residential development; rather it will serve as a tool for ensuring urban design and land use compatibility if and when new residential developments are approved . . ." (DND, 2.) And "[n]o additional intensity is proposed with this zone change as the existing trip caps in the existing IBC zoning will remain in place and may be converted to residential trips . . ." (DND, 2.) This project description is flawed because it is based on faulty assumptions that avoid analysis of the significant impacts that would result from residential development under the IBC-wide zone change ordinance.

### ***A. The Project Description Is Misleading Because it Conditionally Permits, Not Just Encourages, Residential Growth***

A stable and accurate project description is an essential part of the CEQA process. *County of Inyo v. City of Los Angeles*, 71 Cal.App.3d 185, 192-193 (1977). If future activities associated with a project are reasonably foreseeable, analysis of those activities is required by CEQA. *Laurel Heights Improvement Assoc. v. Regents of Univ. of Cal.*, 47 Cal. 3d 376, 394-396 (1988). In pertinent part the City's project description states, "[t]he zone change would not permit new residential development; rather it will serve as a tool for ensuring urban design and land use compatibility if and when new residential developments are approved." (DND, 2.) The City's project description for the IBC-wide zone change ordinance is flatly misleading and inaccurate. Under current zoning, residential development is simply prohibited in IBC districts zoned 5.1 IBC Multi-Use. Under the proposed ordinance, residential uses would be conditionally permitted in districts zoned 5.1 IBC Multi-Use. Instead of needing to seek a zone change or General Plan Amendment requiring discretionary City Council approval, a residential developer would need only to seek a conditional approval from either the City's Director of Community Services, the Zoning Administrator, or the Planning Commission - a much lower, less public level of scrutiny. Draft Code § 5-8-8; Irvine Zoning Ordinance § 2-35.

In addition, CEQA requires analysis of all impacts that are the foreseeable consequence of the project. *Laurel Heights Improvement Assoc.*, 47 Cal. 3d at 394-396. It is not only foreseeable but certain that the proposed IBC-wide zone change ordinance will result in an explosion of residential development. The initial study for the project is clear that 10,000 new residences will be created by the ordinance. In conversations with representatives of the impacted Santa Ana, Irvine and Tustin Unified School Districts, City staff has said that as many as 30,000 new residences could be created by the ordinance, but that the City would try to "cap it" at 25,000. Notwithstanding these foreseeable and seemingly certain impacts, the project description does

not inform the City Council or the public that a single new residence will be permitted by the project. Instead, the project description misleadingly states that "[t]he zone change would not permit new residential development . . . ." (DND, 2.)

Finally, the project description is inaccurate in that it "piecemeals" or "segments" the project. The City has prepared a negative declaration without mitigation because it claims that the proposed IBC-wide zone change ordinance will only "encourage" not "cause" residential growth. The Draft Negative Declaration specifically anticipates that future individual residential projects will be brought forward as a result of this project. (DND, 2.) The City calculates that an additional 13,000 residents will live in the IBC when residential growth is authorized through "the general plan amendment and zone change process . . . ." (DND, 26.) Even though the Draft Negative Declaration anticipates the growth of 10,000 residences with 13,000 residents, the City declines to study this impact, illegally deferring the legally required analysis until some time in the future. This practice is expressly prohibited by CEQA.

Accordingly, the City should revise the project description to accurately describe that the IBC-wide zone change ordinance will no longer prohibit residential uses but instead conditionally approve residential uses in districts zoned 5.1 IBC Multi-Use. The project description should be amended to accurately reflect that the adoption of the IBC-wide zone change ordinance will allow the development of 10,000-30,000 new residences. The City would then be required to properly analyze the true impacts of the project that it is considering without deception.

**B. *The Overlay Zone Results in Development,  
Therefore, it is More Than Just a "Tool" Without Impacts***

Throughout the Draft Negative Declaration, the City concludes that there are no significant impacts based on its assumption that the IBC-wide zone change ordinance is merely a "tool" and no new residential development will result from its adoption. (DND, 2, 16-18, 20, 22, 25-28, 31, 32.) This assumption results in a systematic flaw in the impacts analysis that makes the entire Draft Negative Declaration inadequate under CEQA.

Since no zone change ever directly permits new development, a zoning ordinance would never have any environmental impacts if it were considered only as a conceptual tool. However, under CEQA, a zone change is a "project" requiring an analysis of significant impacts caused by its approval. *Bozung v. Local Agency Formation Comm'n*, 13 Cal. 3d 263, 277 (1975). Significant impacts include both direct and indirect impacts, and all phases of a project and foreseeable consequences of a project must be considered. 14 Cal. Code Regs. ("Guidelines"), §§ 15126.2(a), 15125(e); *Laurel Heights Improvement Assoc.*, 47 Cal. 3d at 393-399. Since a zoning ordinance must analyze indirect and foreseeable significant impacts, it must consider the projected build-out of the development allowed under the ordinance. *See Rosenthal v. Bd. of Sup. of Los Angeles County*, 44 Cal.App.3d 815, 822-824 (1975) (holding that the environmental impacts of projects proposed under zoning ordinances must "have been considered and resolved before the ordinance was adopted," and the city could not rely on the preparation of EIRs at the project level). Further, since under the proposed IBC-wide zone change ordinance some projects

can be approved pursuant to a summary administrative process instead of the discretionary process currently required, CEQA would be improperly avoided entirely. *See Rosenthal*, 44 Cal.App.3d at 822-824.

Moreover, even if every project applying for development under the zoning ordinance were to prepare an EIR, an analysis of the cumulative impacts of the projects would be avoided. Guidelines, §§ 15130, 15355. Thus, in order to capture and properly analyze cumulative impacts, a zone change should analyze impacts from a programmatic perspective. Guidelines, § 15168(b)(4). Also, failure to identify significant impacts at the program level misses the opportunity to formulate mitigation measures that can broadly address all of the impacts of development. Guidelines, §§ 15168(b)(4), 15126(a)(1)(B).

The City is very selective and inconsistent in acknowledging that the proposed IBC-wide zone change ordinance will result in 10,000 new residences. In certain instances (Cultural Resources, Hydrology and Water Quality, Public Services, Recreation, Waste) the City admits that the ordinance will result in 10,000 new residences and then try to explain (the flaws of these attempted explanations are detailed below) why the 10,000 new homes will not cause significant impacts. In other instances, the City ignores that there will be new housing caused by the ordinance because there would be no way to support a finding of no significant impact on the environment (Air Quality, Hazards and Hazardous Materials, Noise and Cumulative Impacts).

Here, the City concluded that there will be no significant impacts in many of the categories that it should/could have found significant impacts (Air Quality, Cultural Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Population and Housing, Public Services, Recreation, Solid Waste, and Cumulative Impacts) because it was relying on the faulty assumption that the zone change would not permit new residential development. This assumption is improper because it allows the City to avoid analyzing the significant environmental impacts, cumulative impacts, and program-level mitigation measures of the build-out of the projected development. Therefore, by not considering and resolving the impacts of build-out before the ordinance is adopted, the Draft Negative Declaration is inadequate to comply with CEQA.

### ***C. The City's Use of Trip Cap Conversions is Misleading***

The project description is misleading in that it equates keeping trip cap limits in place with no change in density, intensity or compatibility of uses. "No additional intensity is proposed with this zone change, as the existing trip caps in the existing IBC zoning will remain in place . . ." (DND, 2.) The huge fault with this analysis is the incorrect assumption that "all trips are created equal." First, the ordinance and EIR that created the trip caps studied the conversion of an infinitesimal number of new residences (about 300). The trip caps were not created or studied with the conversion of large portions of the IBC into residential uses in mind. Second, trip caps may study daily trips, but they do not look at the time of those trips. Because the City has prepared a Draft Negative Declaration for this project, no one has determined whether a residential trip will take place at the same time as a industrial or manufacturing trip or the impact of small personal vehicles mixing with industrial or manufacturing vehicles. This misleading

project description will cause the City to avoid analysis of the true impacts of the project if it is not corrected.

In addition, using trip caps as the exclusive tool to control density and to ensure compatibility fails miserably as soon as the analysis is applied beyond traffic. How will trip caps ensure that noise, air quality and public utility impacts will be avoided? Under the City's assumptions, a warehouse with a 100 trip count value will produce the same amount of sewage as a 100 trip count apartment building. Whether it is parks, police, fire or other areas of analysis, using trip caps to limit intensity of use is nonsensical. This misleading project description will cause the City to avoid analysis of the true impacts of the project if it is not corrected.

***D. The City Illegally Defers Required Analysis and Mitigation.***

The City's Draft Negative Declaration for the IBC-wide zone change ordinance does not encompass the whole project because the residential development foreseen by the City under the IBC-wide zone change ordinance is not analyzed. CEQA defines a "project" to mean "the whole of an action" that may result in either a direct or reasonably indirect physical change in the environment. Guidelines, § 15378(a). A lead agency must fully analyze the "project" in a single environmental review document, and not split a project into two or more segments if the effect is to avoid full disclosure of environmental impacts. *Bozung v. Local Agency Formation Comm'n*, 13 Cal. 3d at 283-284. "CEQA mandates that environmental considerations do not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences." *Burbank-Glendale-Pasadena Airport Authority v. Hensler*, 233 Cal.App.3d 577, 592 (1991). In *Laurel Heights I*, 47 Cal. 3d at 396, the Court established a two-prong test for determining what future consequences should be assessed for a project:

[A]n EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.

The proposed IBC-wide zone change ordinance modifies the current zoning within the IBC by establishing residential development requirements. The City's Draft Negative Declaration analyzes only the modifications of the IBC-wide zone change ordinance and relegates to future environmental review any environmental effects or consequences of the modifications in allowing increased residential development within the IBC. The environmental effects of increased residential development within the IBC above those currently allowed without the IBC-wide zone change ordinance would potentially affect air and traffic within the 2,700 acre IBC due to the increased residential traffic and change in utilization of streets within the IBC neighborhoods. These effects must be reviewed in the Draft Negative Declaration and not segmented for future review thus eviscerating a prime purpose of CEQA to have "a project

proponent incorporate environmental considerations into project conceptualization, design, and planning at the earliest feasible time." Guidelines, §15004(b)(1).

**3. An EIR Must Be Prepared Because Substantial Evidence Supports A Fair Argument That the Overlay Zone Will Have a Significant Effect On the Environment**

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CEQA requires public agencies to prepare an EIR for any project they intend to carry out or approve whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental effect; under this "fair argument" standard, an EIR must be prepared even if other substantial evidence shows no significant environmental effect. 'Significant effect on the environment' means a substantial, or potentially substantial, adverse change in the environment.' *Communities for a Better Environment v. California Resources Agency*, 103 Cal.App.4<sup>th</sup> 98, 106-107 (2002); *see also Arviv Enterprises, Inc. v. South Valley Area Planning Comms 'n*, 103 Cal.App.4<sup>th</sup> 1333, 1345 (2002).

"A negative declaration is invalid if... [t]here is substantial evidence in the record supporting a fair argument that the project may have a significant effect on the environment." Kostka & Zischke, Practice Under the California Environmental Quality Act, § 6.73 (CEB, 2005 update) citing *Friends of "B" Street v. City of Hayward*, 106 Cal.App.3d, 988, 1002 (1980). "[S]ubstantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous . . . ." Cal. Public Resources Code ("CEQA"), § 21080(e)(1).

Below are the areas of the Draft Negative Declaration that require further review. In each of these areas, there is substantial evidence that the City's project may have a significant impact on the environment. If a fair argument can be made that ANY of these areas might have a significant impact on the environment, then the City is required to prepare an EIR.

***A. The Draft Negative Declaration was Not Circulated to Responsible Agencies as Required by Law***

The Draft Negative Declaration does not substantially comply with the notice requirements of CEQA because the City did not provide the Draft Negative Declaration to several state and local agencies for their review. The City must provide notice of its intent to adopt a negative declaration to public agencies with jurisdiction over resources affected by the project (Guidelines, §§ 15072(a), 15703(c)), and public agencies with affected transportation facilities (CEQA, § 21092.4 and Guidelines, § 15072(e)). Because of impacts to California freeways and interstates as well as local rail transit services, the City was required to provide the California

Department of Transportation and the Southern California Regional Rail Authority a copy of the Draft Negative Declaration for review and comment. Because of potential impacts to John Wayne Airport, the City was required to provide notice to the Orange County Airport Land Use Commission. Also, because of the potential impacts of the project to the San Joaquin Freshwater Marsh and San Diego Creek Channel, the City was required to provide the California Department of Fish and Game, the United States Fish and Wildlife Service, the Regional Water Quality Control Board, the State Water Resources Control Board, and the United States Environmental Protection Agency a copy of the Draft Negative Declaration for review and comment.

The California Department of Transportation ("CalTrans") was not provided a copy of the Draft Negative Declaration for review and comment in violation of CEQA. CEQA section 21092.4 states that a lead agency shall consult with public agencies which have transportation facilities, which is defined as "major local arterials and public transit within five miles of the project site and freeways, highways, and rail transit service within 10 miles of the project site," for a project with statewide, regional or area wide significance. Similarly, CEQA Guideline section 15072(e) states that a lead agency shall provide notice to transportation planning agencies and public agencies. The City's proposed project establishes residential development requirements within the 2,700 acres of the Irvine Business Complex (IBC) that create a project of area wide significance due to the eventual impacts that the residential development will have within the IBC and its surrounding areas. For example, the San Diego Freeway, Interstate 405, transverses the IBC, and the 55 Freeway forms the western boundary of the IBC for several miles. CalTrans which oversees Interstate 405 and the 55 Freeway was not provided the Draft Negative Declaration by the City for its review and comments. Further, the Southern California Regional Rail Authority was not consulted on, nor notified about, the Draft Negative Declaration. The SCRRA provides rail transit services within five Southern California counties and operates a metrolink station on Edinger Avenue near Jamboree Road within 10 miles of the project. Finally, because the IBC is immediately adjacent to John Wayne Airport, the Orange County Airport Land Use Commission required notice of the Draft Negative Declaration so that it could comment on the safety and noise impacts of the project on the 10,000-30,000 new residences proposed for construction in the Airport environs.

Other public, responsible and trustee agencies not given notice of the City's intent to adopt the Draft Negative Declaration include the California Department of Fish and Game ("CDFG"), the United States Fish and Wildlife Service ("USFWS"), the Regional Water Quality Control Board ("RWQCB"), the State Water Resources Control Board ("SWRCB") and the United States Environmental Protection Agency ("USEPA"). Under California Code of Regulations sections 15072(a) and 15703(c), a lead agency must provide notice of its intent to adopt a negative declaration to public agencies, responsible agencies and trustee agencies with jurisdiction over resources affected by the project. The five noted agencies are entrusted with oversight of resources within the San Diego Creek Channel ("Channel") and San Joaquin Freshwater Marsh ("Marsh"), which as stated in the Draft Negative Declaration "abuts most of the eastern edge of the Irvine Business Complex." The CDFG and the USFWS have responsibility for protection of five endangered and/or threatened species found in the Marsh such as the Belding Savannah

Sparion, Light-footed Clapper Rail, California Least-tern, California Brown Pelican and least Bell's Vireo. Irvine Business Complex Environmental Impact Report No. 88-ER-0087 (State Clearinghouse Number 91011023), October 27, 1992. The RWQCB, SWRCB and USEPA have responsibility for the protection of the water resources including the storm water runoff into the Marsh and Channel from surrounding lands, as well as the quality of the water discharging from the Marsh and Channel into the Upper Newport Bay. Since these five agencies' responsibilities are tied to the Marsh and Channel, which are adjacent properties abutting most of the eastern edge of IBC, each agency should have been consulted on, and notified of, the Draft Negative Declaration.

As a further CEQA violation, the City did not send a copy of the proposed Draft Negative Declaration to the State Clearinghouse or allow the appropriate public review period. As noted above, the City was required to provide certain state agencies with the Draft Negative Declaration which then required the City to send the Draft Negative Declaration to the State Clearinghouse. Guidelines, § 15073(d). The City did not send the State Clearinghouse a copy of the proposed Draft Negative Declaration as required under CEQA. Further, the public review period for a negative declaration submitted to a State Clearinghouse for review must be at least 30 days unless a shorter period is approved by the State Clearinghouse. Guidelines, § 15073(a). The City's review period stated in the Draft Negative Declaration is from January 26 through February 16, which is 21 days. No information is provided by the City in the Draft Negative Declaration that the State Clearinghouse approved a shortened review period. The review period for the Draft Negative Declaration was nine days less than required by CEQA. As such, the Draft Negative Declaration does not comply with CEQA's requirements and should be revised and properly circulated for review and comment by the public and public agencies.

### **B. Aesthetics**

The Draft Negative Declaration states that: "[t]here are no scenic vistas in the vicinity of the IBC;" "no adverse visual impacts are anticipated" because the residential uses will be developed "within a well planned neighborhood framework;" and there will be no light and glare impacts because future development must comply with the City's lighting requirements. (DND 14.) However, there is substantial evidence that potential significant aesthetic impacts may result from new residential development in the IBC.

For example, the additional high rise development may cause adverse impacts from light and glare to operations at adjacent John Wayne Airport. (1992 EIR, § IV. C-5.) Light and glare from residential development in the IBC may also cause significant impacts to the flight and breeding patterns of birds and other wildlife using the adjacent San Joaquin Marsh and/or San Diego Creek. (1992 EIR, § IV. C-5.) The aesthetics of other adjacent low-density residential areas may also be impacted by the construction of high rise residential buildings. (1992 EIR, § IV. C-4.) Further, views of construction equipment will cause temporary adverse aesthetic impacts. (*id.*)

### ***C. Air Quality***

The Draft Negative Declaration states that there will be no impact on air quality because the “proposed zone change would not increase the allowable development intensity within the project site;” and “Development within the IBC would continue to be governed by the existing vehicle trip caps . . .” (DND, 15.) As discussed above, these assumptions are faulty and result in avoiding the analysis of any impacts caused by the build out of the residential development allowed under the IBC-wide zone change ordinance. Thus, the air quality impacts analysis is clearly erroneous.

Further, there is substantial evidence that potential significant impacts to air quality may result from new residential development in the IBC. For example, construction activities will cause short term air pollution due to emissions and dust generation. (1992 EIR, § IV. F-9.) Residential development will result in people using their vehicles at different times of the day than industrial or manufacturing traffic causing additional traffic congestion causing increased emissions of pollutants. (1992 EIR, § IV. F-11.) Additional residential development may be inconsistent with regional growth plans. (*id.*) Sensitive receptors such as children living in the new developments will be exposed to air pollutants. (*id.*) Residents may be exposed to the pollutants and odors produced by neighboring manufacturing operations. (1992 EIR, § IV. F-11.) Each of these impacts is sufficient to trigger the requirement of the preparation of an EIR.

### ***D. Biological Resources***

The Draft Negative Declaration states that “the IBC includes office, industrial, and residential uses, and does not contain any habitat that would support sensitive species.” (DND, 16.) This statement is clearly erroneous since the Draft Negative Declaration did not look at any impacts on the adjacent San Diego Creek and San Joaquin Marsh, or the downstream impacts on Newport Bay Ecological Preserve.

Further, there is substantial evidence that potential significant impacts to biological resources may result from new residential development. For example, these areas support migratory birds, including five rare or endangered birds, and have valuable native vegetation. (1992 EIR, § IV. J-2.) The Draft Negative Declaration states that a river walk “is proposed along the banks outside of the San Diego Creek channel,” and concludes, without analysis, that no impacts will occur from this construction; however, construction on the banks would likely impact water quality and may also impact wildlife presence in the Creek. Human use of the banks of the Creek will also increase human interference in the wetlands, which could have a significant adverse impact on wildlife and habitat. (1992 EIR, § IV. J-4.) Light and glare from additional high rise buildings could also impact migratory birds. Runoff from development could impact water quality. (1992 EIR, § IV. J-4.) Landscaping plants used in residential developments could also impact the native vegetation. Each of these impacts are sufficient to trigger the requirement of the preparation of an EIR.

### ***E. Geology and Soils***

The Draft Negative Declaration states that "no known faults traverse the IBC area," and individual projects will be required to be constructed to withstand the hazards. (DND, 18-19.) First and foremost this is illegal piecemealing or segmentation prohibited by CEQA. Potential impacts must be studied now, not at some unspecified date in the future. In addition, there is substantial evidence that potential significant impacts may result from new residential development in the IBC. For example, areas of the IBC are in the earthquake zone and may be subject to liquefaction. Previous studies have indicated that the IBC lies near the San Andreas, Newport-Inglewood, Norwalk, Whittier, Elsinore and San Jacinto faults, and that a major earthquake is likely in the next 15 years. (6P, D-2-3; 1992 EIR, § IV. L-2-3.) Moreover, the City's own General Plan acknowledges these faults are active and states that the IBC requires "careful planning" to minimize harm from seismic activity. (6P, D-2-8.) Mr. Tony Desmond of Deft has previously provided documentation to the City that describes the potential for earthquakes and liquefaction in the IBC, but the City chose to ignore this information. Each of these impacts are sufficient to trigger the requirement of the preparation of an EIR.

### ***F. Hazards and Hazardous Materials***

The Draft Negative Declaration states that the project will not create any hazards because "the project consists of new development standards for residential uses only and will not involve . . . hazardous materials." (DND, 20.) As discussed above, the assumption that the project is not required to account for the development of the residential uses allowed is faulty. Thus, the hazards and hazardous materials impacts analysis is clearly erroneous.

The Draft Negative Declaration is just flat wrong when it states that "there are no schools within one-quarter mile of the IBC area." (DND, 20.) Two school sites have been identified by the Tustin Unified School District that are within a quarter mile of the IBC. This error alone is sufficient to trigger the need for a new Initial Study analyzing the impacts of hazards and hazardous materials on these schools.

Further, there is substantial evidence that potential significant impacts from hazards and hazardous materials may result when new residential development is constructed in the areas of IBC that are next to or near existing manufacturing operations that store and use hazardous materials. (DND, 9, 20; 1992 EIR, § IV. I-3-8.) The IBC Manufacturing Group, in which Allergan participates, has previously made the City aware of the hazardous materials used and transported by IBC businesses. The Group has provided substantial evidence that permitting residential uses adjacent to existing manufacturers could create unanalyzed hazards. The City's reliance on the land use and adjacency compatibility analysis (DND, 20) is not sufficient, since there is a significant potential for exposure of residents to hazardous materials which may not necessarily be known at the time of the "compatibility" analysis. This future, deferred analysis is yet another example of illegal project segmentation.

In addition, the City attempts to use trip caps as the exclusive method to control density and intensity of use. The issues involved in placing a print shop, an office building or warehouse next to an industrial or manufacturing plant are entirely different than surrounding that same plant with high-rise residential buildings. When the trip caps were first created, only an infinitesimal number of residential units (300) were studied for the IBC. The trip caps were created to shift among industry uses and were not created with residential-industrial transfers in mind. Each of these impacts are sufficient to trigger the requirement of the preparation of an EIR.

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### ***G. Land Use and Planning***

In pertinent part the Draft Negative Declaration states, "[t]he zone change would not permit new residential development; rather, it will serve as a tool for ensuring urban design and land use compatibility if and when new residential developments are approved." (DND, 2.) The Draft Negative Declaration for the IBC-wide zone change ordinance is flatly misleading and inaccurate. Under current zoning, residential development is simply prohibited in IBC districts zoned 5.1 IBC Multi-Use. Under the proposed ordinance, residential uses would be conditionally permitted in IBC districts zoned 5.1 IBC Multi-Use. Instead of needing to seek a zone change or General Plan Amendment requiring discretionary City Council approval, a residential developer would need only to seek a conditional approval from either the City's Director of Community Services, Zoning Administrator or Planning Commission - a much lower, less public level of scrutiny.

In addition, CEQA requires analysis of all impacts that are the foreseeable consequence of the project. It is not only foreseeable but certain that the proposed IBC-wide zone change ordinance will result in an explosion of residential development. The staff report for the Draft Negative Declaration is clear that 10,000 new residences will be created by the ordinance. In conversations with representatives of the impacted Santa Ana, Irvine and Tustin School Districts, City staff has said that as many as 30,000 new residences could be created by the ordinance, but that the City would try to "cap it" at 25,000. Notwithstanding these foreseeable and seemingly certain impacts, the project description does not inform the City Council or the public that a single new residence will be permitted by the project. Instead, the project description misleadingly states that "[t]he zone change would not permit new residential development . . . ." (DND, 2.)

Finally, the project description is inaccurate in that it "piecemeals" or "segments" the project. The City has prepared a negative declaration without mitigation because it claims that the proposed IBC-wide zone change ordinance will only "encourage," not "cause," residential growth. The Draft Negative Declaration specifically anticipates that future individual residential projects will be brought forward as a **result of this project**. (DND, 2.) The City calculates that an additional 13,000 residents will live in the IBC when residential growth is authorized through "the general plan amendment and zone change process . . ." (DND, 26.) Even though the Draft Negative Declaration anticipates the growth of 10,000 residences with 13,000 residents, the City

declines to study this impact, illegally deferring the legally required analysis until some time in the future. This practice is expressly prohibited by CEQA.

Accordingly, the City should revise the project description to accurately describe that the IBC-wide zone change will no longer prohibit residential uses in a district zoned 5.1 IBC Multi-Use but instead conditionally approve residential uses. The project description should be amended to accurately reflect that the adoption of the IBC-wide zoning ordinance will allow the development of 10,000-30,000 new residences. The City would then be required to properly analyze the true impacts of the project that it is considering without deception. Each of these impacts are sufficient to trigger the requirement of the preparation of an EIR.

#### **H. Noise**

The Draft Negative Declaration states, “[a]s new residential development would be required to occur within the existing vehicle trip cap for the IBC, no new [noise associated with vehicular traffic] would occur . . .” (DND, 25.) As discussed above, this is a faulty assumption, which does not capture the changes in intensity of traffic around the new residential development. Thus, the noise impacts analysis was erroneous. To the contrary, there is substantial evidence that new residential development would increase traffic, thereby increasing noise levels. Residential development may also be significantly impacted by freeway noise. Neither of these issues have ever been studied by the City as required by CEQA.

The Draft Negative Declaration also states, “[b]ecause the overlay zone does not authorize . . . any specific residential development, the scale and amount of short term noise impacts that may at some future time be caused as a result of future discretionary permit applications is speculative.” (DND, 25.) Also as discussed above, the assumption that the project does not need to consider the impacts of the build out of residential development allowed under the IBC-wide zone change ordinance is faulty. Noise impacts are no less speculative than any other impact CEQA requires to be examined - they can be determined with relative accuracy by studies of the present conditions and conditions with development. This argument is a transparent attempt to avoid identification of substantial evidence that there would be significant noise impacts from placing residential development next to noisy manufacturing businesses. Attached as Exhibit “A” to this letter is a diagram showing the noise levels at the boundary of the Allergan property. These noise levels are a significant impact on any adjacent residential development.

The Draft Negative Declaration also states that aircraft noise from “takeoffs and landings at John Wayne Airport” will not cause significant impacts to residential development in the IBC because residential development is prohibited in the “area above the 65 CNEL contour.” (DND, 25.) However, there is substantial evidence that aircraft noise below the 65 CNEL contour, especially when combined with noise from industrial or manufacturing uses, could cause impacts on residents of new development under the IBC-wide zone change ordinance.

Further, the Draft Negative Declaration states that the land use adjacency and compatibility analysis will prevent impacts resulting from placing “new residential development in an area

traditionally occupied by commercial and industrial uses.” (DND, 25.) However, it is likely that these impacts will be ignored at the time of the “compatibility” analysis, since *any* residential development in the IBC will be impacted by the noise of adjacent existing manufacturing uses and should, therefore, be found incompatible. Because that would mean that there would never be any residential development in the IBC, there is no assurance that the compatibility analysis will adequately address noise impacts.

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Additionally, whether there will be an adverse impact is an issue that the City must consider before adopting the Negative Declaration, and the City may not defer analysis by relying on a later, project-specific compatibility analysis. Each of these impacts are sufficient to trigger the requirement of the preparation of an EIR.

### ***I. Population and Housing***

In finding no significant impact on population, the Draft Negative Declaration relies on the assumption that the IBC-wide zone change ordinance is not responsible for the impacts of residential development allowed under the zone change, and that conversion of existing trip caps will prevent an increase in intensity. (DND, 26.) As discussed above, these assumptions are faulty; therefore the population impacts analysis is erroneous.

Moreover, there is substantial evidence that potential significant impacts to population growth may result from new residential development in the IBC. The Draft Negative Declaration itself states that the “conversion of existing non-residential intensity to residential use could create an additional population of 13,000 in the IBC based on an assumption of 10,000 new units.” (DND, 26.) The IBC-wide zone change ordinance clearly induces substantial population growth.

The fundamental inconsistency in the Draft Negative Declaration is made clear by the way it continually wavers between statements that the project will not cause new residential growth and statements that the project will add 10,000 new residences. Throughout the Negative Declaration, the City analyzes the addition of 10,000 new residences that will be allowed into the IBC under the proposed ordinance. Oddly, the IBC-wide zone change ordinance itself does not limit or control the number of additional residential units that can be developed within the IBC. Evidently the 10,000 number is a “guesstimate” of City staff and is not based upon any substantial evidence available to the public. In fact, in discussions with the impacted Santa Ana Unified School District, Irvine Unified School District and Tustin Unified School District, City staff indicated that the ordinance would allow as many as 30,000 new residential units to be built in the IBC, but that the City would try to “limit” that to about 25,000 new residential units. The ordinance is supported by a number of residential developers who are only waiting for the adoption of this ordinance before they launch a residential building campaign in the IBC. It is hard for the City to argue that the IBC-wide zone change ordinance will not have growth inducing impacts.

Further, the Draft Negative Declaration states that “[n]ew development standards are proposed to encourage new building types, public and private open spaces, and a “smaller grain” roadway

network within specific overlay districts . . .” (DND, 2, 26.) The proposed ordinance not only “encourages” residential growth in the IBC, it conditionally permits it in three of the four proposed new districts, thereby encouraging the dwelling unit cap in the General Plan to be continuously increased by subsequent GPAs, allowing a significant increase in residential growth in the IBC. Therefore, the IBC-wide zone change ordinance may have a significant impact on population growth. Each of these impacts is sufficient to trigger the requirement of the preparation of an EIR.

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### **J. Public Services**

The Draft Negative Declaration again supports its conclusion that there will be no significant impacts to public services with the assumption that the IBC-wide zone change ordinance will not cause increased residential development. (DND, 27-28.) Consequently, the public services impacts analysis is clearly erroneous.

The Draft Negative Declaration states that the response times of fire and police services will have less than significant impacts because the IBC-wide zone change ordinance creates “additional on-site public open space and private roadways for improved public access.” (DND, 27.) However, there is substantial evidence that potential significant impacts on the City’s ability to maintain public services may result from new residential development in the IBC since response times will likely increase due to increased traffic congestion around the residential developments.

Ironically, the Draft Negative Declaration identifies and quantifies substantial evidence that the project will have a significant impact on public services. The Draft Negative Declaration states that “the build out of the anticipated 10,000 units in the IBC would generate a need for an additional 19.5 [police] officers” (DND, 27.), which will be a significant impact on the environment since the IBC-wide zone change ordinance does not provide for the addition of those necessary officers. There is also substantial evidence that the increase of at least 13,000 people will significantly impact the capacity of fire personnel and equipment to service the area. Also, because residential developments will require a greater amount of fire protection than the existing industrial/commercial uses, fire services capacity will be further impacted.

Moreover, there is substantial evidence that potential significant impacts to schools may result from new residential development. First, even if “Santa Ana and Tustin Unified School Districts have indicated that they [have] sufficient capacity to accommodate anticipated additional population from the IBC with the required payment of school fees,” there is substantial evidence that school impact fees are insufficient to mitigate impacts to schools below a level of significance. Second, the Draft Negative Declaration makes no mention of the Irvine Unified School District, whose boundaries overlap the IBC. Third, there is no documentary or other evidence supporting the City’s statement about the Santa Ana and Tustin Unified School Districts’ conclusion. All three districts will be impacted by the addition of 13,000-45,000 people within their boundaries. The school districts have each met with the City, but no

agreement has yet been reached concerning appropriate mitigation for this new residential growth.

The Draft Negative Declaration again identifies substantial evidence that the project will have significant impacts on parks. Further, the fact that "the assumed increase in residential intensity would generate a need of 65 acres of parkland" (DND, 28) is substantial evidence that significant impacts to parks will occur. Since there is almost no undeveloped space – let alone 65 acres - remaining in the IBC that may potentially be developed as a park, the City must analyze and identify adequate mitigation for this impact through the preparation of an EIR. Deferring this analysis and the imposition of mitigation to a future date is another example of impermissible piecemealing or segmentation.

#### ***K. Recreation***

Since the Draft Negative Declaration cites the same reasons as discussed in the Public Services section, the analysis of recreation impacts is inadequate for the same reasons cited above. Additionally, there is substantial evidence that potential significant impacts on the City's parks may result from the new residential development in the IBC. Without provision of adequate analysis and mitigation through the preparation of an EIR, lack of community parks and recreation facilities in the IBC will force the new IBC residents to use the existing parks and facilities elsewhere in the City, thereby accelerating the physical deterioration of those parks and facilities. (DND, 12, 28-29.) Each of these impacts are sufficient to trigger the requirement of the preparation of an EIR.

#### ***L. Transportation & Traffic***

The Draft Negative Declaration states that there will be no impact on transportation and traffic. (DND, 12, 29-30.) The City's reliance on the conversion of trip caps is a faulty assumption and is unsupported by substantial evidence, as discussed above.

The Draft Negative Declaration is misleading in that it equates keeping trip cap limits in place with no change in density, intensity or compatibility of uses. "No additional intensity is proposed with this zone change, as the existing trip caps in the existing IBC zoning will remain in place . . ." (DND, 2.) The huge fault in this analysis is the assumption that "all trips are created equal." First, the ordinance and EIR that created the trip caps studied the conversion of an infinitesimal number of new residences (about 300). The trip caps were not created or studied with the conversion of large portions of the IBC into residential uses in mind. Second, trip caps may study daily trips, but they do not look at the time of those trips. Because the City has prepared a Draft Negative Declaration for this project, no one has determined whether a residential trip will take place at the same time as a industrial or manufacturing trip or the impact of small personal vehicles mixing with industrial or manufacturing vehicles.

In addition to these impacts, during the public meetings leading up to this project, the City recognized and quantified substantial evidence that the project will have significant traffic

impacts. A \$58 million infrastructure improvement program has been identified as necessary to mitigate the substantial traffic impacts created the project. This program is to be funded by the approximately 10,000 dwelling units anticipated to be approved under the new ordinance. Once again, the Draft Negative Declaration impermissibly defers analysis and identification of mitigation in violation of CEQA. Significant traffic impacts will result from a project of this magnitude.

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***M. Utilities and Service Systems***

The Draft Negative Declaration concludes that there will not be any impacts on wastewater and water supplies by relying on the faulty assumption that the IBC-wide zone change ordinance is not required to consider the impacts of build out. (DND, 30.) As discussed above, this assumption is faulty; therefore the water services impacts analysis is clearly erroneous. Also, the Draft Negative Declaration states that the "City is working with [the Irvine Ranch Water District] to identify means to provide wastewater and treatment facilities [and water supplies] for up to 10,000 new units in the IBC." (DND, 30.) First, the Draft Negative Declaration has identified an unmitigated impact – additional water will be needed to serve the 10,000-30,000 new residences. It is evident that the addition of 10,000-30,000 new residences to the IBC might require more water and sewer services. This is so obvious that the Draft Negative Declaration actually discusses these impacts and discusses methods to eventually provide adequate mitigation. Unfortunately, the Initial Study illegally ignores these impacts and the Draft Negative Declaration does not adequately analyze or impose mitigation. Since the City has not determined that IRWD has sufficient capacity to be able to provide the necessary service, the City's conclusion is unsubstantiated.

The Draft Negative Declaration also concludes that there will be no impacts to storm water drainage facilities and that no expansion of existing facilities is required (DND, 30); however, there is substantial evidence that additional residential development will create additional runoff and there could be an impact on the capacity of the drainage system. Likewise, the Negative Declaration concludes that there will be no impacts to the Frank R. Bowerman Landfill, which currently serves the IBC, because "no deficiencies currently exist," and "there is adequate daily surplus capacity to accept additional waste" (DND, 30); however, there is substantial evidence that additional residential development will generate a significant amount of additional waste, which will impact the landfill and the City's ability to dispose of waste by filling the landfill more quickly than it would have been filled without this project. This is a classic example of a significant impact under CEQA requiring analysis and mitigation. The City's failure to analyze and mitigate these impacts is a violation of CEQA.

***N. Mandatory Findings of Significance***

There is substantial evidence that potential significant impacts on the quality of the environment may result from new residential development in the IBC, since the San Diego Creek, San Joaquin Marsh and Newport Bay Ecological Preserve may be impacted by the introduction of additional residential development into the IBC.

The Draft Negative Declaration states that there will be less than significant cumulative impacts because the IBC-wide zone change ordinance will provide “a unifying neighborhood framework” to guide the approval of individual residential projects. (DND, 32.) However, even if residential projects are approved under the Project guidelines, that does nothing to address the potential significant cumulative impacts on aesthetics, air quality, biological resources, water quality, noise, public services, recreation, traffic, and utilities and service that may result from the sum of the future individual residential projects or from the sum of the total new residential developments and previous industrial/commercial project impacts.

For all the reasons discussed above, there is substantial evidence to support a determination that there will be a significant effect on the environment. Therefore, the Draft Negative Declaration is inadequate to comply with CEQA and an EIR must be prepared.

#### **4. An Environmental Impact Report Must Be Prepared**

Under CEQA,

A public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when... [t]he initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment. Guidelines, § 15070(a); CEQA, § 21080.

If there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment, an environmental impact report shall be prepared. CEQA, § 21080, *see also* § 21082.2(d).

As discussed above, the conclusions of no/less than significant impacts found in the Initial Study are not supported by substantial evidence. To the contrary, an adequate impacts analysis would show that the project would have a significant effect on the environment. Therefore, CEQA requires preparation of an EIR and the City must reconsider its environmental determination.

#### **5. The Negative Declaration Does Not Tier Off the 1992 IBC Rezone EIR**

When a negative declaration tiers off of any previous EIRs or negative declarations, CEQA and the Guidelines require the negative declaration to explicitly reference the previous environmental review document. CEQA, § 21094; Guidelines, § 15152.

When tiering is used, the later EIRs or negative declarations shall refer to the prior EIR and state where a copy of the prior EIR may be examined. The later EIR or negative declaration should state that the lead agency is using the tiering concept and that it is being tiered with the earlier EIR. Guidelines, § 15152(g).

Therefore, an EIR or negative declaration must state (1) that it is using the tiering concept, (2) what previous EIRs or negative declarations it is tiering from, and (3) where those documents are available for review.

The Draft Negative Declaration does not state that it is tiering from any prior environmental reviews within the text of the document. On its table of references attached at the end of the document, a citation reads: "Irvine Business Complex Environmental Impact Report... No. 88-ER-0087 (State Clearinghouse Number 91011023), October 27, 1992." However, the Draft Negative Declaration does not state that it is tiering off the IBC Rezone EIR ("1992 EIR") and does not state where the 1992 EIR is available for review. Thus, the Draft Negative Declaration does not incorporate by reference the 1992 EIR.

As further evidence, the City checked the box in the City of Irvine Initial Study and Environmental Evaluation stating: "the proposed project could not have a significant effect on the environment, and a Negative Declaration will be prepared." (DND, 5.) The instructions to the Initial Study state that the Initial Study should identify any earlier analysis used "pursuant to tiering, program EIR, or other CEQA process," and should "state where they are available for view." (DND, 6.) Thus, if the Negative Declaration intended to tier off of the 1992 EIR or otherwise incorporate it by reference, the City would have checked the box stating: "because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or Negative Declaration, pursuant to applicable standards, and (b) have been mitigated pursuant to that earlier EIR or Negative Declaration . . . nothing further is required." (DND, 5.)

For the above reasons, it is clear that the City did not incorporate by reference or tier off of the 1992 EIR or rely on any studies or mitigation measures from previous CEQA reviews for IBC projects in preparing the Negative Declaration. Therefore, the Negative Declaration stands on its own and the City may not claim that its inadequacies are addressed by evidence contained in the 1992 EIR or any other environmental review.

#### **6. Inadequacy of 1992 IBC Rezone EIR**

As stated above, the Draft Negative Declaration did not tier off of the 1992 EIR. Even if the Draft Negative Declaration is found to have tiered off of the 1992 EIR, the Draft Negative Declaration and EIR still fail.

In October 1992, the City of Irvine certified as final an EIR that it had prepared for a proposed rezoning of the IBC. The purpose of the rezoning was to amend development intensity regulations and update the General Plan in order to resolve inconsistencies between the Zoning Ordinance and General Plan as well as current entitlements and "in process" approvals. (1992 EIR, § I-44-45.)

When tiering off of a prior CEQA document, the City must first determine if the requirements for a subsequent or supplemental EIR have been triggered. CEQA requires the preparation of a subsequent or supplemental EIR if proposed changes to the project will require "major revisions" to the previous EIR due to "new significant environmental effects or a substantial increase in the

severity of previously identified significant effects." Guidelines, § 15162(a)(1). In addition, a subsequent or supplemental EIR is required if "substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report." CEQA, § 21166(b). When the IBC was rezoned in 1992, a very small number of residential units (300) were considered as part of environmental review. Since that approval, approximately 3,000 new units have been built in the IBC. The current Project proposes an additional 10,000-30,000 residential units. Both parts of the test requiring preparation of a subsequent or supplemental EIR are triggered by the explosion of residential growth that has and will continue to occur within the IBC since the environmental review was conducted in 1992. Accordingly, the City is required to prepare a subsequent, supplemental or complete EIR for the current Project.

In addition, even when the statute of limitations has passed on a prior EIR, use of a defective EIR is allowed under CEQA only if the new environmental document cures the defects of the original document. As is seen above, the Draft Negative Declaration is replete with mistakes, provides no substantive analysis and provides no mitigation for this project of enormous significance within the City. As will be seen below, the 1992 EIR is fatally defective and cannot be revived. For these reasons, the City should abandon the Draft Negative Declaration and prepare an EIR.

#### ***A. Post-Hoc Preparation of EIR Prevented Genuine, Objective Assessment***

CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process. *Concerned Citizens of Costa Mesa, Inc. v. 32<sup>nd</sup> District Agricultural Association*, 42 Cal. 3d 929, 936 (1986).

The 1992 EIR did not make a genuine and objective assessment of environmental impacts because it was analyzing projects that were already approved. According to the "Project Summary," "[t]he proposed Project will include the existing agreements, entitlements and approvals that are near completion or have already been improved." (1992 EIR, § I-1.) These included at least ten major projects in the IBC that exceeded the existing intensity regulations and violated the General Plan. (1992 EIR, § III-14-18.) In approving projects that it knew were "inconsistent" with existing laws, the City committed itself to their development before the environmental impacts, alternatives, mitigation measures, and cumulative impacts could be analyzed. Consequently, the analysis contained in the 1992 EIR was intended to justify and approve decisions already made. Thus, the 1992 EIR was not objective and did not promote the kind of even-handed decision making by the government that is a primary goal of CEQA.

i. Unavoidable Impacts

By virtue of having already approved the individual projects that the 1992 EIR was analyzing, the City lost its opportunity to prevent impacts that could have been avoided by evaluating the environmental effects of the projects before approval. (See: Traffic, §§ IV.A-37, VII-1; Land Use, § IV.B-14; Public Services & Utilities, § IV.D-22-23; Air Resources, § IV.F-18.) Since this was a post-hoc rationalization, the 1992 EIR found the identified significant impacts unavoidable simply because they had already or were going to occur.

ii. Cumulative Impacts

The purpose of [the cumulative impacts] requirement is obvious: consideration of the effects of a project or project as if no others existed would encourage the piecemeal approval of several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services. This would effectively defeat CEQA's mandate to review the actual effect of the projects upon the environment. *Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles*, 177 Cal.App.3d 300, 306 (1986).

Since the City had already approved ten projects, the 1992 EIR did not avoid the cumulative impacts resulting from their approval which was merely a post hoc rationalization for prior actions. Thus, the 1992 EIR was done merely to comply with procedure and to "rubber stamp" the projects already approved. In so doing, the City avoided the cumulative impacts created by the proposed developments with existing developments, especially with regards to vital public services and infrastructure. (1992 EIR, § V.)

iii. Alternatives Analysis

Even if, "prior to commencing CEQA review, an applicant made substantial investments in the hope of gaining approval for a particular alternative," an agency must objectively determine whether "an environmentally superior alternative is more desirable," *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d 692, 736-737 (1990).

Here, because the projects analyzed by the 1992 EIR were already approved, the City could not have seriously considered whether any other options would be environmentally superior. (1992 EIR, § VI.)

The 1992 EIR had to justify its approvals of the ten non-conforming developments by finding that the alternatives were inadequate. Consequently, the City rejected all other alternatives on the grounds that the Project was meant to resolve the inconsistencies between the existing laws and the development approvals already made by the City. (1992 EIR, § VI-6.) Since the City did

not analyze alternatives before approving the Project and did not make its determination based on the environmental superiority of the alternatives, the alternatives analysis was inadequate.

iv. Mitigation Measures

Only five of the ten major projects that had already been approved by the City had been individually required to mitigate their adverse environmental impacts. (Jamboree Center EIR, 80-ER-0047; Mola Centre EIR, 87-ER-0077; Lakeshore Towers EIR, 88-ER-0085; Park Place EIR, 88-ER-0080; Douglas Plaza EIR, 88-ER-0081.) It is unclear whether the mitigation measures proposed in the 1992 EIR were to apply to all ten projects or only those that did not prepare an individual EIR. Also, as discussed above, none of the cumulative effects of those projects were mitigated. If the 1992 EIR had been prepared before the projects' approvals, their impacts could have been adequately mitigated.

v. Prevents Meaningful Decision-Making and Public Participation

The post-hoc nature of the 1992 EIR prevents its use as a meaningful decision-making tool. *Concerned Citizens of Costa Mesa*, 42 Cal. 3d at 936. An environmental analysis occurring after project approvals have already been made is neither useful to the City in choosing whether to approve the project nor to the public in deciding whether to contest the project.

In approving projects that were inconsistent with the existing zoning ordinance for the IBC and the General Plan before preparing an EIR, the public was denied information (i.e. cumulative impacts) that would have been critical in making a full and meaningful decision on whether to contest the approval of the project. By the time the 1992 EIR was released, the City had already taken irrevocable actions by approving the projects. Since the 1992 EIR was prepared after the City had already committed itself to the development of the projects contemplated in the 1992 EIR, the 1992 EIR could not have been an objective assessment and the public was precluded from an opportunity to comment, thereby violating the heart of CEQA.

**B. Lack of Evidence to Support Assumptions and Conclusions**

The standard of review of a quasi-legislative agency decision under CEQA is abuse of discretion. Abuse of discretion means the agency did not proceed as required by law or there was no substantial evidence to support its decision. In reviewing the adequacy of an EIR, the court... decides whether [the agency's factual determinations] were supported by substantial evidence. *Federation of Hillside and Canyon Assoc. v. City of Los Angeles*, 83 Cal.App.4<sup>th</sup> 1252, 1259; citing CEQA, § 21168.5; see also Guidelines, § 15384.

Thus, the conclusions in the 1992 EIR must be supported with substantial evidence. "Substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion

supported by fact. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous . . ." CEQA, § 21080(e)(1).

i. No Evidence to Support Methodology

The EIR "must reflect the analytic route the agency traveled from evidence to action." *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d 692, 733 (1990). The environmental impacts and mitigation measures discussed in the 1992 EIR made assumptions and predictions without stating the grounds upon which the assumptions were made or setting forth the methodology upon which the predictions were made. (1992 EIR, § IV.) For example, the 1992 EIR assumed a 15% trip reduction – which was high – without laying out the methodology describing how that number was arrived at. (1992 EIR, IV.A-2.) If the methodology and, consequently, the assumed percentage were wrong, the entire analysis was defective and did not constitute substantial evidence.

ii. Impact Findings Not Based On Specific Facts

The EIR must contain facts and analysis, not just the bare conclusions of a public agency. An agency's opinion concerning matters within its expertise is of obvious value, but the public and decision-makers, for whom the EIR is prepared, should also have before them the basis for that opinion so as to enable them to make an independent, reasoned judgment. *Santiago Water District v. County of Orange*, 118 Cal.App.3d 818 (1981).

The 1992 EIR frequently used vague language such as "may," "could," and "anticipated," rather than "know" or "will," or any specific numbers to express the possibility of impacts. (Land Use, IV.B-5-7, 10; Aesthetics, IV.C-4-6; Public Services, IV.D-1, 5, 9, 10, 15, 17, 21; Water Quality, IV.H-4-5; Hazardous Waste/Materials, IV.I-5-8; Biological Resources, IV.J-3-4; Cultural Resources, IV.K-3; Earth Resources, IV.L-6.) For example, the 1992 EIR states that available water capacity shall be confirmed on a project-by-project basis and, although "water conservation measures will substantially reduce potential impacts, significant impacts associated with insufficient water supplies may occur, depending on the nature of future IBC land uses, effectiveness of water conservation and availability of water supplies." (1992 EIR, §IV.D-17.) This is so ambiguous as to be completely meaningless. Without specifics, it is impossible for the public to consider the magnitude of the impacts and the adequacy of the mitigation. An impacts and mitigation analysis in an EIR must know to what extent the mitigation will reduce impacts, the likelihood that significant impacts will occur, and what the nature of the future land uses will be, particularly in the case of a zone change. Therefore, the City did not support its conclusions with substantial evidence.

iii. Alternatives Analysis

The alternatives analysis was inadequate because it made misstatements, faulty assumptions, and conclusions unsupported by any evidence. (1992 EIR, § VI.) For example, the "No Project

Alternative” stated that that alternative would not allow any more development to occur and the IBC would remain in the status quo. That is not true, as demonstrated by the projects underway at that time and other vested projects that had a right to proceed under the existing laws. (1992 EIR, § VI-1.) Also, the 1992 EIR was conclusory in finding that alternative sites were inappropriate without investigating whether there are comparable sites and whether they would have superior environmental benefits. (1992 EIR, § VI-6.) Further, the decision to accept the Project as the best alternative in light of the unavoidable significant impacts on vital public services was not supported by an adequate explanation of the reasons to do so. (1992 EIR, § VI.) Therefore, the City did not support its conclusions with substantial evidence.

#### iv. Mitigation Measures

“When the success of mitigation is uncertain, an agency cannot reasonably determine that significant effects will not occur.” *Guide to CEQA, supra* at 426; *see Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296 (1988). Although the City presented mitigation measures, it failed to provide evidence supporting all of its conclusions that the measures would reduce impacts to less than significant levels. (1992 EIR, § IV.) Without studies or some other proof that the proposed mitigation measures would lessen the extent of the impact, it was unreasonable to conclude that the mitigation measures would reduce impacts. Consequently, the discussion of mitigation measures was inadequate to support the City’s decision to approve the Project.

#### C. Traffic Impacts Analysis Was Inadequate

The traffic impacts analysis was fatally inadequate for multiple reasons. First, as discussed above, there was no evidence supporting the methodology used to calculate the traffic impacts. The traffic impacts analysis concluded that there would be no significant impact based upon an assumption of a 15% TDM reduction. (1992 EIR, IV.A-22, Appx. E.) The 15% TDM was derived from the City’s General Plan Growth Management – Trip Reduction Ordinance (1990). (1992 EIR, IV.A-22.) However, neither the 1992 EIR nor the Trip Reduction Ordinance contained data to support that assumption. Since the 15% TDM assumption was very high, the use of that assumption without providing substantial evidence to support it made the traffic analysis inadequate.

Second, trip generation rates were based on traffic studies from 1982 and 1985. (1992 EIR, IV.A-6.) When land uses change, i.e. when the approved and future projects increase their intensity, trip generation will increase. Since the rate is based on 1982/85 data and development has increased in the IBC since 1982/85, the traffic analysis does not use accurate trip generation rates. The 1992 EIR concluded that the present circulation system was sufficient to operate within level of service (LOS) E, except at one intersection. (IV.A-12.) Since the TDM and trip generation rates were flawed or not current, the conclusion that the increase in traffic would operate at acceptable service levels was incorrect.

Third, the 1992 EIR found (without taking mitigation into account) that the adjacent areas of Irvine were impacted under the General Plan but not the project. (IV.A-24) This is nonsensical. The project assumes the same land uses but at a higher intensity than in the General Plan. Since

greater impacts could be expected to result from higher intensity of uses, the Project should have greater impacts than the General Plan.

Fourth, the 1992 EIR concludes that "no significant differences exist in traffic impacts between the Base Case/ Existing General Plan and the [project]" (1992 EIR IV.A-24), but this conclusion is based on faulty land use assumptions. The Irvine Zoning Ordinance states that the average number of daily trips ("ADT") for office uses is 13.77 per 1,000 square feet, while industrial is 4.62 and warehouse is 0.29. § 9-36-8. Since the 1992 rezoning increases the total intensity in the IBC by significantly increasing office use and decreasing industrial/warehouse use (1992 EIR, III-10), and since the number of ADT for office use is much greater than for industrial/warehouse, the project will impact traffic.

Fifth, the 1992 EIR concluded that "no significant differences exist in traffic impacts between the Base Case/Existing General Plan and the [project]," and that "the present circulation system is sufficient to operate at LOS E." (1992 EIR, IV.A-12, 24.) However, the 1992 EIR contradicts that conclusion in finding that, "[w]ith two previous traffic studies indicating north-south capacity shortages, it is not surprising that increased intensity in the IBC corresponds to an increased demand for north-south arterial capacity, exacerbating congestion levels further. Even with implementation of Tier 1-3 mitigation, [certain intersections] will not meet minimum performance standards." (1992 EIR, IV.A-24.) Since the project would increase intensity in the IBC, traffic congestion would correspondingly increase. If the traffic studies showed failing levels of service before the project, then traffic should be expected to be at least at failing levels after the project.

Finally, the traffic analysis was inadequate for failure to discuss the following potential impacts: whether traffic would exceed county congestion management agency's service standards (individually or cumulatively); whether traffic would change air traffic patterns in way that increases safety risk; whether there were design features of the road or other incompatible uses that increased hazards; whether traffic congestion would result in inadequate emergency access; whether the project would result in inadequate parking; or whether the project would conflict with other plans, policies, or programs supporting alternative transportation (e.g. bike lanes). See Guidelines, § 15126.2(a).

#### ***D. Mitigation Measures Improperly Allowed Violation of Air Quality Standards***

"CEQA imposes on the public agency a duty to mitigate or avoid, to the extent feasible," the significant environmental effects of a project. Guide to CEQA, *supra* at 386; see CEQA, § 21002. The 1992 EIR states that the project would substantially exceed the standards under the Air Quality Management Plan and Southern California Association of Governor's growth forecasts applicable to the IBC (1992 EIR, § IV.F-10), but the 1992 EIR makes no attempt to mitigate impacts to air quality. Three of the four proposed mitigation measures only involved compliance with external permit requirements, and the fourth required construction equipment to use modern emissions controls. (1992 EIR, § IV.F-18.) Therefore, the measures proposed are

entirely inadequate to mitigate impacts to air and will result in continued violation of air quality standards.

#### ***E. Unenforceability of Mitigation Measures***

“Where an agency is determined to find that the impacts in question can be adequately mitigated, the agency should make some sort of binding commitment that will result in full mitigation when implemented.” *Guide to CEQA, supra* at 428; *see Sacramento Old City Association v. City Council of Sacramento*, 229 Cal. App. 3d 1011 (1991). “Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments.” Guidelines, § 15126.4(a)(2). Many of the mitigation measures proposed in the 1992 EIR are not enforceable. (See: Land Use, IV.B-11-12; Aesthetics – Light/Glare, IV.C; Air Resources, IV.F; Biological Resources, IV.J; Earth Resources, IV.L; Historical Resources, IV.K.) Since the City needed to justify the inconsistent approvals it had already made, the City was determined to find that the impacts could be adequately mitigated. The 1992 EIR’s discussion of impacts of the pre-approved projects is short, vague, and inconclusive, and the mitigation measures proposed will be required on a project-by-project basis. (1992 EIR, § IV.B-9-12.) The 1992 EIR does not make any binding commitment to impose any one of these measures to any particular project.

Further, the City identified a number of traffic mitigation measures necessary to mitigate traffic impacts. Most of these mitigation measures were not adopted.

#### ***F. Cumulative Impacts Analysis Is Not Adequate***

“Under CEQA, the agency must consider the cumulative environmental effects of its action before a project gains irreversible momentum.” *City of Antioch v. City Council*, 187 Cal. App. 3d 1325, 1333 (1986). Again, the fact that the City had already approved ten projects before analyzing the environmental impacts of the projects also put the 1992 EIR in violation of CEQA with respect to cumulative impacts. Since the City had already committed itself to the development of the approved projects, it was going to go forward with the project regardless of the extent of the cumulative impacts.

The purpose of [the cumulative impacts] requirement is obvious: consideration of the effects of a project or projects as if no others existed would encourage the piecemeal approval of several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services. This would effectively defeat CEQA's mandate to review the actual effect of the projects upon the environment. *Las Virgenes Homeowners Federation, Inc.*, 177 Cal. App. 3d 306.

The 1992 EIR proposed to consider the impacts of future projects on a project-by-project basis. (1992 EIR, § V.) Approving projects on this piecemeal basis allowed the 1992 EIR to avoid review of the cumulative impacts of all of the development that will be allowed after the IBC rezone.

CEQA requires mitigation of cumulative impacts. Guidelines, § 15130. However, because the 1992 EIR's cumulative impacts analysis simply repeated the same impacts listed under the "significant impacts" section without further analysis, the 1992 EIR failed to propose additional measures to specifically address cumulative impacts. Therefore, the 1992 EIR's mitigation of cumulative impacts was inadequate.

### ***G. Failure to Present Reasonable Range of Alternatives***

An EIR "must consider a reasonable range of alternatives to the project, or to the location of the project, which (1) offer substantial environmental advantages over the project proposal . . . ; and (2) may be 'feasibly accomplished in a successful manner' considering the economic, environmental, social and technological factors involved." *Citizens of Goleta Valley v. Bd. of Supervisors*, 52 Cal. 3d 553 (1990).

The 1992 EIR purported to consider four alternatives: (1) the "No Project (Existing Conditions)" alternative, which was the IBC in its then-existing state; (2) the "Existing General Plan" alternative, which is build-out under the existing General Plan; (3) the "Long Range Plan" alternative, which states that the City may consider addressing the "more complex planning issues," i.e. traffic and public services, at a later date; and (4) the "Alternate Site" alternative. (1992 EIR, § VI.)

A reasonable alternative should achieve the project objectives. *Guide to CEQA, supra* at 457-460; citing *Sequoyah Hills Homeowners Assoc. v. City of Oakland*, 23 Cal. App. 4<sup>th</sup> 704 (1993). The "No Project (Existing Conditions)" and "Existing General Plan" alternatives, however, do not achieve the Project objectives because they do not resolve the inconsistency between the excess approved development and the existing zoning. (1992 EIR, § VI-1-5.) Further, the "No Project (Existing Conditions)" alternative is infeasible because it would require a ban on further development in the IBC. (1992 EIR, § VI-1.) The real "no project" alternative would be the "Existing General Plan" alternative, since the existing General Plan is what governs the approval of development in the IBC now. The "Long Range Plan" alternative also does not achieve the Project objectives; instead, it considers the kinds of planning elements now looked at by the City's "Vision Plan," for example, creating core neighborhood areas that are walkable. (1992 EIR, § VI-6.) As the 1992 EIR itself admits, the "Long Range Plan" alternative is a *second phase* to the rezoning, to be considered by the City Council at a later date. (1992 EIR, § VI-6.) Further, the 1992 EIR fails to present an alternative site, concluding that "alternative site analysis is not considered appropriate for this project, which has been initiated by City staff specifically to rectify zoning and General Plan inconsistencies within the IBC and to provide for IBC road improvements." (1992 EIR, § VI-6.)

Thus, the only feasible alternative presented was the no project, "Existing General Plan" alternative, which does not address the Project's objectives. Therefore, the City failed to consider a reasonable range of alternatives as required by CEQA. Furthermore, the City's conclusion in regards to the inappropriateness of the alternate site analysis evidences the fact that the City never intended to consider whether any alternative other than the Project would be environmentally superior.

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#### ***H. Significant Unavoidable Impacts Makes Decision to Approve Unreasonable***

An unavoidable significant environmental impact is one "that cannot be avoided because there are no feasible mitigation measures or because feasible measures cannot mitigate the impacts to a less than significant level." Guide to CEQA, supra at 386; *see* Guidelines, § 15126.2(b). The 1992 EIR lists impacts to parks, police, sewer system, solid waste generation, water, fire facilities, and the Santa Ana School District as unavoidable significant impacts because the City could not increase the capacity of the schools and vital infrastructure sufficiently to be able to absorb the increase in population. (1992 EIR, § IV.D-22-23.) These public functions are so important that it is not reasonable that the project was approved given these impacts.

If the only means of avoiding such impacts would be to impose an alternative design on a proposed project, but the lead agency nevertheless decides not to require such design changes, then the EIR must describe the implications of impacts involved and the agency's reason for choosing to tolerate them rather than requiring the alternative design. Guide to CEQA, supra at 386; *see* CEQA Guidelines § 15126.2(b).

Accordingly, in light of these significant infrastructure problems created by the Project, the City should have chosen an alternative (or found sufficient mitigation measures to avoid them in the first place). The City's only explanation for not accepting the no project or alternative site alternative was that the purpose of the project was to resolve the inconsistency created by the City's approval of projects in the IBC that violate the existing zoning ordinance and General Plan. Thus, the City's approval of the 1992 EIR and Rezoning Ordinance despite significant impacts, was a foregone conclusion. That is unreasonable and contrary to the purpose of the environmental review required by CEQA.

#### **8. CEQA, Public Policy and Good Government Require the City to Abandon the Draft Negative Declaration and Prepare a Legally Sufficient EIR**

As has been shown in detail above, there are a myriad of defects in the environmental analysis of the proposed project. If the City moves forward without correcting all of these defects it will deprive its citizenry of the opportunity to have meaningful, informed input into one of the most significant legislative programs in the history of Orange County. The City is proposing to build an entire "city within the City" with 13,000 - 45,000 new residents without conducting ANY meaningful environmental review or analysis. This is simply not good government and subverts

Bill Jacobs  
Re: Draft Negative Declaration  
February 15, 2006  
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the purposes of CEQA. For these reasons, Allergan respectfully requests the City abandon the Draft Negative Declaration and prepare a legally sufficient EIR.

**Conclusion**

The Draft Negative Declaration fails to satisfy the requirements of CEQA as applied to the IBC-wide zone change ordinance. A complete EIR must be prepared, fully analyzing the impacts of build-out under the IBC-wide zone change ordinance and taking into account the cumulative impacts of the other projects approved for the IBC. The environmental review for the IBC-wide zone change ordinance should not tier off the 1992 EIR because of the inadequacies of the 1992 EIR. After preparation, the EIR must be circulated for public review. We look forward to seeing a new and complete EIR for the project. Thank you for your consideration.

Sincerely,



Geoffrey K. Willis  
Sedgwick, Detert, Moran & Arnold, LLP

cc: Michael Haack  
Manager of Development Services  
City of Irvine

Ray Diradoorian,  
Allergan  
Senior Vice President, Global Technical Operations

Steven A. Johnson  
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Vice President, Assistant General Counsel



Community Development Department

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February 15, 2006

City of Tustin

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**SUBJECT: REVIEW OF DRAFT NEGATIVE DECLARATION FOR THE IBC RESIDENTIAL MIXED USE OVERLAY PROJECT IN THE CITY OF IRVINE**

Dear Mr. Jacobs:

Thank you for the opportunity to provide comments on the Draft Negative Declaration for the Irvine Business Complex (IBC) Residential Mixed Use Overlay Project in the City of Irvine. The proposed zone change would create a new overlay zone establishing specific development standards for new residential projects in the IBC that are approved via a general plan amendment, zone change, and conditional use permit.

The City of Tustin has identified the following comments and concerns:

1. The proposed establishment of development standards for new residential projects in the Irvine Business Complex would indirectly facilitate the approval of future general plan amendment, zone change, and conditional use permit applications by serving as a tool to improve the urban design and land use compatibility of these projects. Because of this relationship between the proposed project and future residential projects that could result in significant effects on the environment, it may be more appropriate for the City of Irvine to prepare an Environmental Impact Report (EIR) rather than a Negative Declaration for this project. The EIR should include a thorough analysis of the potential cumulative impacts associated with the residential developments to which the proposed development standards would apply. At a minimum, the analysis should study potential cumulative impacts in accordance with the California Environmental Quality Act (CEQA) in the areas of air quality, noise, recreation, and traffic.
2. Although the subject residential mixed use overlay zone in itself will not have traffic impacts, future conversions to residential developments allowed under the zone will require traffic studies.
3. A build-out analysis should be included in the conversions to residential uses to verify/update the future improvement needs as related to the MCAS Tustin mitigation agreements.
4. Mitigation Measures required of potential residential projects should include project participation in many of the original IBC traffic mitigations. It is anticipated that these projects will need to contribute toward the needed improvements in the IBC study area, which assumes the IBC improvements to be in place when analyzing cumulative traffic impacts.

5. There is presently a "Red Hill Avenue" study being jointly conducted by the City of Irvine and City of Tustin that will include further definition of traffic mitigation responsibilities for development projects in the IBC. Any subsequent projects should be subject to the findings, requirements, and agreements that will result from the Red Hill study. It is assumed that any specific project analyses will need to be consistent with the Red Hill Study results.
6. It must be assured that any traffic model used to analyze the future conditions accurately reflects the land use approvals for the MCAS Tustin Reuse Project FEIS/FEIR and any other significant projects in the area.
7. There should be mitigation measures required of future projects to provide "fair share" contributions to the City of Tustin for project traffic added to transportation improvement locations in the City of Tustin.
8. Analyses of future conditions should include any intersections in the City of Tustin that may be significantly impacted by a proposed project. The amount of project traffic traveling through these study intersections should also be identified.
9. For locations within the City of Tustin, the traffic analysis must be based on City of Tustin criteria and methodologies.

Thank you again for the opportunity to provide comments on the Draft Negative Declaration for the Irvine Business Complex (IBC) Residential Mixed Use Overlay Project.

If you have any questions regarding the City's comments, please call me at (714) 573-3016 or Terry Lutz, Principal Engineer, at (714) 573-3263.

Sincerely,



Scott Reekstin  
Senior Planner

cc: Elizabeth Binsack  
Tim Serlet  
Dana Kasdan  
Doug Anderson



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February 13, 2006

Mr. Bill Jacobs  
Principal Planner  
Community Development Department  
City of Irvine  
One Civic Center Plaza, PO Box 19575  
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**Subject: City of Irvine Business Complex  
Draft Vision**

Dear Mr. Jacobs:

The Industrial Environmental Association is a Southern California public policy trade association representing manufacturing, technology and scientific research and development companies in Los Angeles, Riverside, Orange, Imperial and San Diego counties on a wide variety of environmental, regulatory, energy and land use issues.

Increasingly, we are seeing the pressures of housing forcing the curtailment, or in some cases, the relocation of industrial operations outside of urban areas.

This is of great concern to industry as a whole because industrial facilities provide a very important role to local economies:

- \*Import money from outside of the area
- \*Bring stability to the local economy
- \*Create secondary and support businesses: 2.5 support jobs are created for every one industrial job -- the highest multiplier of any sector;
- \*Generate high quality jobs that typically pay \$25,000 more than the average service job, offer upward mobility, and provide insurance benefits and skills training.

In addition, industrial facilities provide a stable and ongoing source of property tax revenue to the local city; whereas, after 12 years, residential projects become a substantial drain on the infrastructure and services of a municipality.

While it is our position that increased supply and density of housing is appropriate in office and commercial employment areas, the negative impacts and community conflicts that occur when residential is placed in close proximity or adjacent to industrial operations will result in detrimental effects to the local job base and economy.

Our major concerns with the draft vision plan are as follows:

- \* **Larger buffers are needed to separate incompatible land uses:** In situations where a developer chooses to initiate a neighborhood transition by building new residential units in an industrial neighborhood, special care needs to be taken to separate and buffer the residential uses from their existing industrial neighbors. The typical distance at which additional study, data



analysis and special considerations occur from the regulatory agency perspective is 1,000 feet. We would recommend a mandatory, minimum buffer of 1,000 feet.

\* **Lack of analysis of mixing of the new uses:** Altering the zoning and community plan designations in the Irvine Business Park creates drastic change for this area. If in fact it is determined that some transition should occur from industrial to residential, impacts from such a change need to be identified and mitigated. The stark contrast between industrial and residential uses present ongoing community conflicts when such incompatible uses occur, which ultimately results in a drain on the resources of public agencies to address.

\* **Negative Declaration fails to properly address land use and traffic impacts:**

The use of a Negative Declaration fails to properly address the following potential impacts:

\* The dangers associated with locating two very types of traffic mix next to one another by placing families in close proximity to heavy truck traffic or the inherent conflicts between diesel emissions and homes;

\* The incompatibility of the bulk and scale are a substantial alternation to the existing character of the area; incompatibility of use and alternation of neighborhood character must be presumed rather than dismissed out of hand;

\* Altering the zoning and community plan designations create substantial change for the business park and the neighborhood. Acceptance of the transition of this neighborhood from industrial to residential would appear to be assumed and encouraged with a negative declaration.

\* **Both Residential and Industrial Uses Suffer when Co-located:**

\* Residential is affected by adverse impacts of mixed use in numerous ways:

- 24-hour operations
- truck traffic/delivery bays
- noise
- lighting
- dust
- odor
- air emissions
- use and storage of hazardous materials and chemicals
- general public health, safety and welfare concerns.

Businesses are also affected in a variety of ways when residential encroaches near their operations:

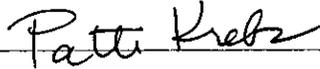
- higher insurance costs
- calls to reroute trucks and deliveries
- limitations on operating hours
- additional site security considerations
- mitigation of visual impacts
- demands for noise controls
- nuisance complaints filed with public agencies and elected officials
- challenges to permits or business expansions
- revisions to emergency response plans
- extensive time and monetary costs associated with residential neighbor policies

In conclusion, in situations where collocation has occurred, numerous problems have resulted and continue to the extent that it is ultimately the industrial facility that will scale back

hours, limit access to their facility, move out processes or operations, expand in other locations and in some situations simply relocate.

The Irvine Business Park is a thriving, vital contributor to the City of Irvine, and we respectfully request your consideration to conduct a more thorough analysis, particularly with respect to appropriate transitioning, separation and buffering between any new areas proposed for residential.

Sincerely,



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Patti Krebs  
Executive Director



(11)

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**The Salter Group**

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23 Sandstone ~ Irvine, CA 92604-3612 ~ USA  
Phone (949) 551-9543 ~ Fax (949) 551-9543 ~ E-mail: Rsalter23@aol.com

**To:** Mike Haack, City of Irvine

**From:** Rich Salter, Consultant for IBC Manufacturers Group  
Mike Derderian, Royalty Carpet Mills  
Mary Ann and Tony Desmond, Deft  
Dave Marzullo, Parker Hannifin

---

**Date:** February 6, 2006

**Subject:** Negative Declaration for IBC overlay ordinance

Thank you for an opportunity to respond to the environmental determination that you have prepared for the new IBC ordinance dated January 25, 2006 (posted on the city's IBC website at [http://www.cityofirvine.org/depts/cd/planningactivities/ibc\\_graphics.asp](http://www.cityofirvine.org/depts/cd/planningactivities/ibc_graphics.asp)). Our comments are presented sequentially below by reference to the page numbers in the neg dec itself.

However, let us first state that we believe that an EIR should be prepared for this ordinance, because this project may indeed cause a significant impact on the environment. We urge the City to reconsider its Finding to the contrary and prepare an EIR for this project.

Page 2, paragraph 8. Description of Project: The third sentence says that "The Zone Change would not permit new residential development..." However, Table 5-1: Allowable Land Uses in the proposed zoning ordinance shows that residential uses are to be conditionally permitted in the proposed Town Center, Urban Neighborhood, and Multiple Use districts in IBC – a significant change from the current Zoning that prohibits residential in IBC districts zoned 5.1 IBC Multi-Use. This change to allow residential land use where it is now prohibited is a key aspect of the Project and should be so stated in the Description of the Project.

The fourth sentence states that "New development standards are proposed to encourage new building types, public and private open spaces, and a "smaller grain" roadway network within specific overlay districts..." The proposed ordinance not only "encourages" residential in IBC, it conditionally permits it in three of the four proposed new districts, thereby encouraging the dwelling unit cap in the General Plan to be continuously increased by subsequent GPAs, thereby allowing for a significant increase in residential which may result in significant environmental impacts.

In addition to these impacts, during the public meetings leading up to this project, a \$58 million infrastructure improvement program has been discussed. This program is to be funded by the approximately 10,000 dwelling units anticipated to be approved under the new ordinance. Clearly, significant environmental impacts will result from programs of this magnitude, and therefore an EIR is required.

Page 2, paragraph 9. Existing Land Use: The second sentence states that “The majority of the project site is zoned multi-use” and should have the phrase added “and residential is prohibited in this multi-use zone.” This would make it clear that the proposed zoning would change most of IBC from prohibiting residential to conditionally permitting it. When this change in allowable land use is made clear, it also becomes clear that the project is indeed encouraging more residential which may have a significant effect on the environment, requiring that an Environmental Impact Report be prepared.

Page 5 – Determination: We strongly urge the City to reconsider its determination and change it to “The project may have a significant effect on the environment, and an Environmental Impact Report is required.”

Page 7, paragraph I. Aesthetics: Potential significant aesthetic impacts may result from the ordinance encouraging new residential development. Therefore, a potentially significant impact should be checked for:

- a) Have a substantial adverse impact on a scenic vista?
- c) Substantially degrade the existing visual character or quality of the site and its surroundings?
- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views?

Page 7, paragraph III. Air Quality: Potential significant air quality impacts may result from the ordinance encouraging new residential development. Therefore, a potentially significant impact should be checked for:

- b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?
- d) Expose sensitive receptors to substantial pollutant concentrations?
- e) Create objectionable odors affecting a substantial number of people?

The 10,000 residential units that this ordinance encourages would put thousands of new residents nearby existing manufacturing operations known to produce pollutants and odors.

Page 8, paragraph VI. Geology and Soils: Potential significant impacts may result from the ordinance encouraging new residential development in the areas of IBC that are in the earthquake zone and may be subject to liquefaction: Therefore, a potentially significant impact should be checked for:

- a) Expose people or structure to potential substantial adverse effects...
  - a, i) Rupture of a known earthquake fault...
  - a, ii) Strong seismic ground shaking?

a, iii) Seismic-related ground failure, including liquefaction?

Mr. Tony Desmond of Deft has previously provided documentation to the City which describes the potential for earthquakes and liquefaction in IBC.

Page 9, paragraph VII. Hazards and Hazardous Materials: Potential significant impacts may result from the ordinance encouraging new residential development in the areas of IBC that are nearby existing manufacturing operations that store and use hazardous materials. Therefore, a potentially significant impact should be checked for:

- a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?
- b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?
- g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Our IBC Manufacturing Group has previously made the City aware of the hazardous materials used by IBC businesses, and we have expressed our concerns about permitting 24-7 residential nearby these existing manufacturers.

Page 11, paragraph IX. Land Use and Planning: Potential significant impacts may result from the ordinance encouraging new residential development in the areas of IBC where residential is currently not allowed by the City's current general plan or Zoning or the IBC CC&Rs. Therefore, a potentially significant impact should be checked for:

- a) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning...

The stated strategy (on page 2, Description of Project) of creating an overlay zone in anticipation of processing numerous subsequent GPAs for residential projects clearly puts the new Zoning at odds with the current General Plan. And encouraging the continuous incremental amending of the GP to add more and more residential in the business complex is tantamount to having no GP for IBC at all. That is, the current GP becomes meaningless as a planning tool if it is tacitly assumed that it is to be continuously amended for numerous residential projects encouraged by the new Zoning.

Page 11, paragraph XI. Noise: Potential significant impacts may result from the ordinance encouraging new residential development in the areas of IBC that are nearby existing noisy manufacturing operations. Therefore, a potentially significant impact should be checked for:

- a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
- b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

- c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?
- d) For a project located in an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

Page 12, paragraph XIII. Public Services: Potential significant impacts on the City's ability to maintain public services may result from the ordinance encouraging new residential development in the business complex. Therefore, a potentially significant impact should be checked for:

- a) ... in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:  
Fire Protection?  
Police Protection?  
Schools?  
Parks?  
Other Public Facilities?

Page 12, paragraph XIV. Recreation: Potential significant impacts on the City's parks may result from the ordinance encouraging new residential development in the business complex, where lack of Community Parks will force the new IBC residents to use the existing Community Parks elsewhere in the City. Therefore, a potentially significant impact should be checked for:

- a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- b) Does the project include recreational facilities or require construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Page 12, paragraph XV. Transportation/Traffic: Potential significant impacts on the City's street system may result from the ordinance encouraging new residential development in the business complex (keeping in mind that a new set of infrastructure improvements estimated to cost \$58 million is being considered). Therefore, a potentially significant impact should be checked for:

- a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system...?
- b) Exceed, either individually or cumulatively, a level of service standard established by the County congestion management agency for designated roads or highways?
- e) Result in inadequate emergency access?
- f) Result in inadequate parking capacity?

Page 13, paragraph XVI. Utilities and Service Systems: Potential significant impacts on the areas' utilities may result from the ordinance encouraging new residential development in the business complex. Therefore, a potentially significant impact should be checked for:

- b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities...
- c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities...
- f) Be served by a landfill with sufficient permitted capacity to accommodate the projects' solid waste disposal needs?

Page 13, paragraph XVII. Mandatory Findings of Significance: Potential significant impacts on the existing businesses and the future residents may result from the ordinance encouraging new residential development in the business complex. Therefore, a potentially significant impact should be checked for:

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- b) Does the project have impacts that are individually limited, but cumulatively considerable?...
- c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Due to the potential significant impacts in the above-listed areas, we request that the City reconsider the environmental determination and require the preparation of an EIR.

(12)

# CCRPA

**California Cultural Resource Preservation Alliance, Inc.**

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

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

February 9, 2006

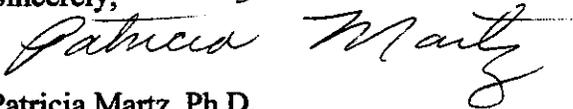
Mr. Bill Jacobs, Principal Planner  
City of Irvine  
Department of Community Development  
P.O. Box 19575  
Irvine, CA 92623-5975

Thank you for the opportunity to review the Draft Negative Declaration for the Irvine Business Complex Residential Mixed Overlay Zone and Vision Plan. Our concern is with the potential impacts to archaeological resources and human remains.

While the plan to monitor for excavation depths at 10 feet or greater seems reasonable given the fact that the area has been dry farmed to a depth of 3 feet and contains a cobble horizon that probably dates to the Pleistocene, there are numerous examples of plowed or otherwise disturbed areas retaining significant archaeological deposits (Playa Vista, disturbed by Howard Hughes development: a cemetery with over 400 burials was discovered; Bolsa Chica, disturbed by plowing: human remains, intact archaeological deposits, and semi-subterranean pit houses were discovered; Pacific City, Huntington Beach, disturbed by extensive excavation: a human burial and artifacts discovered during construction, etc.). Therefore we strongly support the statements under the Cultural Resources section of the Negative Declaration that if and when construction activities are allowed within the project area, the City will impose its Standard Subdivision Condition 2.1, which requires that an archaeologist monitor the ground disturbing activities during construction for the presence of subsurface artifacts or human remains.

If you have any questions, please email at [p.martz@cox.net](mailto:p.martz@cox.net), or phone (949) 559-6490.

Sincerely,



Patricia Martz, Ph.D.  
President



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## Department of Toxic Substances Control

Alan C. Lloyd, Ph.D.  
Agency Secretary  
Cal/EPA

5796 Corporate Avenue  
Cypress, California 90630

Arnold Schwarzenegger  
Governor

February 2, 2006

Mr. Bill Jacobs  
Principal Planner  
City of Irvine  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, California 92623-9575

### NOTICE OF COMPLETION OF A DRAFT NEGATIVE DECLARATION FOR THE IRVINE BUSINESS COMPLEX (IBC) RESIDENTIAL MIXED USE OVERLAY ZONE AND VISION PLAN (00409688-PZC)

Dear Mr. Jacobs:

The Department of Toxic Substances Control (DTSC) has received your Draft Negative Declaration (ND) for the above-mentioned project. Your document states the Project Description as: "The proposed project is City-initiated Zone Change 00409688-PZC to create the Irvine Business Complex (IBC) Residential Mixed Use Overlay Zone, as part of an overall vision plan policy statement for the IBC to be considered by the City Council in conjunction with the zone change. The proposed zone change would create a new overlay zone establishing specific development requirements for new residential projects approved pursuant to the City's General Plan Amendment, Zone Change and Conditional Use Permit processes." Based on the review of the submitted document, DTSC has comments as follows:

- 1) The ND should identify the current or historic uses in the overlay area that may have resulted in a release of hazardous wastes/substances. This is especially important since the project consists of new development standards for residential use.
- 2) The ND should identify the known or potentially contaminated sites within the proposed Project area. For all identified sites, the ND should evaluate whether conditions at the site may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:

- National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
  - Site Mitigation Program Property Database (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control.
- 
- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
  - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
  - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
  - Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards.
  - Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
  - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).
- 3) The ND should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If hazardous materials or wastes were stored and used at a site, a Site Assessment could determine if a release had occurred. If so, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. It may be necessary to determine if an expedited response action is required to reduce existing or potential threats to public health or the environment. If no immediate threat exists, the final remedy should be implemented in compliance with state regulations and policies.

- 4) All environmental investigations, sampling and/or remediation for projects in the proposed overlay area should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including Phase I and II investigations should be summarized in the document. All sampling results in which hazardous substances were found should be clearly summarized in a table.
- 5) Proper investigation, sampling and remedial actions overseen by a regulatory agency, if necessary, should be conducted at the site prior to the new development or any construction. All closure, certification or remediation approval reports by these agencies should be included in the ND.
- 6) If any property adjacent to the overlay area is contaminated with hazardous chemicals, and if the proposed project is within 2,000 feet from a contaminated site, then the proposed development may fall within the "Border Zone of a Contaminated Property." Appropriate precautions should be taken prior to construction if the proposed project is within a Border Zone Property.
- 7) Construction in the proposed overlay area may require soil excavation and soil filling in certain areas. Appropriate sampling is required prior to disposal of the excavated soil. If the soil is contaminated, it should be properly disposed of rather than placed in another location onsite. Land Disposal Restrictions may be applicable to these soils. Also, if future projects propose to import soil to backfill the areas excavated, proper sampling should be conducted to confirm that the imported soil is free of contamination.
- 8) Human health and the environment of sensitive receptors should be protected during future construction or demolition activities. A study of the site overseen by the appropriate government agency should be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
- 9) If during construction/demolition in the area of the proposed overlay, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures implemented.

DTSC provides guidance for cleanup oversight through the Voluntary Cleanup Program (VCP) for other parties. For additional information on the VCP, please visit DTSC's web site at [www.dtsc.ca.gov](http://www.dtsc.ca.gov).

Mr. Bill Jacobs  
February 2, 2006  
Page 4

If you have any questions regarding this letter, please contact Mr. Joseph Kaslowski,  
Project Manager, at (714) 484-5471 or by email at [jkaszlow@dtsc.ca.gov](mailto:jkaszlow@dtsc.ca.gov).

Sincerely,

---



Greg Holmes  
Unit Chief  
Southern California Cleanup Operations Branch - Cypress Office

cc: Governor's Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044



Mr. Guenther W. Moskat, Chief  
Planning and Environmental Analysis Section  
CEQA Tracking Center  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, California 95812-0806

CEQA# 1303

**DEPARTMENT OF TRANSPORTATION**

District 12  
3337 Michelson Drive, Suite 380  
Irvine, CA 92612-8894



*Flex your power!  
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February 2, 2006

Mr. Bill Jacobs  
City of Irvine  
One Civic Center Plaza  
Irvine, CA 92623

File: IGR/CEQA  
SCH#: None  
Log #: 1683  
SR #: I-405

**Subject: Draft Negative Declaration of Irvine Business Complex (IBC) Residential Mixed Use Overlay Zone and Vision Plan (00409688-PZC)**

Dear Mr. Jacobs,

Thank you for the opportunity to review and comment on the **Draft Negative Declaration of Irvine Business Complex (IBC) Residential Mixed Use Overlay Zone and Vision Plan**. The project is located in the City of Irvine, California. The proposed zone change would create a new overlay zone establishing specific development requirements for new residential projects approved pursuant to the City's General Plan Amendment, Zone Change and Conditional Use Permit processes.

**Caltrans District 12 is a reviewing agency on this project, and has no comment.**

Please continue to keep us informed of future developments, which could potentially impact the transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Lan Zhou at (949) 756-7827.

Sincerely,

ROBERT F. JOSEPH  
Chief of IGR/Community Planning Branch  
District 12

c: Terry Roberts, Office of Planning and Research  
Terri Pencovic, Caltrans HQ IGR/Community Planning  
Gale McIntyre, Deputy District Director for Planning and Local Assistance

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(530) 432-7359

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555 West 5th Street, 31st Floor  
Los Angeles, CA 90013  
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WWW.CLLAW.US

February 15, 2006

**VIA FACSIMILE AND U.S. MAIL**

Michael Haack, Manager of Development Services  
Department of Community Development  
City of Irvine  
1 Civic Center Plaza  
Irvine, CA 92606-5207

Re: Comments regarding proposed Negative Declaration for Irvine Business Complex (IBC) Residential Mixed Use Overlay Zone and Vision Plan (00409688-PZC)

Dear Mr. Haack:

*Introduction and Summary of Comments.* I write on behalf of the City of Newport Beach to comment on the Draft Negative Declaration ("Negative Declaration") proposed in conjunction with the above-referenced project. As detailed below, the proposed Negative Declaration is legally insufficient both because it does not adequately describe the project and because its conclusion, that no fair argument can be made that a significant environmental effect might flow if Irvine adds thousands of new residents to a fully developed area with severe, existing traffic flow problems, is simply not credible. Accordingly, the City of Newport Beach requests that Irvine prepare an environmental impact report (EIR) for this project. While Newport Beach would be happy to participate in any scoping session Irvine might conduct with respect to that EIR, we note at this early stage Newport Beach's view that traffic, circulation, park, and recreation impacts are of special concern. In addition, Newport Beach will be happy to supply a list of pending and expected projects on the Newport Beach side of the two cities' common border for use in a cumulative impacts analysis. If you need additional detail beyond what is set forth here, please feel free to contact me at the direct-dial line above or Newport Beach City Attorney Robin Clauson at (949) 644-3131.

*Background Law.* As you know, the California Environmental Quality Act, Public Resources Code §§ 21000 et seq. ("CEQA"), requires an EIR to be prepared whenever "there is substantial evidence, in light of the whole record before the lead agency, that a project *may* have a significant effect on the environment..." (Pub. Res. C. § 21082.2 (d)) (emphasis added). In determining whether or not to prepare an EIR, the lead agency must consider both potential project-specific impacts as well as potential cumulative impacts arising from the project. *Lighthouse Field Beach Rescue v. Santa Cruz* (2005) 131 Cal.App.4th 1170, Pub. Res. C.

Michael Haack  
February 15, 2006  
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§ 21002.1. The requirement for preparation of an EIR is a "low threshold," and doubts must be resolved in favor of preparation of an EIR (*No Oil, Inc. v. Los Angeles* (1974) 13 Cal.3d 68; *Citizen Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748).

Only where there is *no* substantial evidence that the project *may* have a significant effect on the environment can a lead agency prepare a negative declaration in lieu of an EIR. See Pub. Res. C. § 21080(c), State CEQA Guidelines 14 CCR §§ 15064 (f)(3) and 15070 (hereinafter "Guidelines"). Irvine must consider all information now in its hands, as well as the evidence contained in comments submitted during the public review period (Pub. Res. C. § 21091(d)(1)).

Reliance on a prior EIR to support a negative declaration is appropriate only where the project remains substantially the same as that analyzed in the earlier document and no substantial changes in the circumstances of the project have occurred since the earlier document was adopted, and no substantial changes will result from the revised project, and perhaps most significantly, the project will not have any significant impacts *not* discussed in the previous EIR. *Snarled Traffic Obstructs Progress v. San Francisco* (1999) 74 Cal.App.4th 793, Guidelines § 15162.

The proposed Negative Declaration relies on the IBC 1988 program EIR; that reliance is unsupported. The 1988 EIR is quite dated and does not account for substantial increases in traffic in the vicinity of the site and major changes in the Orange County freeway and toll road system. Moreover, the earlier EIR was accompanied by a statement of overriding considerations due to recognized significant, unmitigable impacts on traffic, recreation services, air quality and water quality. How could amendments to the Irvine Business Complex (IBC) planning documents to allow greater residential density have no significant impacts if the existing plans themselves had unmitigable, significant impacts?

As you know, the 1988 EIR established traffic generation budgets for various land uses and established a cap of 3,896 dwelling units. Setting aside cumulative impacts for the moment, just the facts that: (i) traffic budgets have not been restudied, (ii) the number of existing residential units has drastically increased since the EIR was completed and (iii) the new project proposes thousands of units (the precise number of which is never clearly stated in the Negative Declaration) beyond this cap all leave this 18-year-old EIR useless to support a negative declaration for the current project.

Even a cursory review of the record demonstrates that the Negative Declaration is fatally flawed. A fair argument can plainly be made that this new project will have a wide variety of project-specific potential environmental impacts as well as a plethora of cumulative impacts when considered in light of other likely projects in the vicinity of the IBC. Further, the Initial Study fails to adequately describe the project, identify the baseline environmental setting, or analyze the impacts of the project. In short, it is cursory, incomplete, and unconvincing. It will not withstand judicial review.

Michael Haack  
February 15, 2006  
Page 3

Under the Guidelines, an initial study must set forth: (1) A description of the project including the location of the project; (2) an identification of the environmental setting; (3) an identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on a checklist or other form are briefly explained to indicate that there is some evidence to support the entries...; (4) a discussion of ways to mitigate the significant effects identified, if any; (5) an examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls; and (6) the name of the person or persons who prepared or participated in the initial study. Guidelines § 15063(d). The Initial Study for the IBC project provides an inadequate project description and completely fails to identify the environmental setting, other than to identify geographically and physically its location with respect to various landmarks. While environmental impacts were "studied" using a matrix, the Initial Study fails to identify potential significant environmental impacts, despite strong supporting facts to the contrary. Thus, the Initial Study is invalid and should be revised to accurately and correctly comply with CEQA. An invalid initial study nullifies any negative declaration based upon it (*City of Redlands v. County of San Bernardino* (2002) 96 Cal.App.4th 398).

An initial study must evaluate more than the direct physical changes in the environment, but analyze reasonably foreseeable impacts as well. Guidelines § 15064(d); *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325. The Initial Study here dodges the issue of potential future impacts by claiming that the plan does not authorize any residential development at this time. That statement is itself debatable. In any event, the proposed entitlements authorize mixed use in the IBC, which by definition permits new residential development, thus triggering Irvine's duty to analyze the possible impacts of this potential (and, given conditions in the real estate market, likely) development. As you know, CEQA analysis is required at the earliest feasible time in the life of a project and Irvine plainly has enough information to analyze the impacts of this project now – as demonstrated by its decision to prepare an Initial Study and the Negative Declaration.

It is noteworthy that when the information requirements of CEQA are not complied with, an agency fails to proceed in a "manner required by law", and has therefore abused its discretion. Pub. Res. C. §§ 21168.5, 21005(a); *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 1428; *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350; *Save Our Peninsula Comm. v. Monterey County* (2001) 87 Cal.App.4th 99.

*Specific Failings of the Proposed Negative Declaration.* I next provide a brief list of the evidence that supports Newport Beach's conclusion that an EIR is required:

1. The Draft Negative Declaration checklist is inadequate. First of all, the failure to identify even *one* potentially significant impact that *may* result from this project is tacit evidence that it was prepared to support a negative declaration, not independently prepared to determine if

Michael Haack  
February 15, 2006  
Page 4

an EIR is required by law. Specific examples of how the matrix is woefully inadequate are set forth below.

2. The "Vision" component of the plan is not analyzed in the Negative Declaration. There is no indication in the text that it was consistently evaluated as part of the project, or how its implementation might impact the overlay zone. This is but one aspect of the failure of the Negative Declaration to adequately describe the project.

3. There is no analysis of air quality impacts; in fact, the Initial Study raises no possible significant environmental impacts, despite the fact the plan will add thousands of new residents operating thousands of automobiles in a congested area, and despite the fact that virtually every project in the South Coast Air Basin exceeds the thresholds of significance established by the South Coast Air Quality Management District. Reliance on the 1988 EIR "trip budget" is improper and illogical, mainly due to the fact it is some 18 years old, does not reflect changes in traffic counts and patterns since that time. We request that you reflect in the record of this matter the current standards of significance promulgated by SCAQMD for analyses of this type.

4. There is no analysis of the possible addition of impervious surfaces such as new streets (see pp. 20, 46 of Vision), which will result in additional runoff and associated potential stormwater pollution. Given the challenge of attaining compliance with new water quality standards imposed by the Regional Water Quality Control Board as to existing development, how can the development of substantial new hardscape in Irvine be sufficiently unlikely to have an impact on the environment that only an unexplained "yes" on the Initial Study checklist can be sufficient to resolve the issue? This subject plainly requires further analysis.

5. The Initial Study ignores the provisions of Irvine's existing General Plan with respect to the residential "cap" referenced in the 1988 EIR. That document fixed the cap at 3,896 units in the IBC. Piecemeal General Plan amendments through 2005 increased that cap to 8,734 housing units. Applications for some 5,100 or more new units appear to be pending now. The 1988 EIR is clearly inadequate to support the Negative Declaration for the proposed project in light of current circumstances, the fact this project is growth-inducing and that it will result in significant cumulative impacts. This failing is even more problematic given the failure of the Negative Declaration's project description to clarify whether the proposed overlay zone will increase the amount of land on which residential development can occur as compared to the existing general plan provisions. Meaningful environmental analysis must disclose (i) how much residential land is available for development assuming the project is not approved, (ii) how much more land will be available for such development if the project is approved and (iii) the possible environmental consequences of increasing opportunities for residential development as the project proposes. The proposed Negative Declaration simply fails to answer these basic questions.

Michael Haack  
February 15, 2006  
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6. The Initial Study recognizes the project may result in an increased need for police and fire services, yet it only cursorily discusses how this impact will be "mitigated." No analysis is provided of where new public safety staff might be housed and whether new facilities (such as police and fire stations) will be required and, if so, where they might be located. The current document is silent as to response times and levels of protection that will result from the new IBC zoning and how those service levels can be provided and funded. In short, the Negative Declaration presents a flat, unsupported, and implausible conclusion that thousands of new residents can be added to a congested area without significant impacts on public safety services.

7. The Negative Declaration's discussion of impacts on schools is also inadequate. The document concludes that adequate school capacity exists, yet bases this conclusion on the "fact" that no new residential development within the IBC is authorized by this project. The truth is that rezoning the IBC to allow mixed use will necessarily facilitate new residential development. Indeed, that is the very purpose of the action. New development in the IBC zone will bring new families and create new demand for school seats. How can the school districts conclude they have adequate capacity unless the number of new students is estimated?

8. The possible impacts of the project on parks and park and recreation services are not studied in any detail even though no public recreation facilities are provided in the IBC and existing residents of Irvine make use of Newport Beach's facilities due to the dearth of facilities provided in Irvine. In each case, the Initial Study notes that the project does not authorize any residential development, which is both untrue and beside the point, as explained above. CEQA requires analysis of future impacts that *may* arise from all phases of the project, not just those that are unavoidably apparent. See Guidelines § 15063(a). In any event, the impacts of new residents and the parks and recreational facilities they will need is *not* adequately studied in the Initial Study. Nor can the 1988 EIR cure this default, as that document recognized significant, unmitigable park impacts under the 18-year-old vision for the IBC.

9. As was noted above with respect to air quality, a new, updated, and thorough review of the traffic impacts that will result from this project is required. The 1988 review *did not* foresee residential development of this magnitude in this area. The so-called "trip budget" established in 1988 is hopelessly outdated given the changes in regional traffic since that time, changes in the mix of residential and commercial uses in the area, substantial pending residential development, and construction of new roadways that may improve or exacerbate transportation in this area. For example, the project depicts new cross-sections for streets that also serve Newport Beach without any analysis of the consequences of those changes for traffic circulation in Newport Beach. The 1988 EIR concluded that traffic from the IBC would have a significant impact on some of the surrounding intersections and roadways, yet with all of the increases in ambient traffic levels since that time, the Initial Study fails to conclude this new project may result in significant traffic impacts. This is simply not credible.

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10. The Study finds the project will have no impact on wastewater utilities and will not create a need for additional wastewater facilities, yet discloses that Irvine is in discussions with the Irvine Ranch Water District to identify means to provide wastewater collection and treatment facilities for up to 10,000 new units in the IBC area. The City's acknowledgement that additional wastewater treatment facilities are needed is an admission that this project has potential significant environmental consequences for wastewater services and that an EIR must analyze these issues.

11. Finally, the Negative Declaration's finding that the cumulative impacts of this project are less than significant is irrational. That the project creates a neighborhood framework might lessen development impacts on area aesthetics. However, such a framework tells us nothing, however, about the magnitude and mitigation of apparently likely cumulative impacts of proposed development on traffic, air quality, park and recreation facilities and services, hydrology and the water quality, land use and planning, population, public services, transportation and traffic, and utilities. As set forth above, many project-specific impacts are identified that require an EIR even if viewed in isolation from cumulative impacts of the project together with neighboring projects which are pending or likely. A more compelling case arises as to cumulative impacts in each of these subject areas. Yet the Negative Declaration is essentially silent as to the cumulative impacts of this project.

12. The document discloses that some 10,000 new units could be built in the IBC if the project is approved, but does not analyze the consequences of that development nor clearly indicate the relationship between this ill-defined project and the subsequent actions which will bring thousands of new residents to this congested area. This, as you know, is "piecemealing" in violation of CEQA. *Orinda Ass'n v. Board of Supervisors* (1986) 182 Cal.App.3d 1145, 1171.

13. The Vision document is internally inconsistent. At page 39, Campus Drive is shown as a Major Highway of six lanes, but the map on page 43 does not depict widening to this width. Page 80 describes four lanes. Similarly, page 46 shows Jamboree Road from Michelson south into Newport Beach as a Major Highway of six lanes, but page 84 shows eight lanes for this segment.

14. The Negative Declaration relies on proposed improvements that may be infeasible. Page 57 shows a proposed on-street bikeway on Campus Drive, but the document does not discuss how the right of way may be obtained nor note any impacts on the Newport Beach side of this street.

The Negative Declaration has further inadequacies and inconsistencies beyond those detailed above. However seven, single-spaced pages are sufficient to demonstrate the point. The law is quite clear that if a fair argument can be made that significant environmental issues *may* result from a project, even if a fair argument may be made to the contrary, an *EIR must be*

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*completed.* Newport Beach respectfully submits that it has made that fair argument here and that this project may not go forward until an EIR is prepared as required by CEQA.

*Conclusion.* The City of Newport Beach concludes the proposed Negative Declaration is entirely inadequate for this substantial revision to IBC zoning. The 1988 EIR inadequately studied many of the issues that are almost certain to arise if the new project is approved to intensify residential development in the IBC. There is a substantial argument, not just a fair one, that substantial potentially significant environmental impacts will result from adoption of this project. An EIR is clearly required to identify and examine each of those impacts. We urge you on behalf of the City of Newport Beach to reject the proposed Negative Declaration and to prepare an EIR as CEQA requires.

In addition, we respectfully request that written notice of all future hearings on individual projects or legislative actions with respect to land use entitlements affecting any property in the Irvine Business Complex be provided to me at the address above. If the City has established a fee for such notices, please let me know and I will send a check to cover the necessary amount.

Thank you for your attention to these comments. Newport Beach looks forward to working with Irvine to resolve these concerns via a sufficient EIR and would welcome an opportunity to participate in a scoping meeting regarding that effort.

Very truly yours,



Michael G. Colantuono  
Special Counsel  
City of Newport Beach

MGC:mmi

cc: Mayor Webb and Members of the City Council  
Robin Clauson, Newport Beach City Attorney  
Homer Bludau, Newport Beach City Manager  
Sharon Wood, Newport Beach Assistant City Manager  
William B. Conners, Esq.  
Sean Joyce, Irvine City Manager  
Phillip D. Kohn, Irvine City Attorney



October 11, 2005

Mr. Bill Jacobs – Principal Planner  
CITY OF IRVINE – COMMUNITY DEVELOPMENT  
One Civic Center Plaza  
Irvine, CA 92606  
Sent Via Mail & Email

[bjacobs@ci.irvine.ca](mailto:bjacobs@ci.irvine.ca)

Subject: IBC Resident Survey

Dear Mr. Jacobs:

Alfred Gobar Associates has completed its tabulation of responses to a five-question resident survey of households within the Irvine Business Complex (IBC) area depicted in the attached Exhibit A. A principal objective of the resident survey is to determine the proportion of resident workers that are employed within the IBC area. The resident survey also serves to collect additional household information that will be useful in planning the area's future. Results of the survey and the methodology used to gather resident information is summarized as follows:

### **IBC Resident Survey Results**

A stamped-self-addressed survey card was hand delivered to 2,266 IBC households during the second week of August to obtain information about the following household and worker characteristics (see attached survey card for specific question wording):

1. The number of adults and children (17 and under) residing in each household
2. The number of children within the following age groups:  
0 to 5 years                      6 to 12 years                      13 to 17 years
3. The number of vehicles in each household
4. Method of transportation used to get to work (car, bus, walk, etc.)
5. Number of household members that work in the IBC area

A total of 221 survey cards were completed and returned to the City before a designated deadline of September 19<sup>th</sup>. The completed surveys represent a 9.8% response rate. Based on the number of responses, overall tabulated results equate to a 6.6% margin of error at the 95% confidence level. This means for example, we can be 95% certain there is an average of 1.86 members per IBC household, give or take 6.6% (1.74 on the low end, 1.98 on the high end).

Exhibit B summarizes direct tabulation results from the IBC resident survey. The survey results provide a statistical sampling of demographic characteristics describing existing

Mr. Bill Jacobs – Principal Planner  
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resident households in the IBC area. Based on the survey sampling, existing characteristics of IBC households are summarized below and compared to corresponding characteristics for the City of Irvine as a whole:

Population and Household Characteristics	IBC Area <sup>1</sup>	City of Irvine <sup>2</sup>
Resident Households	2,699	54,707
Avg Persons Per Household	1.86	2.66
2 or less per Household	83%	53%
5 or more per Household	2%	10%
Resident Population	5,020	145,281
Under 18 Years of Age	11%	25%
18+ Years of Age	89%	75%
Avg Workers Per Household	1.62	1.68
Households w/ Zero Workers	2%	n.a.
Households w/ 1 Worker	48%	n.a.
Households w/ 2 Workers	42%	n.a.
Households w/ 3+ Workers	9%	n.a.
Residents Working <sup>3</sup>	4,384	92,021
Working in the IBC Area/ in the City	1,771	35,796
Share of Residents Working	40%	39%
Household Vehicles	4,480	106,947
Avg Vehicles/Household	1.66	1.95
Households w/ Zero Vehicles	0%	4%
Households w/ 1 Vehicle	47%	31%
Households w/ 2+ Vehicles	53%	65%
Method of Work Commute		
Car-Drive Alone	88%	n.a.
Car-Drive w/Others	1%	n.a.
Bus/Bike/Walk/Other	4%	n.a.
Work At Home	7%	n.a.

Note:

1-From IBC Resident Mail Survey, September 2005

2-From AnySite Online demographic estimates - Mid Year 2004

3-Irvine estimate based on 2000 Census – Also work in place of residence

Source: Alfred Gobar Associates.

The above comparison shows that existing IBC households reflect a small but unique group of Irvine residents living in one of the community's principal employment centers. Selected characteristics of special note are as follows:

- There is a substantially greater proportion of 1- and 2-person households in the IBC area and substantially smaller proportion of children under 18 years of age.

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- The number of workers per household is slightly less in the IBC area than is true for the City but only due to a substantially greater proportion of 1-person households in the IBC (41% versus 22%).
- The proportion of IBC residents that work outside the IBC area is comparable to the proportion of Irvine residents that work outside the City.
- All households in the IBC area own at least one vehicle but a significantly smaller share of households own 2 or more vehicles than is true in for the City overall.
- Driving to work alone remains the dominant method of commuting to work, even for IBC residents that also work in the IBC area.

Virtually all IBC residents currently reside in higher density apartment and condo-style dwellings. Characteristics of existing households may also describe fundamental demographic traits (household size, number of cars, number of children, etc.) of future households expected to reside in new high-rise housing planned in the IBC area. The results of this 2005 resident survey are intended to support land use planning efforts to properly serve existing and future residents in the IBC area.

### **Data Collection Approach**

Due to the relatively small geographic boundary of the IBC area, a hand delivered survey approach was deemed the most effective method of soliciting demographic information from existing households without incurring substantial cost required in connection with a random sample phone survey. The self-completed resident survey consisted of five objective-response questions printed on a blue 3"X8" survey card and hand delivered to IBC households by an on-site property manager. A letter of introduction from the City of Irvine also accompanied each survey card, along with a colored map of the IBC area (Shown here as Exhibit A), and a stamped-self-addressed envelope for the convenience of household respondents. In addition, introduction letters were provided to each property manager explaining the purpose and use of the study results and requesting their participation. A total of 2,699 IBC households were identified to be included in the survey but one property with 433 units declined to participate in the study. Consequently, 2,266 surveys were ultimately distributed and residents were given approximately four weeks to complete and mail back the survey cards.

Alfred Gobar Associates designed the survey, tabulated survey responses, and prepared this written summary. The City of Irvine printed up the introduction letters and survey cards, and delivered the completed survey packets to participating properties. On-site property managers distributed the survey packets to each household. Completed surveys were then mailed back to the City of Irvine before being collected for tabulation and analysis. Due to the limited response rate, survey responses were tabulated from an Excel database. The survey tabulations are summarized in Exhibit B. The survey results were then applied to independent statistical estimates of local area demographics to formulate an estimate of characteristics describing IBC households as distinct from households throughout the City of Irvine overall.

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Alfred Gobar Associates is pleased to be of assistance to the City of Irvine in its effort to better serve the community with this advance planning study. If you have any questions don't hesitate to give me a call.

ALFRED GOBAR ASSOCIATES

A handwritten signature in black ink, appearing to read "Alonzo Pedrin", with a horizontal line extending to the right.

Alonzo Pedrin  
Principal

Encl.



**EXHIBIT B**  
**RESIDENT SURVEY RESPONSE TABULATIONS**  
**IRVINE BUSINESS COMPLEX, IRVINE, CA**  
**SEPTEMBER 2005**

Survey/Demographic Variable	Total	%
Total Surveys Prepared	2,699	
Total Surveys Distributes*	2,266	
Metropolitan Condos	261	
Villa Sienna Apartments	1,442	
Toscana Apartments	563	
Total Surveys Responded	221	
Response rate	9.8%	
Total Households	221	
1 Person Households	90	40.7%
2 Person Households	93	42.1%
3 Person Households	23	10.4%
4 Person Households	10	4.5%
5 Person Households	4	1.8%
6 Person Households	0	0.0%
7 Person Households	<u>1</u>	<u>0.5%</u>
Total Households:	221	100.0%
Persons in Households	412	
Adults	366	88.8%
Children 0-5:	17	4.1%
Children 6-12:	12	2.9%
Children 13-17:	<u>17</u>	<u>4.1%</u>
Total persons:	412	100.0%
Average Household Size	1.86	
Children per Household	0.21	
Household by number of workers: (Regardless of location)		
No Workers	4	1.8%
One Worker	106	48.0%
Two Workers	92	41.6%
Three Workers	13	5.9%
Four Workers	5	2.3%
Five Workers	<u>1</u>	<u>0.5%</u>
Total Households:	221	100.0%
Total Workers:	359	
Workers per Household:	1.62	
Household by number of workers: (Limited to workers within IBC)		
No Workers	0	0.0%
One Worker	80	73.4%
Two Workers	24	22.0%
Three Workers	3	2.8%
Four Workers	2	1.8%
Five Workers	<u>0</u>	<u>0.0%</u>
Total Households:	109	100.0%
Total IBC workers:	145	
IBC workers as share of all workers:	40.4%	

**EXHIBIT B (Cont'd)**  
**RESIDENT SURVEY RESPONSE TABULATIONS**  
**IRVINE BUSINESS COMPLEX, IRVINE, CA**  
**SEPTEMBER 2005**

Survey/Demographic Variable	Total	%
<b>Households by Number of Vehicles</b>		
No Vehicle	0	0.0%
One Vehicles	103	46.6%
Two Vehicles	100	45.2%
Three Vehicles	10	4.5%
Four Vehicles	6	2.7%
Five Vehicles	2	0.9%
Total Households:	221	100.0%
Vehicles per Household:	1.66	
Vehicles Per Person:	0.89	
Vehicles Per Adult:	1.00	
<b>Mode of Commute-All Workers</b>		
Car	310	86.4%
Carpool	7	1.9%
Bus	3	0.8%
Bike	0	0.0%
Walk	6	1.7%
Work Home	19	5.3%
Other	5	1.4%
Retired	5	1.4%
NA	4	1.1%
Total Workers:	359	100.0%
<b>Mode of Commute-IBC Workers</b>		
Car:	128	88.3%
Carpool:	2	1.4%
Bus:	1	0.7%
Bike:	0	0.0%
Walk:	4	2.8%
Work Home:	10	6.9%
Other:	0	0.0%
NA:	0	0.0%
Total IBC Workers:	145	100.0%

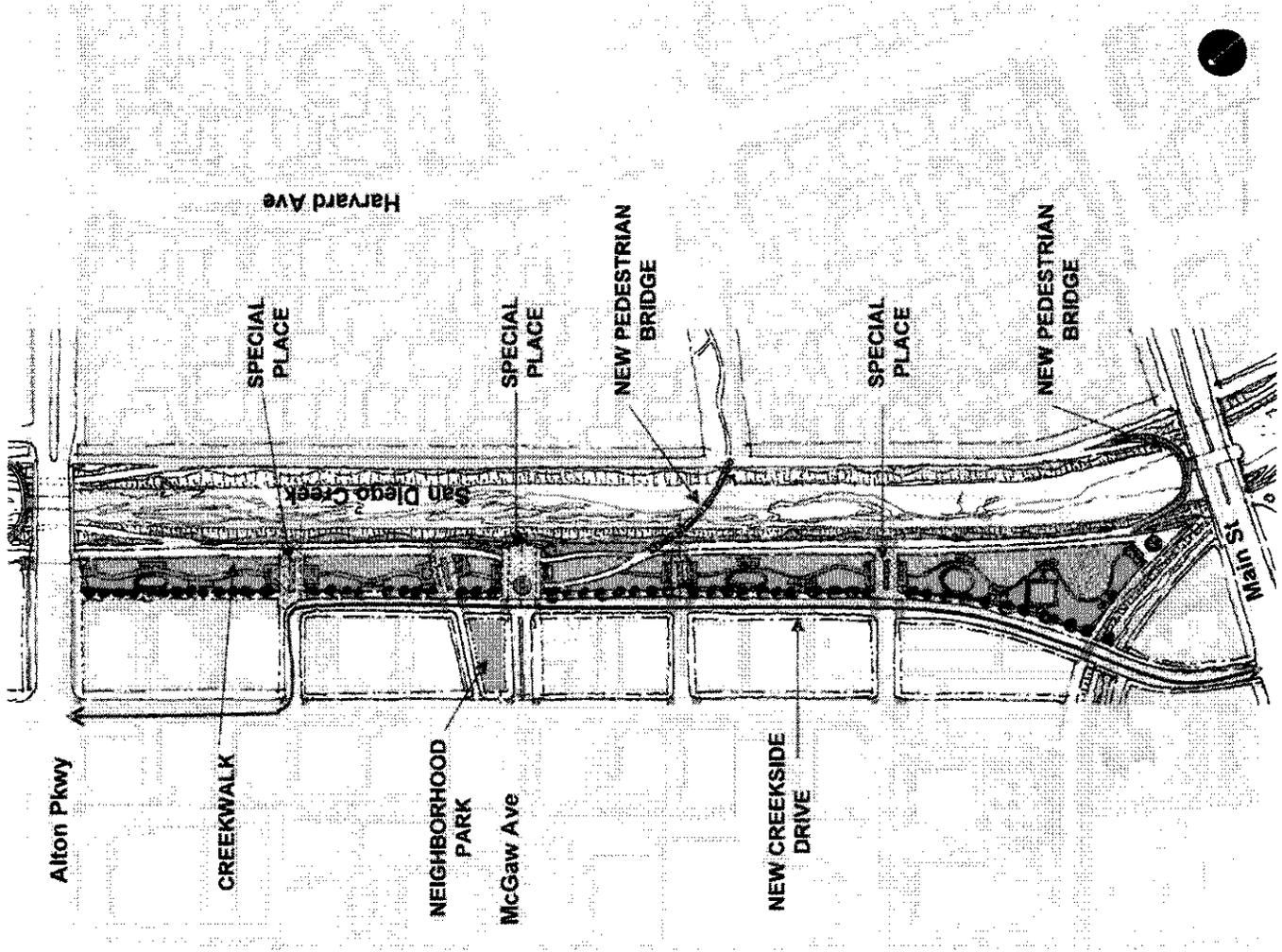
**Notes:**

\* Charter Apartments refused to participate in distributing 433 survey to residents and was therefore excluded from survey.

Source: Alfred Gobar Associates; IBC resident mail survey September 2005.

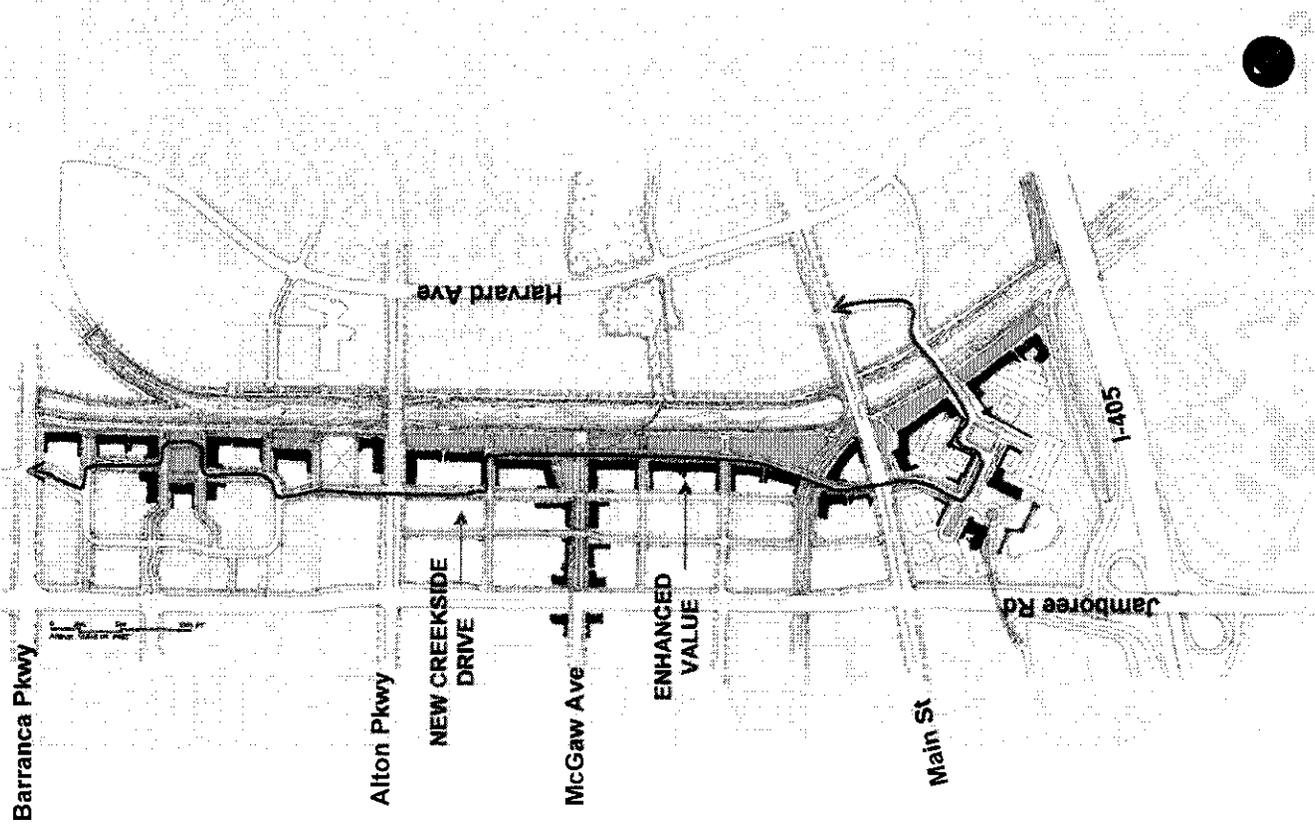
Options : Preliminary Ideas

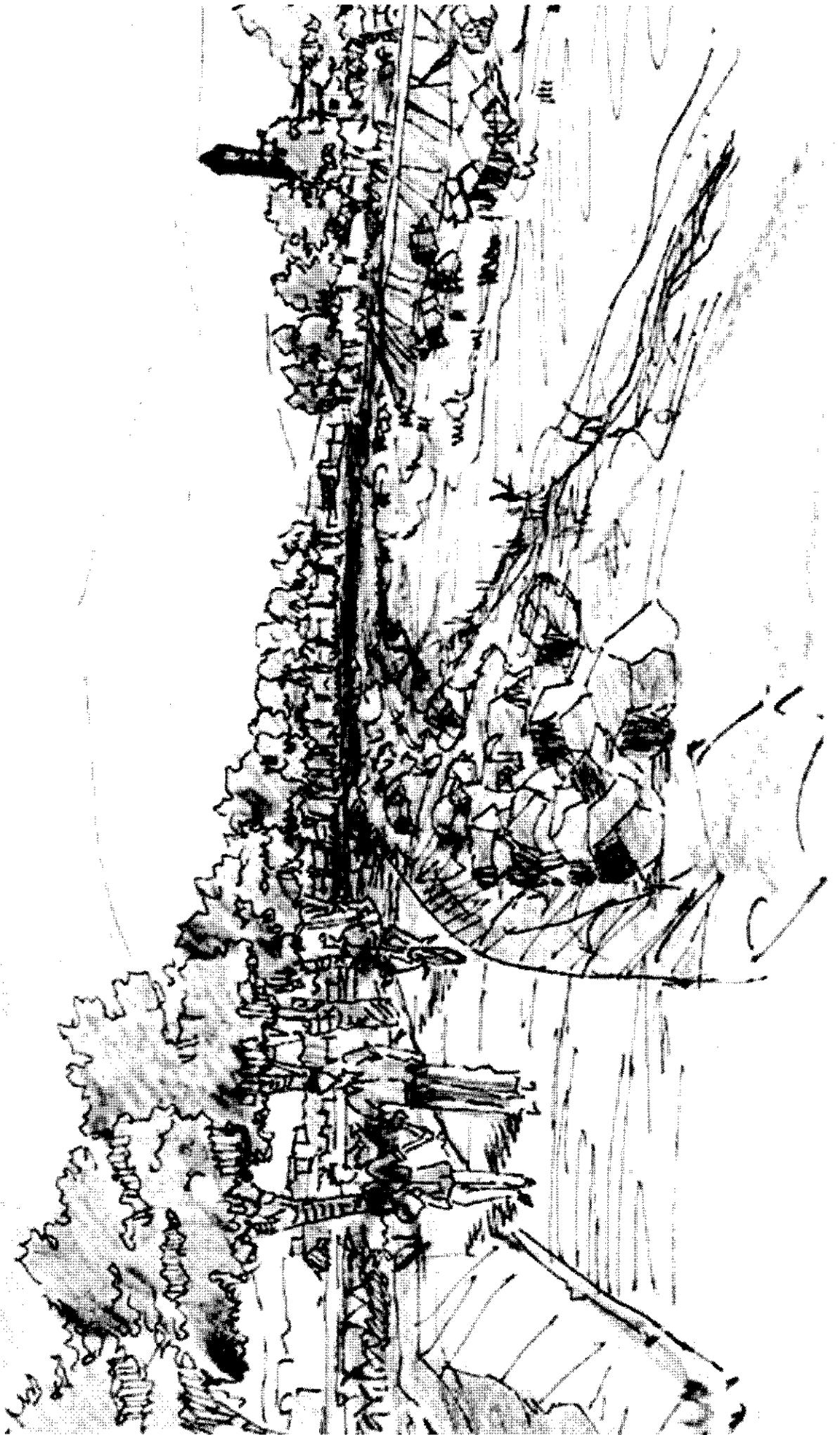
- Linear length expressed as parallel **natural and urban** edges
- **Special places** located at termination of streets and pedestrian connections
- **New pedestrian bridge** connects Creekwalk to San Marco Park on east bank
- Buttresses of existing bridges support **new trail bridges**
- **Creek Drive** provides access and connects to major arterials

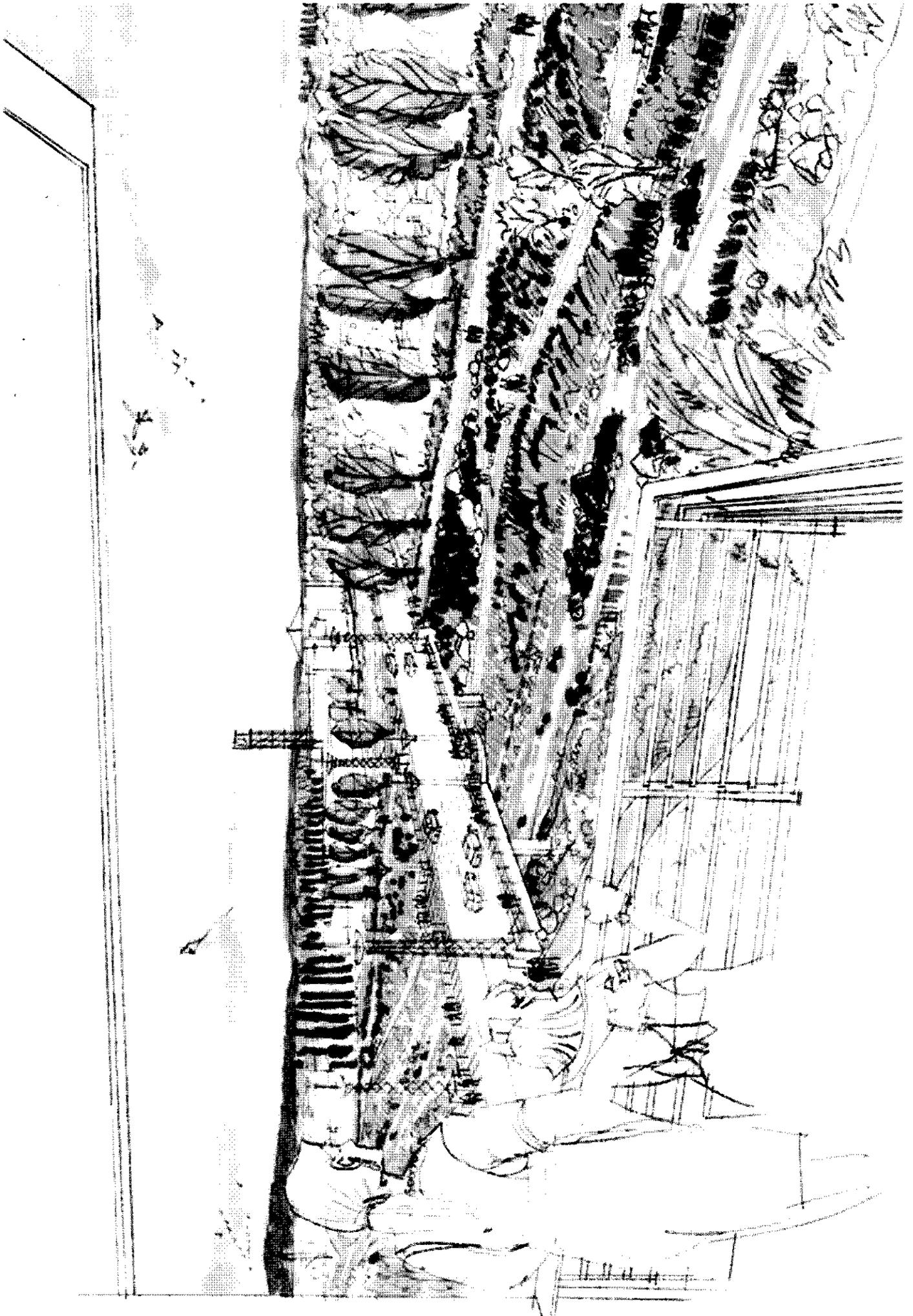


Options : *Later phase*

- Creekwalk will increase value of land, Creek Drive will provide access
- Residential edge encouraged with ground level active uses







PLEASE RECORD AND WHEN RECORDED  
RETURN TO:

---

[insert name of project]

**DEVELOPMENT AGREEMENT**

This Development Agreement (hereinafter "Agreement") is entered into effective as of \_\_\_\_\_, \_\_\_\_\_, (hereinafter the "Effective Date") by and between the CITY OF IRVINE (hereinafter "CITY"), and \_\_\_\_\_, a \_\_\_\_\_ (hereinafter "OWNER").

**RECITALS**

A. OWNER owns all of the real property ("Property") described on Exhibit "A" and depicted on Exhibit "B," otherwise identified in the CITY's General Plan as Planning Area 36. CITY adopted and approved zoning for Planning Area 36 on \_\_\_\_\_, allowing for development of the Property with up to \_\_\_\_\_ dwelling units and \_\_\_\_\_ square feet of \_\_\_\_\_ uses (the "Project").

B. Government Code Sections 65864 et seq. ("Development Agreement Law") authorize CITY to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation and comprehensive planning and reducing the economic costs of such development. OWNER has therefore asked, and CITY has agreed, that a Development Agreement should be approved and adopted for this Property in order to memorialize and secure the respective expectations of CITY and OWNER.

E. The City Council of the CITY (hereinafter "City Council") has found that this Agreement is in the best public interest of the CITY and its residents, adopting this Agreement constitutes a present exercise of the CITY's police power, and that the Project is consistent with the goals and policies of the CITY's General Plan and imposes appropriate standards and requirements with respect to the development of the Property in order to maintain the overall quality of life and of the environment within the CITY. Prior to its approval of this Agreement, CITY considered the environmental impacts of the Project and completed its environmental review of the Project.

F. On \_\_\_\_\_, \_\_\_\_\_, the Planning Commission of CITY held a public hearing on the OWNER's application for approval of this Agreement, made certain findings and determinations with respect thereto, and recommended to the City Council that this Agreement

be approved. A true and correct copy of the Planning Commission Resolution recommending approval of this Development Agreement is attached hereto as Exhibit "F." On \_\_\_\_\_, \_\_\_\_\_, the City Council also held a public hearing on the OWNER'S application for approval of this Agreement, considered the recommendations of the Planning Commission, and found that this Agreement is consistent with CITY's General Plan. A true and correct copy of the City Council Resolution approving this Development Agreement is attached hereto as Exhibit "G."

## COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### 1. DEFINITIONS AND EXHIBITS.

1.1 **Definitions.** This Agreement uses a number of terms having specific meanings, as defined below. These specially defined terms are distinguished by having the initial letter capitalized, or all letters capitalized, when used in the Agreement. The defined terms include the following:

1.1.1 "*Agreement*" means this Development Agreement.

1.1.2 "*Association*" means the entity formed to govern and administer the CC&Rs.

1.1.3 "*CC&Rs*" means the Declaration of Covenants, Conditions and Restrictions and Grant of Easements for the Property in the form attached hereto as Exhibit "C".

1.1.4 "*CITY*" means the City of Irvine, a California charter city.

1.1.5 "*City Council*" means the City Council of the CITY.

1.1.6 "*Development*," means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of buildings and structures; and the installation of landscaping and park facilities and improvements. "Development" also includes the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement, landscaping or facility after the construction and completion thereof.

1.1.7 "*Development Approvals*" means all permits, licenses, consents, rights and privileges, and other actions subject to approval or issuance by CITY in connection with Development of the Property issued by CITY on or before the Effective Date of this Agreement, including but not limited to:

- (a) General plans and general plan amendments;
- (b) Specific plans and specific plan amendments;
- (c) Zoning and rezoning;
- (d) Tentative and final subdivision and parcel maps;
- (e) Variances, conditional use permits, master plans, public use permits and plot plans; and
- (f) Grading and building permits.

1.1.8 "*Development Fees*" means the monetary consideration charged by CITY in connection with a development project for the purpose of defraying all or a portion of the cost of mitigating the impacts of the project and development of the public facilities related to development of the project. Development Fees shall not include (i) CITY's normal fees for processing, environmental assessment/review, tentative tracts/parcel map review, plan checking, site review, site approval, administrative review, building permit (plumbing, mechanical, electrical, building), inspection, and similar fees imposed to recover CITY's costs associated with processing, review, and inspection of applications, plans, specifications, etc., (ii) fees and charges levied by any other public agency, utility, district, or joint powers authority, whether or not such fees are collected by CITY, (iii) development impact fees currently imposed by the City, or (iv) the Development Agreement Fee described in Section 5 of this Agreement.

1.1.9 "*Development Plan*" means the plan for Development of the Property, including without limitation the planning and zoning standards, regulations, and criteria for the Development of the Property, contained in and consistent with Exhibit "D." "Development Plan" also includes the Mitigation Measures identified in Exhibit "E."

1.1.10 "*Development Requirement*" means any requirement of CITY in connection with or pursuant to any Development Approval for the dedication of land, the construction or improvement of public facilities, the payment of fees or assessments in order to lessen, offset, mitigate or compensate for the impacts of Development on the environment, or the advancement of the public interest.

1.1.11 "*Effective Date*" means the date this Agreement is recorded with the County Recorder.

1.1.12 "*Land Use Regulations*" means all ordinances, resolutions, codes, rules, regulations, city adopted plans (including, but not limited to trail plans, bridge plans, park master plans, transit plans, and affordable housing plans) and official policies of CITY adopted and effective on or before the Effective Date of this Agreement governing Development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications

applicable to the Development of the Property. "Land Use Regulations" does not include any CITY ordinance, resolution, code, rule, regulation or official policy, governing:

- (a) the conduct of businesses, professions, and occupations;
- (b) taxes and assessments;
- (c) the control and abatement of nuisances;
- (d) the granting of encroachment permits and the conveyance of rights and interests which provide for the use of or the entry upon public property;
- (e) the exercise of the power of eminent domain; and
- (f) the amount of processing fees or Development impact fees.

1.1.13 "*OWNER*" means \_\_\_\_\_, a \_\_\_\_\_ and, where specified in this Agreement, its successors in interest to all or any part of the Property.

1.1.14 "*Mitigation Measures*" means those requirements imposed on the Project contained in Exhibit "E."

1.1.15 "*Mortgagee*" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device, a lender or each of their respective successors and assigns.

1.1.16 "*Project*" means the Development of the Property consistent with the Development Plan.

1.1.17 "*Property*" means the real property described in Exhibit "A" and shown on Exhibit "B" to this Agreement.

1.1.18 "*Reservation of Authority*" means the rights and authority excepted from the assurances and rights provided to OWNER under this Agreement and reserved to CITY.

1.1.19 "*Subsequent Development Approvals*" means all Development Approvals issued subsequent to the Effective Date in connection with Development of the Property.

1.1.20 "*Subsequent Land Use Regulations*" means any Land Use Regulations adopted and effective after the Effective Date of this Agreement, other than the Development Plan.

1.1.21 "*Term*" shall mean the period of time from the Effective Date until the termination of this Agreement as provided in subsection 11.1, or earlier termination as provided in Section 7.

1.2 **Exhibits.** The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit "A" Legal Description of the Property.

Exhibit "B" Map showing Property and its location.

Exhibit "C" CC&Rs

Exhibit "D" Development Plan

Exhibit "E" Mitigation Measures

Exhibit "F" Planning Commission Resolution recommending approval of Development Agreement

Exhibit "G" City Council Resolution approving Development Agreement

## 2. GENERAL PROVISIONS.

2.1 **Binding Effect of Agreement.** From and following the Effective Date, Development and CITY actions on applications for Subsequent Development Approvals respecting the Property shall be subject to the terms and provisions of this Agreement.

2.2 **Ownership of Property.** OWNER represents and covenants that it is the owner of the fee simple title to the Property.

### 2.3 Assignment.

2.3.1 *Right to Assign.* OWNER shall have the right to sell, transfer or assign the Property in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410, *et seq.*), and in so doing assign its rights and obligations under this Agreement as the same may relate solely to the portion of the Property being sold, transferred, or assigned to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement.

2.3.2 *Release of Transferring OWNER.* Upon the sale, transfer or assignment of all or a portion of the Property, the transferring OWNER shall be released of all obligations under this Agreement that relate solely to the portion of the Property being sold, transferred, or assigned; provided that the obligations under this Agreement that relate to the portion of the Property being sold, transferred, or assigned are assumed by and enforceable against the transferee. Notwithstanding the foregoing sentences of this Section 2.3.2, transferring OWNER shall remain responsible for all obligations set forth in the Development Plan that do not relate solely to the portion of the Property being sold, transferred, or assigned.

## 3. DEVELOPMENT OF THE PROPERTY.

3.1 **Rights to Develop.** Subject to the terms of this Agreement, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. Development allowed under the Development Plan is hereby vested specifically with the Property, and that OWNER retains the right to apportion development rights between itself and any subsequent OWNER, upon the sale, transfer, or assignment of any portion of the Property, so long as such apportionment is consistent with the Development Plan and the Land Use Regulations.

3.2 **Effect of Agreement on Land Use Regulations.** Except as otherwise provided under the terms of this Agreement, the rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to Development of the Property, shall be those contained in the Development Plan and those Land Use Regulations not inconsistent with the Development Plan.

3.3 **Subsequent Development Approvals.** CITY shall accept for processing, review and action all applications for Subsequent Development Approvals, and such applications shall be processed in the normal manner for processing such matters, for all or a portion of the Property at OWNER's option. The CITY further agrees that, unless otherwise requested by OWNER or as authorized by this Agreement, it shall not, without good cause, amend or rescind any Subsequent Development Approvals respecting the Property after such approvals have been granted by the CITY, and that pursuant to Section 66452.6 (a) of the California Government Code, any tentative subdivision map approved for the Property, or any portion thereof, shall also be extended for a period equal to the Term of this Agreement.

3.4 **Timing of Development.** The parties acknowledge that OWNER cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of OWNER, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Since the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal. 3d 465, that the failure of the parties therein to provide for the timing of Development resulted in a later-adopted initiative restricting the timing of Development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that OWNER shall have the right to develop the Property in such order and at such rate and at such times as OWNER deems appropriate within the exercise of its subjective business judgment. Nothing in this section is intended to alter the standard durational limits of any applicable permits issued to OWNER.

3.5 **Changes and Amendments.** The parties acknowledge that Development of the Project will likely require Subsequent Development Approvals, and that in connection therewith OWNER may determine that changes are appropriate and desirable in the existing Development Approvals or Development Plan. In the event OWNER finds that such a change is appropriate or desirable, OWNER may apply in writing for an amendment to prior Development Approvals or the Development Plan to effectuate such change, and CITY shall process and act on such application notwithstanding anything in this Agreement that may be to the contrary. CITY shall have no obligation to grant any such application by OWNER that modifies the overall intensity or density of Development, requires a General Plan amendment, zone change, or variance, or

otherwise is, in the sole and absolute discretion of the City's Community Development Director, a substantial modification of the Development Plan. . If approved in a form to which OWNER has consented in writing, any such change in the Development Approvals or Development Plan shall be incorporated herein as an addendum, and may be further changed from time to time as provided in this Section. Any change in the Development Approvals or Development Plan made in accordance with the procedures required by the Land Use Regulations and with the written consent of the OWNER shall be conclusively deemed to be consistent with this Agreement, without any further need for any amendment to this Agreement or any of its Exhibits.

### 3.6 **Reservation of Authority.**

3.6.1 *Limitations, Reservations and Exceptions.* Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the Development of the Property:

(a) Processing fees and charges of every kind and nature imposed by CITY to cover the estimated actual costs to CITY of processing applications for Development Approvals or for monitoring compliance with any Subsequent Development Approvals granted or issued.

(b) Procedural regulations not inconsistent with this Agreement relating to hearing bodies, petitions, applications, notices, findings, records, hearing, reports, recommendations, appeals and any other matter of procedure.

(c) Changes adopted by the International Conference of Building Officials as part of the then most current versions of the Uniform Building Code, Uniform Fire Code, Uniform Plumbing Code, Uniform Mechanical Code, Uniform Solar Energy Code, Uniform Swimming Pool, Spa and Hot Tub Code, Uniform Housing Code, Uniform Administrative Code, or National Electrical Code, and also adopted by CITY as Subsequent Land Use Regulations.

(d) Regulations which may be in conflict with the Development Plan but which are reasonably necessary to protect the public health, safety, and welfare. To the extent possible, any such regulations shall be applied and construed consistent with Section 3.6.4 below so as to provide OWNER with the rights and assurances provided under this Agreement.

(e) Regulations which are not in conflict with the Development Plan and this Agreement. Any regulation, whether adopted by initiative or otherwise, limiting the rate or timing of Development of the Property, or imposing architectural or landscaping requirements or reviews, shall be deemed to conflict with the Development Plan and this Agreement and shall therefore not be applicable to Development of the Property.

(f) Regulations which are in conflict with the Development Plan provided OWNER has given written consent to the application of such regulations to Development of Property.

(g) Federal and State laws and regulations which CITY is required to enforce as against the Property or the Development of the Property.

3.6.2 *Future Discretion of CITY.* This Agreement shall not prevent CITY, in acting on Subsequent Development Approvals, from applying Subsequent Land Use Regulations which do not conflict with the Development Plan, nor shall this Agreement prevent CITY from denying or conditionally approving any Subsequent Development Approval on the basis of the existing Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan.

3.6.3 *Modification or Suspension by State or Federal Law.* In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, and this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provision impractical to enforce.

3.6.4 *Intent.* The CITY acknowledges that OWNER has reasonably entered into this Agreement and will proceed with the Project on the assumption that CITY has adequately provided for the public health, safety and welfare through the Land Use Regulations. In the event that any future, unforeseen public health or safety emergency arises, CITY agrees that it shall attempt to address such emergency in such a way as not to impact Development of the Property in accordance with the Development Plan, and if that is not possible, to select that option for addressing the emergency which has the least adverse impact on Development of the Property in accordance with the Development Plan. CITY specifically also agrees that it will not adopt any Development moratorium applicable to the Property except as a last resort response to such an emergency, and then shall maintain any such moratorium with respect to the Property only for so long as required for the CITY to address the emergency in such a way as to permit the Project to be completed according to OWNER's timetable.

3.6.5 *Taxes, Assessments and Fees.* This Agreement shall not prevent the CITY from enacting, levying or imposing any new or increased tax, assessment or fee that is levied or imposed on a CITY-wide basis.

3.7 **Regulation by Other Public Agencies.** It is acknowledged by the parties that other public agencies not subject to control by CITY possess authority to regulate aspects of the Development of the Property, and this Agreement does not limit the authority of such other public agencies.

3.8 **Vesting Tentative Maps.** If any tentative or final subdivision map, or tentative or final parcel map, heretofore or hereafter approved in connection with Development of the Property, is a vesting map under the Subdivision Map Act (Government Code Section 66410, et seq.), and if this Agreement is determined by a final judgment to be invalid or unenforceable insofar as it grants a vested right to develop to OWNER, then and to that extent the rights and

protection afforded OWNER under the laws and ordinances applicable to vesting maps shall supersede the provisions of this Agreement. Except as set forth immediately above, Development of the Property shall occur only as provided in this Agreement, and the provisions in this Agreement shall be controlling over any conflicting provision of law or ordinance concerning vesting maps.

**3.9 Provision of Real Property Interests by CITY.** In any instance where OWNER is required to construct any public improvement on land not owned by OWNER, CITY shall first have acquired the necessary real property interests to allow OWNER to construct such public improvements. Costs associated with such acquisition or condemnation proceedings, if any, shall be OWNER's responsibility, and may be included in the assessment district on a fair share basis.

**3.10 Cooperation in Completing Development Plan.** CITY agrees to cooperate with OWNER as necessary for the successful completion of the Development Plan and fulfillment of Development Requirements, including, without limitation, accomplishment of each and every one of the Mitigation Measures, and all other requirements or conditions that may be imposed on the Development by other public agencies.

#### 4. REVIEW FOR COMPLIANCE.

**4.1 Periodic Review.** During the Term, the City Council shall review this Agreement annually on \_\_\_\_\_ of each year following the Effective Date of this Agreement, in order to ascertain the good faith compliance by OWNER with the terms of the Agreement. As part of that review, OWNER shall submit an annual monitoring review statement describing its actions in compliance with this Agreement, in a form acceptable to the City Manager, within 30 days after written notice from the City Manager requesting that statement. The statement shall be accompanied by an annual review and administration fee sufficient to defray the estimated costs of review and administration of the Agreement during the succeeding year. The amount of the annual review and administration fee shall be set by resolution of the City Council.

**4.2 Special Review.** The City Council may order a special review of compliance with this Agreement at any time at CITY's sole cost. OWNER shall cooperate with the CITY in the conduct of such special reviews.

**4.3 Procedure.** In connection with any periodic or special review, each party shall have a reasonable opportunity to assert matters which it believes have not been undertaken in accordance with the Agreement, to explain the basis for such assertion, and to receive from the other party a justification of its position on such matters. If on the basis of the parties' review of any terms of the Agreement, either party concludes that the other party has not complied in good faith with the terms of the Agreement, then such party may issue a written "Notice of Non-Compliance" specifying the grounds therefor and all facts demonstrating such non-compliance. The party receiving a Notice of Non-Compliance shall have thirty (30) days to respond in writing to said Notice. If the response to the Notice of Non-Compliance has not been received in the offices of the party alleging the non-compliance within the prescribed time period, the Notice of Non-Compliance shall be conclusively presumed to be valid. If a Notice of Non-Compliance is contested, the parties shall have up to sixty (60) days to arrive at a mutually acceptable resolution of the matters) occasioning the Notice. In the event that the parties are not able to arrive at a

mutually acceptable resolution of the matter(s) by the end of the sixty (60) day period, the party alleging the non-compliance may thereupon pursue the remedies provided in Section 6.

**4.4 Certificate of Agreement Compliance.** If, at the conclusion of a periodic or special review, OWNER is found to be in compliance with this Agreement, CITY shall, upon request by OWNER, issue a Certificate of Agreement Compliance ("Certificate") to OWNER stating that after the most recent Periodic or Special Review and based upon the information known or made known to the City Manager and City Council that (1) this Agreement remains in effect and (2) OWNER is in compliance. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after a Periodic or Special Review and shall state the anticipated date of commencement of the next Periodic Review. OWNER may record the Certificate with the County Recorder. Additionally, OWNER may at any time request from the CITY a Certificate stating, in addition to the foregoing, which obligations under this Agreement have been fully satisfied with respect to the Property, or any lot or parcel within the Property.

## 5. FEES.

**5.1 Development Fees.** During the Term of this Agreement, CITY shall not levy or require with respect to development of the Property any site-specific Development Fees (*i.e.*, Development Fees that are not of general application and are imposed only on the Property) except those set forth in this Agreement and those in effect on the Effective Date of this Agreement. It is understood that the preceding limitation on CITY's imposition of Development Fees shall not limit CITY from levying against the Property additional Development Fees to the extent such Development Fees are imposed by CITY on a city-wide basis.

**5.2 Development Agreement Fee.** OWNER shall pay or cause to be paid to the CITY, for each of the \_\_\_\_\_ residential units in the Project, with such payment due on or before the date the building permit for each such unit, the sum of \_\_\_\_\_ to reimburse CITY its costs in developing and processing the Residential Development Standards for Planning Area 36 (Irvine Business Complex), as payment for processing this Agreement, as partial payment for the development of future the residential infrastructure within Planning Area 36 and/or supporting development in Planning Area 36, to be utilized for such other uses and purposes as may be determined by CITY in its sole and absolute discretion.

**5.2.1 Inflationary Adjustment for Development Agreements Signed By OWNER After \_\_\_\_\_, 200\_.** In the event that, on or after \_\_\_\_\_, OWNER commences grading and/or obtains building permits pursuant to the Development Plan, Development Fees payable at that time shall be adjusted for inflation on a calendar monthly basis from and after \_\_\_\_\_, 200\_, based upon the Consumer Price Index - Western U.S. All Urban Consumers.

**5.3 Other Fees and Charges.** Except as specifically set forth in Sections 5.1 through 5.2, nothing set forth in this Agreement is intended or shall be construed to limit or restrict CITY's authority to impose new fees, charges, assessments, or taxes for the development of the Property or to increase any existing fees, charges, assessments, or taxes, and nothing set forth

herein is intended or shall be construed to limit or restrict whatever right the OWNER might otherwise have to challenge any fee, charge, assessment, or tax either not set forth in this Agreement or not in effect as of the Effective Date. In connection therewith, OWNER shall timely pay all applicable fees, charges, assessments, and special and general taxes validly imposed in accordance with the Constitution and laws of the State of California, including without limitation school impact fees in accordance with Government Code §§ 65995, *et seq.*

6. FINANCING FOR PUBLIC IMPROVEMENTS AND SERVICES.

**6.1 Formation of Infrastructure, Business Improvement, and/or Maintenance Assessment District(s).** CITY may consider establishing one or more infrastructure, business improvement, and/or maintenance assessment district(s) and/or community facilities district(s) for the Property, or portions thereof, to finance the maintenance of certain public improvements, including landscaping, lighting, streets, park and recreational facilities, trails and a transportation shuttle service; provided, however, that the annual special tax imposed on each unit within the financing district may not exceed \$630, as adjusted for inflation by the Consumer Price Index - Western U.S. All Urban Consumers. OWNER hereby irrevocably consents to the formation of such infrastructure, business improvement, maintenance assessment and/or community facilities district(s) and waives any and all right of protest or objection with respect thereto. In the event CITY elects to form a infrastructure, business improvement, maintenance assessment and/or community facilities district(s), OWNER agrees to cooperate with CITY and take all necessary action to accomplish the formation of the district(s) and the imposition of assessments, including without limitation, if required by CITY, the submission of a ballot to CITY by OWNER (or its successors in interest) unconditionally and without qualification in favor of the formation of the district(s) and the levying of such assessments. Nothing herein shall be construed as a commitment by CITY to form an infrastructure, business improvement, maintenance assessment and/or community facilities district or as a limitation on CITY's legislative discretion with respect thereto. OWNER has agreed to the financing provisions set forth in this Section 6.1 and to perform the obligations hereunder in exchange for the consideration and benefits provided to OWNER by CITY under this Agreement, including without limitation the vested right to develop the Property in accordance with Section 3.1.

6.1.1. *Recordation of Unsubordinated Covenant.* Prior to the date a building or grading permit is issued relating to the Property, or within a period of ninety (90) days from the date of execution of this Development Agreement, whichever occurs first, OWNER shall execute and record an unsubordinated covenant in a form approved by the City Attorney's Office wherein OWNER agrees not to contest the formation of any infrastructure and/or assessment district(s) which may be formed to finance infrastructure, business improvement, maintenance assessment, and/or community facilities district(s) as set forth in Paragraph 6.1, which district(s) could include the Property. The covenant shall be binding upon successive owners of the Property, or any portion thereof, and shall also be binding upon any and all Associations that have covenants, conditions, and restrictions governing the use of the Property.

## 7. DEFAULT AND REMEDIES.

7.1 **Specific Performance Available.** The parties acknowledge that money damages and remedies at law generally are inadequate and specific performance is a particularly appropriate remedy for the enforcement of this Agreement and should be available to OWNER and CITY because due to the size, nature and scope of the Project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, OWNER and/or CITY may be foreclosed from other choices it may have had to utilize or condition the uses of the Property or portions thereof. OWNER and CITY have invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, such that it would be extremely difficult to determine the sum of money which would adequately compensate OWNER and/or CITY for such efforts.

7.2 **Money Damages Unavailable.** Except as provided in the Section 7.3 below, neither OWNER nor CITY shall not be entitled to any money damages, including attorney fees, from the other party by reason of, arising out of, based upon, or relating to (a) the interpretation, enforcement, performance, or breach of any provision of this Agreement, or (b) the respective rights or duties of any of the parties under the Development Approvals, the Subsequent Development Approvals, any Development Requirement, the Land Use Regulations, or the Subsequent Land Use Regulations.

7.3 **Restitution of Improper Development Fees.** In the event any Development fees or taxes are imposed on Development of the Property other than those authorized pursuant to this Agreement, OWNER shall be entitled to recover from CITY restitution of all such improperly assessed fees or taxes, together with interest thereon at the rate specified in Article XV, Section 1 of the California Constitution from the date such sums were paid to CITY to the date of restitution.

### 7.4 **Termination of Agreement.**

7.4.1 *Termination of Agreement for Default of OWNER.* CITY in its discretion may terminate this Agreement for any failure of OWNER to perform any material duty or obligation of OWNER hereunder or to comply in good faith with the terms of this Agreement (hereinafter referred to as "default"); provided, however, CITY may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 4.3 and thereafter providing written notice to OWNER of the default setting forth the nature of the default and the actions, if any, required by OWNER to cure such default and, where the default can be cured, OWNER has failed to take such actions and cure such default within 30 days after the effective date of such notice or, in the event that such default cannot be cured within such 30 day period but can be cured within a longer time, as reasonably determined by the CITY in its sole discretion, OWNER has failed to commence the actions necessary to cure such default within such 30 day period and to diligently proceed to complete such actions and cure such default.

7.4.2 *Termination of Agreement for Default of CITY.* OWNER in its discretion may terminate this Agreement for any default by CITY; provided, however, OWNER may terminate this Agreement pursuant to this Section only after following the procedure set forth in Section 4.3 and thereafter providing written notice by OWNER to the CITY of the default setting forth the nature of the default and the actions, if any, required by CITY to cure such default and, where the default can be cured, the failure of CITY to cure such default within 30 days after the effective date of such notice or, in the event that such default cannot be cured within such 30 day period, the failure of CITY to commence to cure such default within such 30 day period and to diligently proceed to complete such actions and to cure such default.

7.4.3 *Rights and Duties Following Termination.* Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to (i) any obligations to have been performed prior to said termination, or (ii) any default in the performance of the provisions of this Agreement which has occurred prior to said termination.

7.5 **OWNER'S Right To Terminate Upon Specified Events.** Notwithstanding any other provisions of this Agreement to the contrary, OWNER retains the right to terminate this Agreement upon thirty (30) days written notice to CITY in the event that OWNER reasonably determines that continued Development of the Project consistent with the Development Plan has become economically infeasible due to changed market conditions, increased Development costs, burdens imposed by the CITY or other governmental entity as conditions to future discretionary approvals of the Project consistent with this Agreement, the CITY's exercise of its Reserved Authority in a way deemed by OWNER to be inconsistent with the Development Plan, or similar factors. In the event OWNER exercises this right, it shall nonetheless be responsible for mitigation of impacts to CITY resulting from Development that may have occurred on the Property prior to the notice of termination, on a fair share or nexus basis, and within the thirty (30) day notice period CITY and OWNER shall meet to identify any such mitigation obligation that may remain to be satisfied. If the parties are in disagreement at the end of the thirty (30) day notice period, the Agreement shall be terminated as to all matters except for the remaining mitigation obligation in dispute, and with respect thereto the parties shall have the remedies provided in Section 6.

## 8. CC&Rs

8.1 Concurrently with the execution and delivery of this Agreement to CITY, OWNER shall execute, acknowledge, and deliver to CITY the CC&Rs. CITY shall cause the CC&Rs to be recorded concurrently with the recordation of this Agreement.

## 9. THIRD PARTY LITIGATION.

CITY shall promptly notify OWNER of any claim, action or proceeding filed and served against CITY to challenge, set aside, void, annul, limit or restrict the approval and continued implementation and enforcement of this Agreement. OWNER agrees to reimburse the CITY for its reasonable attorneys fees incurred in connection with the defense of the claim, action or proceeding, and to fully defend and indemnify CITY for all costs of defense and/or judgment

obtained in any such action or proceeding. CITY and OWNER agree to cooperate in the defense of such action(s).

#### 10. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit OWNER, in any manner, at OWNER's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. CITY acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with OWNER and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. Subject to compliance with applicable laws, CITY will not unreasonably withhold its consent to any such requested interpretation or modification provided CITY determines such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee has submitted a request in writing to the CITY in the manner specified herein for giving notices, shall be entitled to receive written notification from CITY of any default by OWNER in the performance of OWNER's obligations under this Agreement.

(c) If CITY timely receives a request from a Mortgagee requesting a copy of any notice of default given to OWNER under the terms of this Agreement, CITY shall make a good faith effort to provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to OWNER. The mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of OWNER's obligations or other affirmative covenants of OWNER hereunder, or to guarantee such performance; except that (i) to the extent that any covenant to be performed by OWNER is a condition precedent to the performance of a covenant by CITY, the performance thereof shall continue to be a condition precedent to CITY's performance hereunder, and (ii) in the event any Mortgagee seeks to develop or use any portion of the

Property acquired by such Mortgagee by foreclosure, deed of trust, or deed in lieu of foreclosure, such Mortgagee shall strictly comply with all of the terms, conditions and requirements of this Agreement and the Development Plan applicable to the Property or such part thereof so acquired by the Mortgagee.

## 11. MISCELLANEOUS PROVISIONS.

11.1 **Term of Agreement.** Unless earlier terminated as provided in Section 6.3 hereof, this Agreement shall continue in full force and effect for a period of \_\_\_\_\_ ( ) years from the Effective Date.

11.2 **Recordation of Agreement.** This Agreement shall be recorded with the County Recorder by the City Clerk within the period required by Section 65868.5 of the Government Code. Amendments approved by the parties, and any cancellation, shall be similarly recorded.

11.3 **Entire Agreement.** This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

11.4 **Severability.** Except as provided in section \_\_\_\_\_, if any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, then this Agreement shall terminate in its entirety, unless the parties otherwise agree in writing, which agreement shall not be unreasonably withheld.

11.5 **Interpretation and Governing Law.** This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party or in favor of CITY shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

11.6 **Section Headings.** All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

11.7 **Singular and Plural.** As used herein, the singular of any word includes the plural.

11.8 **Time of Essence.** Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

11.9 **Waiver.** Failure of a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

**11.10 No Third Party Beneficiaries.** This Agreement is made and entered into for the sole protection and benefit for the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

**11.11 Force Majeure.** Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for performance shall be extended for the duration of each such event, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years.

**11.12 Mutual Covenants.** The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

**11.13 Successors in Interest.** As provided in Section 65868.5 of the Government Code, and except as otherwise provided in this Agreement, all of the terms, provisions, covenants and obligations contained in this Agreement shall be binding upon, and inure to the benefit of, CITY and OWNER, and their respective successors and assigns.

**11.14 Counterparts.** This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

**11.15 Jurisdiction and Venue.** Any action at law or in equity arising under this Agreement or brought by any party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of Orange, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

**11.16 Project as a Private Undertaking.** It is specifically understood and agreed by and between the parties hereto that the Development of the Project is a private Development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between CITY and OWNER is that of a government entity regulating the Development of private property and the owner of such property.

**11.17 Further Actions and Instruments.** Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of

this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

11.18 **Eminent Domain.** No provision of this Agreement shall be construed to limit or restrict the exercise by CITY of its power of eminent domain.

11.19 **Amendments in Writing/Cooperation.** This Agreement may be amended only by written consent of both parties specifically approving the amendment and in accordance with the Government Code provisions for the amendment of Development Agreements. The parties shall cooperate in good faith with respect to any amendment proposed in order to clarify the intent and application of this Agreement, and shall treat any such proposal on its own merits, and not as a basis for the introduction of unrelated matters.

11.20 **Authority to Execute.** The person or persons executing this Agreement on behalf of OWNER warrants and represents that he/they have the authority to execute this Agreement on behalf of his/their corporation, partnership or business entity and warrants and represents that he/they has/have the authority to bind OWNER to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first set forth above.

CITY: CITY OF IRVINE

By \_\_\_\_\_  
Mayor

ATTEST:

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
City Attorney

(SEAL)

OWNER: \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

[ALL SIGNATURES SHALL BE NOTARIZED. EXECUTION ON BEHALF OF ANY CORPORATION SHALL BE BY TWO CORPORATE OFFICERS.]

**IBC RESIDENTIAL OVERLAY  
PROJECT DESCRIPTIONS FOR INFRASTRUCTURE**

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<b>NO.</b>	<b>IMPROVEMENT</b>	<b>DESCRIPTION</b>
1.	<b>IBC SHUTTLE OPERATIONS</b>	Estimated annual operating costs for three shuttle routes (two peak hour routes and one mid-day route) as defined by the 2004 Kimley-Horn Study.
2.	<b>JAMBOREE BRIDGES</b>	
	A. Primary Bridges	Two pedestrian bridges; one south of Main Street and the other in the vicinity of Dupont. Both are estimated as being the more stylistically significant suspension and/or steel arch bridge type as they are intended to also serve as an IBC entry statements.
	B. Secondary Bridges	Two pedestrian bridges; one north of Main Street (at the Barranca Channel) and the other south of Alton. Both are estimated as concrete structures and could either be precast or cast-in-place.
	C. Michelson Bridge Budget Supplement	The pedestrian bridge north of Michelson is also proposed to be a "Primary Bridge" and serve as an IBC entry statement. This item provides sufficient supplemental funds (relative to those already required through development conditions) to fund the full estimated cost of a stylistically significant bridge.
3.	<b>CREEKWALK</b>	
	A. Landscaping	The estimate provides for full implementation of both the hardscape and landscaping of the Creekwalk area (which consists of the Edison easement area between Barranca and Main Street). Also included is the estimated annual cost for maintenance of this facility and for lease fees to Edison, the owner of the land.
	B. Creek Bridges	
	i. Bridge Expansion	Through this project, an additional increment (approximately twelve feet wide) would be added to existing roadway bridges to provide for separated bike and pedestrian usage. These would be located at the Main Street, Alton and Barranca San Diego Creek crossings.
	ii. New Structure	A new freestanding bridge for exclusive bike and pedestrian usage would be installed over the San Diego Creek in the vicinity of the projection of Dupont. This structure, at the heart of the Creekwalk area is also estimated as being a stylistically significant structure.
4.	<b>SIDEWALK COMPLETION PROGRAM</b>	This program installs sidewalks to fill the gaps in the IBC sidewalk system as identified in the City's inventory. The program provides for installation of an 8-foot wide sidewalk behind 8-feet of landscaped parkway (as defined in the Vision Statement).
5.	<b>BRANCH LIBRARY AND PARKING STRUCTURE</b>	This item provides for the construction of a Branch Library in the Civic Center Park and construction of the related parking structure necessary both to serve the library and to replace the parking lost in order to provide the library site.
6.	<b>OPTICOM SYSTEM</b>	This improvement consists of installing the equipment necessary at each signal location and in all applicable vehicles to allow for emergency vehicles to "pre-empt" normal operation of the traffic signals within the IBC area in order to speed emergency response.

**CITY OF IRVINE**  
Irvine Business Center  
Development & Public Benefit Fees

**City Development Fees**

	Current Fee Structure	Proposed Fee Structure	Increase	%
Affordable Housing in Lieu Fees <sup>1</sup>	12,471	17,000	4,529	36.3%
Community Park Fees	6,370	9,555	3,185	50.0%
IBC Fees (transportation infrastructure per 1992 EIR)	6,137	7,254	1,117	18.2%
IRWD	2,500	2,500	-	0.0%
OCFA	1,000	1,000	-	0.0%
School Fees	2,240	2,240	-	0.0%
Corridor Fees	1,748	1,748	-	0.0%
Systems Development Fees	638	638	-	0.0%
<b>Sub-Total</b>	<b>\$ 33,104</b>	<b>\$ 41,935</b>	<b>\$ 8,831</b>	<b>26.7%</b>

<sup>1</sup> Affordable Housing Fee = \$19,581 -temporary reduction for 2 years, then inflation-adjusted based on \$19,581.

**Proposed IBC Public Benefit Fees**

	For Rent - If Affordable Off-Site	For Rent - If Affordable On-Site	For Rent - If Affordable Off-Site	For Rent - If Affordable On-Site
<b>IBC Public Benefit Fees</b>	<b>\$ 13,000</b>	<b>\$ 12,000</b>	<b>\$ 6,500</b>	<b>\$ 5,000</b>
City-Wide fees	41,935	8,831	41,935	41,935
<b>Total Fees</b>	<b>\$ 54,935</b>	<b>\$ 20,831</b>	<b>\$ 48,435</b>	<b>\$ 46,935</b>

Avg. Annual Special Tax *	\$ 1,600	\$ 1,600	\$ 806	\$ 620
Annual Services Special Tax	630	630	630	630

<i>Special Tax Rate (\$550,000 Home)</i>	<i>% of Value</i>
<b>Base rate</b>	<b>1.10%</b>
<b>Facilities</b>	<b>0.30%</b>
<b>Services</b>	<b>0.11%</b>
<b>Total</b>	<b>1.51%</b>

*Not Applicable*

\* Assumes

Bond issue of 30 years @ 7.0%

1,400 sq. ft. home

CITY COUNCIL ORDINANCE NO. 06-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA ADDING CHAPTER 8 TO DIVISION 7 OF TITLE 2 OF THE IRVINE MUNICIPAL CODE DESIGNATING CERTAIN POWERS OF COMMUNITY FACILITIES DISTRICTS FORMED PURSUANT TO THE MELLO-ROOS ACT

WHEREAS, the City of Irvine (the "City") is a municipal corporation and Charter City duly organized and existing under a freeholders' charter pursuant to which the City has the right and power to make and enforce all laws and regulations in respect to municipal affairs and certain other matters in accordance with and as more particularly provided in Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 200 of the Charter of the City (the "Charter"); and

WHEREAS, the City Council of the City acting under and pursuant to the powers reserved to the City under Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 200 of the Charter, finds that the public interest and necessity require the establishment by this Ordinance of provisions in addition to those provided by general law; and

WHEREAS, the City Council of the City acting pursuant to the foregoing powers has previously added Chapter 7 to Division 7 of Title 2 which supplements and modifies procedures provided for proceedings pursuant to the 1915 Act, the Municipal Improvement Act of 1913, the Improvement Act of 1911, and the Refunding Act of 1984;

WHEREAS, the City Council wishes to supplement and add to the provisions of the Mello-Roos Community Facilities Act of 1982, Government Code Section 53311, *et seq.* (the "Mello-Roos Act") to authorize certain steps to be taken in connection with the formation and use of community facilities districts;

WHEREAS, in order to do so, it is necessary to add Section 2-7-801;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IRVINE HEREBY DOES ORDAIN AS FOLLOWS:

Section 1. The Irvine Municipal Code is hereby amended by adding Section 2-7-801 to Chapter 8 of Division 7 of Title 2 to read as follows:

**Section 2-7-801 Certain Powers of Community Facilities District Formed Pursuant to the Mello-Roos Act.**

Notwithstanding any provision of the Mello-Roos Act to the contrary, a community facilities district (the "District") formed by the City pursuant to the Mello-Roos Act shall have the following enumerated powers:

(1) To use special taxes and/or the proceeds of special tax bonds to finance public improvements and facilities which are leased by the District or the City to a non-profit public benefit corporation formed for the purpose of relieving the burdens of government with respect to said public improvements and facilities;

(2) To enter into a joint community facilities agreement with a non-profit public benefit corporation formed for the purpose of relieving the burdens on government with respect to the financing of public improvements and facilities owned and/or controlled by the non-profit public benefit corporation; and

(3) To levy special taxes and to issue special tax bonds to capitalize and fund all or a portion of the expenses of maintaining any and all of the public improvements, irrespective of funding source of those improvements, which are owned and/or controlled by the City or a public benefit corporation formed for the purpose of relieving the burdens on government, without limitation as to type or level, and irrespective as to whether the special tax and special tax bonds were approved in an election of registered voters or landowners.

(4) To levy special taxes and issue special tax bonds to capitalize and fund all or a portion of the costs of any and all municipal services provided in the District by the City or a public benefit corporation formed for the purpose of relieving the burdens on government without limitation as to type or level of said services and irrespective as to whether the special tax and special tax bonds were approved in an election of registered voters or landowners.

(5) To levy special taxes and issue special tax bonds upon leasehold or other possessory interests in public property.

Section 2. This Ordinance shall be deemed to be a complete, additional and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to the powers conferred by other laws. Except as expressly set forth herein, all other matters relating to community facility districts and their financing shall be governed by the Mello-Roos Act, as amended, and as modified herein.

Section 3. The City Clerk shall certify to the passage of this ordinance and shall cause this Ordinance to be posted in at least three (3) public places in the City.

Section 4. This Ordinance shall become effective thirty (30) days after its final passage.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Mayor of the City of Irvine

ATTEST:

\_\_\_\_\_  
City Clerk of the City of Irvine

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF IRVINE )

I, PAMYLA MEANS, CMC, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was duly adopted at a regular meeting of the City Council of the City of Irvine on the \_\_\_\_ day of \_\_\_\_\_, 2006, by the following roll call vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

\_\_\_\_\_  
City Clerk of the City of Irvine

**CROWN ASSOCIATES REALTY, INC.**

Real Property Investments

9777 Wilshire Blvd., Suite Seven Eleven  
Beverly Hills, California 90212

May 15, 2006

Ms. Mary Ann Desmond  
Deft, Inc.  
17451 Von Karman Avenue  
Irvine, CA 92614

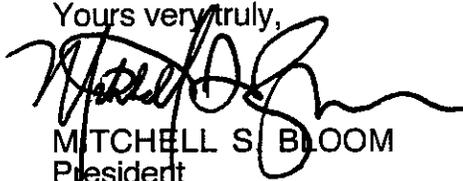
Re: Irvine Business Complex

Dear Ms. Desmond:

We are in receipt of your May 9, 2006 letter and clearly understand that Deft opposes the up-zoning in the IBC, however, please note that most other owners we have spoken with are ready to embrace these changes and believe that these zoning changes will better service the Irvine Business Complex and the City of Irvine.

We are in favor of these changes and agree with the negative EIR.

Yours very truly,



MITCHELL S. BLOOM  
President

MSB/bb

c: City Council, City of Irvine

Planning Commission, City of Irvine ✓

2481 Alton, LLC.  
223 South Beverly Drive, #209  
Beverly Hills, California 90212  
310-276-0413 office  
310-276-0449 fax  
818-448-1616 cell

May 16, 2006

Bill Jacobs, AICP  
Principal Planner  
Community Development Department  
City of Irvine  
One Civic Center Plaza, P.O. Box 19575  
Irvine, CA 92623-9575  
Phone: (949) 724-6521

Email: [bjacobs@ci.irvine.ca.us](mailto:bjacobs@ci.irvine.ca.us)

Re: Redevelopment Standards

Dear Mr. Jacobs:

The Nason Family Trust owner of 2481 Alton, LLC., has owned its industrial warehouse located at 2481 Alton Parkway, Irvine, CA since 1982. The street layout and infrastructure created an excellent commercial/industrial business environment. The IBC community has been a great place to own and to occupy commercial and industrial property.

Although the Trust prefers the characteristics of the IBC as they are today, the Trust recognizes that the current commercial/industrial environment is no longer the highest and best use for the land. The Trust feels that the Vision Plan better meets the needs of the local community and local government.

Below are a few comments and a few questions on the Vision draft and related documents:

1. Protection of Existing Business: One of the Vision Plan objectives was to ensure the continued economic viability of existing business, but Paragraph D of Section 5-8-2 Applicability has been deleted and no new language inserted to protect the basic rights of existing Industrial users.
2. Key Business Buffer Zone. The Trust agrees that a Key Business user needs the 200 foot buffer, if not more, but the size of the buffer should depend on the nature of Key Business operations and its facilities layout

with respect to any potential residential development. There are not very many Key Businesses. We think the buffer zones should be tailored to each Key Business. The Industrial Adjacency Assessment covers this, but is subject to the 200 foot buffer.

For example, our property is located within the 200 foot buffer of a Key Business user. However, there are several inherent buffers that exist, they are as follows:

- A. The Barranca Channel lies in between the two properties. This natural barrier which may remove vibrations; block any chemical spills of impacting adjacent properties; etc.
  - B. Alton Parkway is proposed 60 mph, 4 lane, major artery. A residential use on our site is more likely to be impacted by noise/fumes/vibration from Alton Parkway than from the operations of the Key Business.
  - C. The Key business's north, south and east facing walls are 30-35 feet high concrete tilt-up and have no openings. Our property lies along the east wall. At seven stories the operations may be visible, but that height is unlikely given our site characteristics.
3. Alton Parkway Street Issues.
- A. The street diagram of Alton Parkway shows Medians 14 to 24 feet wide. It just makes sense to us to keep the Medians narrow thereby reducing costs of construction and long-term maintenance.
  - B. It may not be safe to have a bike path along a 60 mph major artery.
4. Pedestrian Trail Along Barranca Channel.  
Our property line runs parallel to and along the Barranca Channel.
- A. There is no detailed layout for a "trail" along the channel. The City is eventually going to explore trail design.
  - B. Walking Streets have widths of 42'. We hope that trails will be substantially narrower.

5. Development Agreement. This Development Agreement is not typical of development agreements. As drafted it will be hard for developers to obtain financing wither for the construction of condos or their sale. Not to mention very few lenders are willing to finance mixed uses. Other issues follow:

- A. Realistically, Section 5.2 does not impose any limit on fees (if not denominated in the prohibited categories).
- B. Section 6.1 (wherein the owner consents in advance to the formation of any special district the City desires and the issuance of bonds or special assessments without limitation on the amount or duration), coupled with (in Section 6.1.1) a requirement that an unsubordinated covenant be recorded against the property before the recording of any financing, will make it virtually impossible to finance the sale or construction of the property. What lender would be willing to subordinate its first deed of trust to an agreement that permits a lien to be assessed against the property (possibly even one that is higher in priority than the lender's deed of trust) in an uncertain amount, especially one involving a mixed use?

Please consult with lenders and developers (not just the big guys with lots of cash) before finalizing the Development Agreement.

6. Long-term Planning, Operations and Sale Decisions.

- A. We have not seen any cost estimates for Pedestrian and Infrastructure improvements, or an explanation of how these costs will be assessed and allocated to developers and/or existing industrial property owners.
- B. Is there an estimated timeline for the Vision Plan to be approved and implemented?
- C. Will there always be a 12 to 16 month entitlement period?

Thank you for reviewing our comments and all of the hard work all of you have put into the IBCRMU Overlay project.

There is no reason to respond to any questions at this time. We just wanted to note various questions we have.

Sincerely.

2481 Alton, LLC

Jeffrey A. Nason, Manager



# AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

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

May 17, 2006

Bill Jacobs, Principal Planner  
City of Irvine  
Department of Community Development  
P.O. Box 19575  
Irvine, CA 92623-5975

Subject: Draft IBC Vision Statement and Draft IBC Mixed Use Residential Overlay Zoning Code

Dear Mr. Jacobs:

Thank you for the opportunity to review the Draft IBC Vision Statement and Draft IBC Mixed Use Residential Overlay Zoning Code in the context of the Commission's *Airport Environs Land Use Plan for John Wayne Airport (JWA AELUP)*. We wish to offer the following comments and respectfully request consideration of these comments as you proceed with finalizing your documents.

The Irvine Business Complex Residential and Mixed-Use (IBCRMU) Overlay District is located within JWA noise impact zones. To demonstrate the possibility of noise impacts to future developments within the IBC, we suggest that the IBCRMU Overlay District Zoning Code include an exhibit showing the 60 and 65 dB CNEL noise contours in relation to the Overlay District.

Thank you for the opportunity to comment on these draft documents. Please contact Lea Umnas at (949) 252-5123 or via email at [lumnas@ocair.com](mailto:lumnas@ocair.com) if you need any additional details or information regarding the future referral of your project.

Sincerely,

Kari A. Rigoni  
Executive Officer

cc: Alan Murphy  
Larry Serafini  
John Leyerle

## **The Salter Group**

---

23 Sandstone ~ Irvine, CA 92604-3612 ~ USA  
Phone (949) 551-9543 ~ Fax (949) 551-9543 ~ E-mail: Rsalter23@aol.com

**To:** Mike Haack, City of Irvine

**From:** Rich Salter, Consultant for IBC Manufacturers Group  
Mike Derderian, Royalty Carpet Mills  
Mary Ann and Tony Desmond, Deft  
Dave Marzullo, Parker Hannifin

**Date:** May 18, 2006

**Subject:** Draft ordinance for residential in IBC (dated 5-8-2006)

Thank you for an opportunity to comment on the latest draft IBC ordinance dated May 8, 2006 (posted on the city's IBC website at [http://www.cityofirvine.org/depts/cd/planningactivities/ibc\\_graphics.asp](http://www.cityofirvine.org/depts/cd/planningactivities/ibc_graphics.asp)). Our comments are presented sequentially below by reference to the page numbers in the clean copy of the ordinance.

Before getting into the details of the ordinance itself, we want to address a few issues that we believe are paramount in this ongoing process of developing an acceptable ordinance: redlines, EIR, and buffers.

### **Redlines**

We need redlines so that the members of the public can track the changes from one revision to the next.

The revised Ordinance (May 8, 2006) was posted to the website without redlines to the prior (January 17, 2006) version that we reviewed. Upon calls for redlines the staff posted redlines comparing the May version to an April version which we had not seen, and said that redlines to prior versions were not available.

Upon asking for more time to review the new Ordinance without redlines (we need more than ten days to coordinate all the manufacturers' comments, given their various travel schedules and prior business commitments), that was denied. Therefore, I have been forced by time constraints to make only a brief comparison to the February draft, but have not had time to compare back to the January version.

Case in point: I happened by luck to catch the insertion of three words in the Industrial Adjacency Study section that had the effect of changing the whole intent. Who knows how many other small changes there are that I have not caught that have big effects on

the project? Sometimes the change of a single word can have a big effect. The lack of redlines accompanied by such a short time period for comments raises the suspicion level that staff is trying to hide something, and I know that you do not want that to be the case. Therefore, please make it a policy to include redlines with each subsequent draft.

Also, the Vision Plan has also been revised, but we have not had time to compare the new Vision document to prior versions. We have been told that only a few architectural aspects of the residential buildings have been changed (i.e., no changes that are substantive to us, although the entire Vision is certainly at the root of our concern).

How can the City Council expect the public to keep informed of changes to the proposed regulations and give the City feedback without providing a way to know what the changes are? How can the Council itself review the zoning and Vision Plan without redlines or detailed staff reports identifying every change? Do you think these requests are unreasonable? Please keep the public - and the Council - properly informed.

In addition, please arrange for a redline comparing the current draft to the January 2006 version so everyone knows what changes have been made since the negative declaration was circulated, and so the public and the Council can evaluate if those changes alter conclusions about environmental impacts. Then give everyone enough time to properly review and comment on the material.

### EIR

None of the revisions that we found has eliminated or reduced the need for a full EIR for this project. If anything, the changes in the latest revision raise additional concerns to those previously submitted in the letters from Mr. Willis, Mr. Shaffer, and others in response to the Neg Dec., and we hereby incorporate by reference all the comments submitted by everyone else regarding the need for an EIR and defects in the zoning.

### Buffers

You will recall that at the start of this rezoning effort, we held the opinion that residential did not belong in the business complex at all (because it was incompatible and unsafe for residents and would drive out manufacturing). However, in the spirit of compromise, we revised our position to one of encouraging Mixed Use at several "cores" in IBC rather than allowing residential to pop up in isolated islands throughout the entire 2700 acres. And we requested a 1000 foot buffer from our property line with the proviso that any and all uses other than residential would be allowed in the buffer - including high-rise office, retail, commercial, etc.

Then subsequent to that we compromised down to 800 feet for the buffer. Also, the Planning Commission previously gave direction to "... address issues of conflict - with a special emphasis on any residential project proposed within 500 feet of an existing industrial and/or manufacturing site." Though the Commission mentioned 500 feet and we requested 800 feet, staff suggested the 200 foot number.

The point we want to make is that we have stayed engaged in the process and have made concessions and been reasonable all along the way. We have compromised down from our position of no more residential in IBC to residential in cores that are greater than some buffer distance from industrial sites. Recently we have obtained new evidence that 1000 foot buffers are justified (see the Land Use Compatibility White Paper from Global Environmental Consulting Company and the letter from Patti Krebs of the Industrial Environmental Association). Thus, we respectfully request that you recognize that we have been reasonable and compromising and that you revise the ordinance to provide 1000-foot buffers around the incompatible manufacturing sites shown as Key Businesses on the Land Use map (realizing of course that any use other than residential could be developed in the buffer).

### **Page-by-page comments**

**Page 3, Outline:** Three sections seem to have been deleted: Building Type Standards, Frontage Standards, and Design Standards. Where have these gone and why?

**Pages 3-4, Section 5-8-1, Purpose:** We very much appreciate the statements like “Protect existing businesses” and “Protect existing job base” and “shall be compatible with existing uses” and look forward to continuing to work with staff to make that a reality via the Ordinance.

**Page 4, Section 5-8-2, Applicability:** The old paragraph D that was titled “Effect on Existing Development and Land Uses” seems to have been deleted – why? Was it deemed to be redundant with the first paragraph that says this overlay ordinance applies to “all proposed residential development/redevelopment, subdivisions, and new residential land uses within IBC” and not to existing uses?

It is our understanding that this overlay ordinance will apply only to those properties which propose to “flip” their use to residential (i.e., any new project that does not contain residential as well as all existing uses will continue to be governed by the existing zoning). Please confirm that this is the case.

Also, please clarify that the offsite infrastructure improvements totaling \$58 million will be funded by the new residential projects covered by this new ordinance and not the existing businesses in IBC which will continue to operate under the existing ordinance. Of course we will continue to comply with all fees currently in place, but we are opposed to being included in any fees that are residential driven.

**Page 6, Section 5-8-3, Regulating Plan and Districts:** We sincerely appreciate City staff’s efforts to include in this Ordinance stipulation to protect existing businesses and for designating the businesses in our Group as Key Businesses on the Regulating Map. Note that Allergan’s property should have its background color removed so that is properly designated as a key business on the map. Also, the legend needs to be corrected to “Business Complex” from “Mature Industrial.”

Page 7, Section 5-8-4, A, Minimum Site Area Requirement: In the February version there was a major change in this section – to allowing residential with no minimum lot size for property within 660 feet of existing residential or mixed-use/retail (it was previously 5.5 acres minimum lot size to flip to residential). Now in this version there is another big change in the direction of encouraging more residential: the minimum site size for residential in the Urban Neighborhood district has been downsized to 120,000 SF (about 3 acres) from 240,000 SF (about 6 acres). Now, how can any effective mixed-use and trip-capture be achieved in a 3-acre site surrounded by existing businesses with no requirement for nearby services? Who is requesting and benefiting from these changes?

Page 7, Section 5-8-4-C, Industrial Buffers: We very much appreciate City staff's agreeing to specify a buffer of compatible non-residential development around the Key Businesses. However, we respectfully request that this buffer be increased to a more effective distance of 1000 feet. Here is some background to put this request into perspective:

We have been involved in all the workshops leading up the Planning Commission meetings in January - March 2005, worked with City staff and testified at those PC meetings, and participated in the charrette process. Our letter to staff on February 8, 2005 that was included in the PC packet for the meeting on February 17 clearly states our position that the emphasis should be shifted to mixed use (not isolated residential), provide 1000 foot buffers for major manufacturers, and a minimum lot size to flip to residential. Working with staff after that meeting, City staff and our Group agreed to reduced buffer areas as shown in the staff report for the PC meeting on March 17. The PC understood our concerns and recommended "Goal #1" to "Protect the Existing Job Base within the IBC." The PC further recommended to "Create Residential Development Standards for the IBC that address issues of conflict – with a special emphasis on any residential project proposed within 500 feet of an existing industrial and/or manufacturing site." We reiterated our position and our support for the proposed IBC work program in our April 12 letter to the City Council prior to their meeting that secured the go-ahead for the work program with the charrette, et al. We continued to voice our concerns about incompatibility of residential next to the manufacturers on the Key Businesses map during the charrette process during the week of July 5.

We then continued to work with staff and attended the stakeholders meetings and commented on the previous draft of this ordinance (October 5, 2005), and we appreciate the progress made by the staff and the leadership provided by Commissioners Cosgrove and Probolski throughout the stakeholders meetings in December and January. We continued to be engaged in the process and further commented on the January 17, 2006 version of the Ordinance.

Now, we have come a long way and compromised down from our position of no more residential in IBC to residential in cores that are greater than some buffer distance from industrial sites. Recently we have obtained new evidence that 1000 foot buffers are justified (see Global Environmental Consulting Company's Land Use Compatibility

White Paper and the letter from Patti Krebs of the Industrial Environmental Association). Thus, we respectfully request that you recognize that we have been reasonable and compromising and that you revise the ordinance to provide 1000-foot buffers around incompatible manufacturing (realizing of course that any use other than residential could be developed in the buffer).

Page 8, Section 5-8-5, paragraph A.2, Restriction on Activities: Though we have been assured that this overlay ordinance applies only to those new projects converting to residential mixed use (and therefore the provisions of this section do not apply to existing businesses), it is still hard to believe that new residents adjacent to our manufacturing facilities will not complain about our 24-7 manufacturing operations, especially when the commercial uses in their new mixed use project will have limits on late night activities, while our trucks next door may be loading/unloading all night and weekend long. This is a reason for our request to increase the buffer distance to 1000 feet – these incompatibility problems pointed out by the differences in the underlying and overlaying zoning requirements can be mitigated by providing more distance between the uses.

Also, we note that the section limiting Vibration and Odors has been removed and we wonder why?

Page 8, Section 5-8-5, paragraph 3, Lighting: Ditto our above concern about the different zoning provisions for two adjacent properties. Existing manufacturers may have outdoor lighting that will adversely impact surrounding residential uses, but the new commercial uses in the mixed use project are prohibited by the overlay zoning from having the bright lighting. Thus, residents will demand to know why the manufacturers next door are allowed to have the lights and will cite as examples the commercial uses in their mixed use project that do not have the offensive outdoor lighting. Again, we feel that this problem can be effectively minimized by increasing the buffer distance to 1000 feet.

Page 9, C-Airport Restriction, 6-Signage: We do not believe that signage for aircraft overflights will mitigate the problems of noise or risk of crash, especially considering that John Wayne Airport's flight pattern for private and business (not commercial) aircraft is only 800 feet above Jamboree Road (right above many of the proposed residential buildings), and even lower when they turn crosswind and onto final approach. Aircraft flying low over residential areas obviously present noise, pollution, and crash safety problems for residents, and it may severely restrict the types of outdoor activities that can be enjoyed, causing residents to move their recreational activities to parks in other parts of town and overload them.

Similarly, it is not a mitigation to have residents sign waivers indicating that they have been informed that manufacturing uses are nearby with their noisy 24-7 operations, heavy truck traffic, odors, lighting, and hazardous materials. Simply informing residents of a hazard or nuisance does not fix the problem – it may in fact make residents more attuned to the problem. The 1000 foot buffer from Key Businesses is the best way to mitigate the impact of these incompatibilities.

Page 10, Section 5-8-6, Industrial Adjacency Assessment, B-Submission Requirements:  
There has been a major change due to the addition of the small phrase “or concurrent with.” Previously, the industrial adjacency study was to have been concluded before any applications were filed; now however, the application for residential entitlement can be filed concurrently with the study. This guts the original intent of this section which has always been to insure that residential was compatible BEFORE the project was filed. Please go back to the original intent of this provision which was to assess what the adjacent uses and industrial operations were BEFORE the project was filed.

Page 10, Section 5-8-6, Industrial Adjacency Assessment, B-1 Submittal Requirements:  
There is now less specificity required in the Project Description and Plans section – for example, “unit counts or types” and “square footage of non-residential uses” and the Pedestrian Access Diagram have been deleted. Please add them back in so that everyone will know the number of residential units being contemplated.

Page 10, Section 5-8-6, Industrial Adjacency Assessment, B-1-b Site Context Materials and B-1-c Analytical reports:  
These sections specify a distance of 500 feet for assessing the industrial compatibilities, but this should be increased to 1000 feet. This would also make this section consistent with the subsequent sections re Contamination Assessment and Hazardous Waste Generators where 1000 feet is already specified.

While we appreciate the inclusion of this pre-application compatibility analysis requirement, we believe it is advisable to include more specificity for the methods and acceptable limits to be applied. For example,

- 1) What is the methodology for each of the compatibility analysis? That is, what will be measured, how will it be measured, at what time of day, with which instruments, etc.? If these are not spelled out in the ordinance then there will continue to be controversy with each project.
- 2) What are the acceptable limits of each of the incompatible effects? That is, how much noise, hazmat, odors, light & glare is acceptable – conversely, how much must there be before the use is deemed incompatible? If the limits are not spelled out in the ordinance, each project will continue to be contentious, as differing opinions are offered by the various developers for each project.
- 3) How will the residential developer know which hazmat, noise, trucks, etc., the adjacent business have to be analyzed? That is, will he contact the business operator to obtain the data?
- 4) How will the residential developer know how to project future levels of noise, odors, hazmat, light & glare, etc. from the manufacturers? That is, will he consult with the business operator as to their future plans?

Page 11, 2-Industrial Adjacency Assessment Meeting: Please increase the notification mailing to owners within 1000 feet, and change the other “within 500 feet” references to “within 1000 feet” throughout this section. It makes sense to notify and include in the

meeting those owners within 1000 feet since they will be most affected by the residential project and it will be consistent with the 1000 foot buffer.

Page 13, Section 5-8-8, Urban Neighborhood (UN) Standards, A-Maximum Building Height: The UN max building height is listed as 7 stories (up from 5 stories in the January version). We feel that this is much too high, creating a visual/aesthetic impact and the extra height makes it even more difficult to screen the view into adjacent properties. What is the rationale for increasing the height limit by 40%? Don't you really want to encourage these higher buildings in the TC rather the UN district? Please return the height limit to 5 stories.

Page 16, Table 5-1 Allowable land uses and permit requirements. We had requested that schools be changed from Permitted to Conditionally Permitted (i.e., so that they would get a public hearing for their CUP). Staff changed School (commercial) and School (private) to CUP but left School (public) as P. Why are Public Schools not conditionally permitted too?

Why are Restaurants (fast food) and Parking facilities (private) prohibited in MU and UN?

Page 29, Section 5-8-16, Parking: Language in this section of the new Ordinance allows the number of parking spaces required for residential uses to be decreased based on a parking demand study by the residential developer. In addition the language encourages shared parking and allows 80% of retail parking to be shared with the residential visitor parking. This will undoubtedly result in less parking, and may result in overflow onto city streets causing an unsafe condition for all, and especially for the industrial user's trucks. It could also result in residents or their visitors trying to park in the parking lots of nearby businesses, which was the case for St. John Knits across from Charter Apartments (and they have had to chain off their parking lot to save the space for their employees arriving in the morning). Please rework this parking section to give us more assurance that less parking is not going to present problems.

We look forward to continuing to work with you to refine the draft ordinance to make it a tool that will guide the future IBC development while avoiding the conflicts of incompatible land uses.

Respectfully submitted,

Rich Salter  
IBC Manufacturers Group

**Bill Jacobs**

---

**From:** Wendy.Peterson [WPeterson@kmob.com]  
**Sent:** Thursday, May 18, 2006 4:15 PM  
**To:** Bill Jacobs; Michael Haack  
**Cc:** 'RSalter23@aol.com'  
**Subject:** Comments on the May 8 version of the IBC Residential Mixed-Use Overlay District

Bill and Mike,

I understand that comments are due today on the May 8 draft of the IBC Residential Mixed-Use Overlay District. We note that there still are no minimum site area requirements for Multiple Use districts. Accordingly, we reiterate the comments expressed in James Bear's letter to Bill Jacobs dated January 31, 2006.

Thank you for considering our comments.

Best regards,

Wendy Peterson

Wendy K. Peterson  
General Counsel  
**Knobbe Martens Olson & Bear LLP**  
Managing Member of 2040 Main, LLC  
2040 Main Street, 14th Floor  
Irvine, CA 92614-3641  
949-721-2911  
949-760-9502 Fax  
Email: [wpeterson@kmob.com](mailto:wpeterson@kmob.com)  
Website: [www.kmob.com](http://www.kmob.com)

"<KMOB.COM>" made the following annotations.

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=====

Nancy L. Davis  
Vice President  
Area General Counsel  
West Area



Verizon Wireless  
Legal Department  
15505 Sand Canyon  
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Phone 949 286-7007  
Fax 949 286-7010  
nancy.davis@VerizonWireless.com

May 18, 2006

**VIA E-MAIL, FAX & U.S. MAIL**

City of Irvine  
Community Development Department  
1 Civic Center Plaza, P.O. Box 19575  
Irvine, CA 92623-9575  
Attn: Mr. Bill Jacobs, Principal Planner

**Re: Irvine Business Complex Residential Mixed Use Overlay District**

Dear Mr. Jacobs:

In accordance with the City of Irvine's invitation to review and comment, Verizon Wireless has reviewed the May 8, 2006 administrative draft and vision statement for the proposed Irvine Business Complex Residential Mixed Use Overlay District ("Overlay District"). This is to inform you that Verizon Wireless has a number of concerns with regard to the Overlay District documents as set forth below.

In reviewing our comments, please be aware Verizon Wireless (and its predecessors) has been a tenant in the Irvine Business Complex ("IBC") since approximately 1990. Verizon Wireless is the single tenant occupant of an approximately 42,000 square foot facility located on Main Street in the IBC. Verizon Wireless has made substantial investments in this property over the years based upon its business needs and its intention to stay in the facility for quite some time. Verizon Wireless uses this facility as a mission critical data center and the facility is classified as an office use. It is important to note that the computer equipment in the building supports vital Verizon Wireless functions, operates 24 hours per day and is supported by generators, uninterruptible power supply equipment, powerful HVAC equipment and other equipment required for this type of use. Based on these requirements, when selecting the location of the facility, Verizon Wireless' predecessor located the facility in an area that was compatible with industrial as well as commercial uses. This is not a use that one would seek to put in a retail or residential area because of the continuous operation of the facility, generators and other features.

1. In Implementing the Overlay District, the City Must Protect Existing Commercial and Industrial Uses. Verizon Wireless requests that it be made absolutely clear that existing commercial and industrial uses are protected and will continue to be legal conforming uses and will remain unaffected by the provisions of the Overlay District. We are concerned that paragraph 5-8-2D has been deleted from the most current draft of the proposed zoning code revisions (the "Proposed Zone Change"). We request the reinsertion of this paragraph which reads as follows:

"Land uses that were lawfully established and existed within the IBC as of the effective date of this Overlay may continue to operate pursuant to the applicable

provisions of the zoning code and are not subject to the requirements of this Overlay District.”

Verizon Wireless also hereby requests that the additional language deleted from Section 5-8-2E of the most recent draft of the Proposed Zone Change be reinserted to read as follows:

“The requirements of this Overlay Zone shall not apply to parcels that have been or [are] proposed to be developed entirely pursuant to the underlying zone provided that all requirements of the underlying zone are met by the project except as specifically approved by Administrative Relief, variance or official action by the City.”

The purpose of these requests is to ensure that commercial and industrial uses can continue to be operated and developed in conformance with the underlying zone and that the requirements of the Overlay District shall be interpreted to apply only to the new residential and mixed residential and office uses. Verizon Wireless currently has plans to expand its facility which expansion is necessary in order to support Verizon Wireless' business operations and to fully utilize the leased premises. Verizon Wireless needs assurance that such expansion and any future expansions which would be permitted under the underlying zoning will still be permitted under the Proposed Zone Change.

2. Verizon Wireless Should Be Recognized as a Key Business. Verizon Wireless hereby requests that its facility located at 2640 Main Street, Irvine, California be designated as a Key Business under the Proposed Zone Change. This designation is appropriate because Verizon Wireless' operations require a buffer from residential uses. The 24-hour per day/ 7 day per week operation, intensive HVAC usage and generator and uninterruptible power supply functions may not be compatible with nearby residential uses and therefore a buffer is required in order to ensure compatibility between existing and proposed uses within the IBC as contemplated by the goals of the Overlay District. After making such a substantial investment in the IBC in good faith reliance on the existing zoning, it is not appropriate for Verizon Wireless to face complaints on its legal use from new residents. While residential uses may be appropriate in some portions of the IBC, it is not appropriate in the immediate vicinity of Verizon Wireless' long established commercial use.

3. Modify Language Relating to Block Standards to Confirm that All New Streets Will Be Created Through Voluntary Private Development, Not Condemnation. The Proposed Zone Change and other IBC documents should be clarified to ensure and confirm that block sizes will not be reduced and new streets will not be added pursuant to the process of eminent domain or condemnation. Rather, private developers will be required to dedicate streets within the property they control in order to comply with these standards. As with our request in Section 1 above, the purpose of this clarification is to ensure that existing uses will not be impacted by the new standards of the Mixed Use Overlay District and will not be forced to relocate as a result of eminent domain or condemnation.

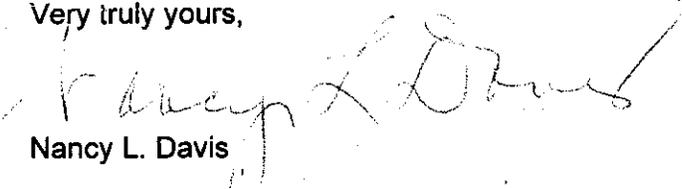
4. Conclusion. It is important to note that the industrial and commercial uses within the Irvine Business Complex have come to the area based upon the existing zoning. Verizon Wireless has made significant investment in the IBC based on the reasonable expectation that

City of Irvine, Community Development Department  
Attn: Mr. Bill Jacobs, Principal Planner  
May 18, 2006  
Page 3

its long standing use would continue to be welcome in the IBC and that an established commercial and industrial zone would not become residential overnight. While, of course, cities retain the right to shift their zoning over time to address changes in the usage of land, such shifts should be gradual and should recognize the rights of existing uses to continue and fully amortize investments in property improvements.

Thank you for your consideration. Please note that Verizon Wireless reserves the right to make further comments throughout this process. Please contact Joan A. Wolff of McGuire Woods at [jwolff@mcguirewoods.com](mailto:jwolff@mcguirewoods.com) or (310) 315-8275 if you have any questions.

Very truly yours,



Nancy L. Davis

cc: Joan A. Wolff

**Richard P. Hausman**

2500 Michelson Drive, Suite 200

Irvine, California 92612-1568

(949) 476-8804

Fax (949) 476-8047

Mr. William Jacobs  
Principal Planner  
City of Irvine Planning Commission and Community Services Commission  
1 Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575

RE: Comments on Irvine Business Complex Residential Mixed-Use Overlay Zone

Dear Mr. Jacobs:

Pursuant to your request we are submitting the following comments on the Draft IBCF MU Overlay District regulations dated May 8, 2006.

1. These regulations identify certain properties as Key Properties and apply special restrictions upon development adjacent to these properties. What is the justification for creating special regulations for these properties? As far as we can tell, each Key Property has different characteristics and could be affected by or affect adjacent development in different ways. Why wouldn't the City use the procedures in Section 5-8-6, which require a site by site Industrial Adjacency Assessment, to evaluate the compatibility of adjacent projects on these sites as with all other sites within the Overlay District? This special status for a few sites does not seem to be justified and appears to be a form of spot zoning and special privilege which may unfairly constrain development on sites adjacent to the Key Properties. A good example is the categorical 200 foot buffer from the Key Property property line. Why would the City ignore the development characteristics of the Key Property in establishing buffers? For example, if a parking structure is located on the Key Property adjacent to the property line bordering the proposed residential use, what purpose would be served in requiring a 200 foot buffer on the adjacent site? This appears to an unwarranted special privilege afforded the Key Property enabling the owner of the Key Property to freely expand uses on the Key Property, in effect forcing the adjacent property to bear the burden of maintaining the entire buffer within its property.

2. In a similar vein, there seems to be no requirement that non-residential development follow the procedures in Section 5-8-6 when proposing new development or expansion of their facilities which are adjacent to residential development. In order to maintain compatibility among these uses it seems that this procedure should apply to new non-residential development as well. There is no justification for treating new non-residential development differently in a mixed-use setting.

Mr. William Jacobs

May 18, 2006

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3. Why is a seven story height limit proposed for the Urban Neighborhood District? Why wouldn't the FAA height limits be applied as it would for all other development within these areas?

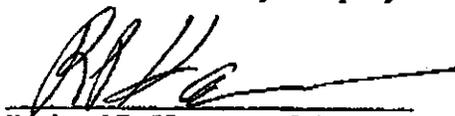
4. Section 5-8-18 "requires" a development agreement for all new residential development. The concept of mandating a development agreement is contrary to the intent of the State law which authorizes the use of this device. The development agreement was intended as voluntary, arms length negotiated agreement to provide for certainty in the entitlement process. By mandating that a development agreement be entered into the City seems to be heading down the path of unlawful contract zoning. If the City wishes to impose exactions for infrastructure funding, the City has other mechanisms to achieve this that are subject to constitutionally required protections. If the cost of each change of zone is to be a negotiated amount, the risk is that like projects could be treated very differently depending on the political mood at the moment or the influence of adjacent property owners. This is manifestly unfair. The City should adopt a uniform set of criteria and lawful exactions to address these needs.

Thank you for the opportunity to comment on this draft of the Overlay District. We look forward to participating in the public process now underway for the consideration of these regulations.

2500 MICHELSON L.P., a  
California limited partnership

By: Hausman Management, LLC,  
a California limited liability company

By:

  
Richard P. Hausman, Manager



May 18, 2006

**VIA FACSIMILE (949) 724-6440  
AND U.S. MAIL**

Mr. Bill Jacobs, Principal Planner  
Community Development Department  
City of Irvine  
One Civic Center Plaza  
P.O. Box 19575  
Irvine, CA 92623-9575

re: Revised Draft - IBC Residential Mixed Use Overlay Zone and Vision Plan  
00409688-PZC

Dear Mr. Jacobs:

Thank you for the prior assistance provided in regard to reviewing the above described matter. The Tustin Unified School District ("District") previously submitted comments to the City of Irvine ("City") with respect to the proposed Irvine Business Complex ("IBC") Residential Mixed Use Overlay Zone and newly revised Vision Plan ("Project"). Since the submission of those prior comments, it is our understanding that the City postponed the then-scheduled March hearings relative to the Project before the Planning Commission and the City Council. We further understand that the City Council is now scheduled to review a revised draft of the Vision Plan on June 13, 2006, for purposes of providing direction to City staff as how to proceed with the further consideration and potential implementation of the Project.

In connection with that reconsideration, we hereby reiterate, and by this reference herein incorporate, our prior comments concerning the Project, for your continued consideration relative to your evaluation of the Project. As before, we urge you to contact us to further discuss the provision of adequate school and recreational facilities for the Project and related areas, so that we may best address the related environmental impacts from the Project and ensure that we both continue to best serve our mutual constituency. It likewise remains our desire to work directly with the City on issues relative to the Project, so that we may develop a uniform process by which we may assess the impacts from multiple projects proposed under the IBC Overlay, just as the City is attempting to do.

Based upon our preliminary review of the revised Vision Plan, it appears that certain revisions have been made to address some, but not all, of our prior concerns. Most importantly, it would appear that provisions have not yet been made to address our concerns relative to necessary school and park facilities to meet the needs resulting from approval and development

Mr. Bill Jacobs, Principal Planner  
Community Development Department  
City of Irvine  
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of the Project, and the students generated from the same. If you disagree with that assessment, the District would be happy to discuss such matters at your convenience. Otherwise, it remains the Districts' position that certain impacts of the Project must be considered before the City may render any approvals or determinations relative to the Project.

1. *Sufficiency of Student Capacity to Service Project*

The Project will have a potentially significant adverse impact on District school facilities and services, as the District does not currently have capacity to serve students generated by development of the Project. Contrary to indications contained with the prior Negative Declaration ("ND") prepared by the City in connection with the Project, the District is not aware of any expressed conclusions by the Board, District staff, or any other authorized representative of the District suggesting that the District has sufficient capacity to serve students generated by development of the Project.

To the contrary, as previously noted, the District does not have site capacity to accommodate student growth coming from development within the "Project Area." The District already houses existing students in interim portable buildings, as sufficient permanent school facilities are not available. Based upon the District's current project student generation rate of 0.296 students per unit for attached multi-family dwellings, the District would project approximately 433 students coming from the proposed development of 1,463 units alone. That number would, of course, increase proportionately for any units approved within the Project Area and the District's boundaries over and above 1,463 units. The District does not currently have the capacity in the Project Area, or any other area of the District, to service an additional 433 students. The District has been the fastest growing school district in Orange County over the past several years, and does not anticipate a change in such enrollment patterns. Consequently, the Project will have a potentially adverse impact on already crowded District school sites and school facilities that must be considered and addressed before any approvals are made with respect to the Project.

Also as previously noted, the Subsequent EIR ("SEIR") prepared for the Avalon Jamboree Village Residential Project, a single project existing within a portion of the Project Area and also within the District's boundaries, found that impacts from that single project alone would present a substantial change in the impact on public school services, such that revisions were required to the underlying EIR. If a single residential development within the Project Area will have a significant impact on public school services, it does not follow that the potential residential development of a vastly larger portion of the Project Area will have no significant impact on public school services. Accordingly, we reaffirm our request that the City require that an EIR, SEIR, or Master EIR, as may be most appropriate, be prepared in connection with the Project before making any decisions as to the same.

Mr. Bill Jacobs, Principal Planner  
Community Development Department  
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## 2. *Traffic Impacts*

The Vision Plan continues to highlight the creation of new streets, designed to reduce the size of the blocks for pedestrians, thus creating walkable neighborhoods with smaller block sizes. At minimum, we would expect environmental review of the Project, as proposed, to include an analysis of the potential of greater traffic and congestion, caused not only by more vehicles and traffic lights, but also by more pedestrians, at related intersections. Furthermore, in whatever environmental document is ultimately prepared, the City should include such proposed improvements in the Project description, so as to fully comply with the requirements California Environmental Quality Act ("CEQA") in connection with such improvements.

## 3. *Parks and Recreational Space*

The District previously expressed concern over the lack of park and recreation space within the Project Area. The Vision Plan discusses the lack of public neighborhood parks or recreational facilities within the IBC. Consequently, we maintain that any future consideration of the Vision Plan must address how the Project will be tailored to provide adequate public park services, potentially in conjunction with the provision of adequate school facilities. Similarly, any environmental analysis should include an examination of the potential impacts of the proposed pedestrian linkages that will link the Project Area to the San Diego Creek, San Joaquin Freshwater Reserve, and ultimately the Great Park.

## 4. *Cumulative Impact Analysis*

Based on the above comments, it remains the District's position that the City should prepare an EIR, or, perhaps, more appropriately, a Master EIR, to analyze the potential cumulative impacts of the proposed Project. Such a process is the best method to ensure that the cumulative impacts, as well as the potential growth inducing impacts, caused by the redevelopment of the IBC Project Area may be fully analyzed before the City undertakes a review of each subsequent project occurring in accordance with the Project. (CEQA Guidelines § 15175.) The failure to conduct such analysis now, when cumulative impacts would most appropriately be evaluated, and, as appropriate, addressed, may violate the mandates of CEQA. Any attempt to limit review to a project-by-project basis may be interpreted as an inappropriate division of the project in an attempt to avoid CEQA. (CEQA Guidelines § 15165; *Whitman v. Board of Supervisors* (1979) 88 Cal. App. 3d 397.) The approval of the Project, as proposed and envisioned, will undoubtedly lead to additional mixed-use projects involving residential development, which in turn will cumulatively have a significant impact upon the environment, based on the elements discussed in this letter, including a significant impact on the District's school facilities.

Mr. Bill Jacobs, Principal Planner  
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Therefore, we urge the City, in connection with its consideration of potential future steps with respect to the Project, to direct that an EIR, or Master EIR, should be prepared in connection with the Project. Such a review at this time will better enable both the City and the District to uniformly address concerns derived from individual projects within the IBC Overlay on a global basis, rather than attempting to deal with impacts on an individual basis. Such a step will better ensure that all of the potential environmental impacts resulting from the Project, including, but by no means limited to, those impacts relating to the District's school facilities, may be wholly considered and addressed before further development occurs in accordance the Project.

Sincerely,



Peter Gorman  
Superintendent

cc: Alex Bowie; Bowie, Arneson, Wiles & Giannone



May 18, 2006

Mr. Michael Haack, Manager of Development Services  
Community Development Services  
One Civic Center Plaza  
P. O. Box 19575  
Irvine, CA 92623-9575

**Re: IBC Vision Plan**

Dear Mr. Haack:

The Industrial Environmental Association ("IEA") is an organization of manufacturing, technology and scientific research and development companies, including several Orange county members, working with businesses throughout the state on their permitting, regulatory, operational and facility-related issues. We are active participants with local, state, and federal regulatory agencies in evaluating industrial activities along with calculating associated risk assessments and potential impacts on public health and safety.

We are submitting these comments on the IBC ordinance, dated May 8, 2006, registering our concerns with this ordinance and areas that need further study:

**Inadequate Buffers:** Our major objection to the ordinance, as proposed, is the lack of adequate buffers to separate industrial activities from sensitive receptors, which include children, seniors, and the infirm. We respectfully ask that you consider a **mandatory minimum buffer of 1,000 feet.**

During the past few years, the State of California has conducted extensive research involving technical and scientific experts, along with broad-based community outreach meetings to develop planning guidelines which recommend transition and separation between residential and industrial uses. The State Office of Planning and Research has issued planning guidelines to local land use jurisdictions recognizing that there will always be certain types of industrial activities and residential, school or other sensitive receptor uses that will be incompatible. In addition, the California Air Resources Board (ARB) published specific guidelines that recommend the avoidance of residential uses within 1,000 feet of industries using chromium.



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Work continues on a statewide basis to further adopt additional statutes and regulations, in addition to those already in place, that require separations and specific distance requirements. An example of this is that the ARB adopted a mandatory 500 foot buffer zone between residential and thermal spray operations. Furthermore, the ARB adopted a new Air Toxics Control Measure under the AB 2588 Air Toxics Hot Spots Program to bring stationary diesel emergency generators (numerous generators are commonly found throughout industrial facilities) into a program that requires an evaluation of the generator's impact on residents, public notification and possible mitigation or control measures (such as the ability to operate a limited number of hours.)

Legislation was introduced this session, AB 2824 (Ruskin), that proposes a state law defining a "high risk facility" as "any stationary source with a potential to generate, emit or discharge any emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the state board or by an air pollution control officer."

The trend is clear: more definition of incompatibilities, more restrictions on industrial operations and a higher degree of regulation of those incompatibilities occur. That is why it is imperative, in order to preserve an industrial base in an urban setting, such as in the City of Irvine, that land use authorities recognize this trend and address the existence and potential for incompatibilities by adopting adequate buffer zones.

**Integration of Land Uses:** While smart growth approaches recommend integration of land uses and flexibility in land use designations and zoning as useful tools, this mixing of uses should be strictly limited to office, commercial and retail as compatible with residential. Integration of land uses is contraindicated when incompatible industrial and residential uses may occur. Smart growth and flexibility in land uses cannot replace the basic tenet of zoning to separate incompatible land uses.

**Alteration of Neighborhood Character:** Historically, in urban areas throughout the country, whenever residential uses have encroached into industrial areas or gentrification has occurred, industry is pushed out. The incremental flight of industry occurs permit-by-permit, piece-of-equipment by piece-of-equipment and operation-by-operation, until ultimately facilities pick up stakes and move to locales more conducive to allowing the protection that businesses need to quickly modify their activities and operations in an industrial zone to meet changing production demands.

**Upset of Jobs/Housing Balance:** This vision plan – if implemented without adequate protection and buffers to the industrial activities – will jumpstart an industry exodus from the City of Irvine and permanently alter the jobs/housing balance so important to the economic prosperity of the city.

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It is generally estimated that after 12 years residential development projects no longer pay for themselves but instead become a drain on the municipal system. To the contrary, industrial uses continuously provide a steady stream of property tax revenue to the municipality, a steady return of sales tax on products produced and a jobs base.

**Quality of Life Issues:** Despite any kind of acknowledgement, real estate agreement or other disclosure tools that a resident may sign prior to moving into a residential unit in an industrial area, they will eventually challenge the operations or activities of that industrial facility.

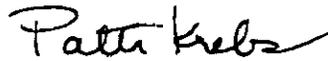
Public nuisance laws give broad discretionary authority to regulatory agencies to address such issues as noise, lighting, odors, truck traffic, etc. Regulatory agencies are "blind" to land use decisions. By law, they must respond to these public nuisance complaints and have the authority to place mitigation measures and demands on permitted industrial sources.

In turn, demands such as facility modifications, operating hours, limitations on activities, etc., occur which may jeopardize the ability of a company to operate. Public complaints drive greater demands and many times costly mitigation measures to the industrial facility. It also places a burden on public agencies and public officials to address the problem after the incompatibility occurs. Residents, industrial activities and public agencies are left to sort out the issues and deal with problems after land use decisions that result in incompatibilities occur.

**Summary:** In summary, we would like to urge your consideration of moving this ordinance forward by protecting and preserving the cohesive and contiguous industrial area and specifying a mandatory minimum buffer of 1,000 feet. We believe, if adopted, this ordinance would serve as a signal for the City of Irvine's commitment to its industrial and jobs base and also serve to attract new industrial facilities to a city that recognizes the importance of land use decisions to its industrial future.

Thank you for your consideration of our comments.

Sincerely,



Patti Krebs  
Executive Director

May 18, 2006

**VIA HAND DELIVERY & E-MAIL**

Bill Jacobs, Principal Planner  
Department of Community Development  
City of Irvine  
P.O. Box 19575  
Irvine, CA 92623-9575  
bjacobs@ci.irvine.ca.us

**Re: Irvine Business Complex Residential Mixed-Use Overlay Draft Code and Vision Plan (Revised May 8, 2006)**  
File No.: 3217-130509

Dear Mr. Jacobs:

On January 17, 2006, the City of Irvine published a draft of its proposed Irvine Business Complex Residential Mixed-Use Overlay District code and Vision Plan (collectively, "IBC Zone Change Ordinance"). Recognizing that these proposed changes in land use regulation and development standards are a "project" under CEQA, the City prepared a Draft Negative Declaration for the Draft Code and Vision Plan. A public comment period on the Draft Negative Declaration was open from January 26 through February 16, 2006. Allergan submitted its comments in that regard by letter dated February 15, 2006, attached hereto as Exhibit "A" and incorporated by reference herein.

On May 8, 2006, the City published a revised draft of the IBC Zone Change Ordinance ("Revised IBC Zone Change Ordinance") for public review and comment. A revised Draft Negative Declaration or other new environmental document has not been prepared and/or has not been released in conjunction with the Revised IBC Zone Change Ordinance. Against this background, Allergan submits the following comments on the Revised IBC Zone Change Ordinance and the City's compliance with the California Environmental Quality Act ("CEQA").

**1. The City's Failure to Update, Revise, and/or Modify, the Draft Negative Declaration is a Violation of CEQA.**

Pursuant to CEQA, if significant changes have been made to the underlying project since the initial preparation of the negative declaration, the negative declaration must be updated,

OC/353723v2

Bill Jacobs, City of Irvine  
Re: Revised Draft Overlay Code  
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revised, and/or modified in consideration of the new information. 14 Cal. Code Regs., § 15162(b); see *Temecula Band of Luiseo Mission Indians v. Rancho Cal. Water Dist.*, 43 Cal. App. 4<sup>th</sup> 425 (1996); see also Pub. Res. Code, § 21166; 14 Cal. Code Regs., §§ 15162, 15073.5. The City has not done so, here, in conjunction with the revision of the IBC Zone Change Ordinance. As discussed below, the Revised IBC Zone Change Ordinance has substantial changes from the previous version for which the Draft Negative Declaration was prepared. Because these changes to the IBC Zone Change Ordinance may increase or otherwise change the environmental impact of the project, the Draft Negative Declaration must be updated, revised, and/or modified to account for the changes.

However, a revised negative declaration will be appropriate only if the City determines that there is no substantial evidence that the project may significantly impact the environment. Pub. Res. Code, § 21080(c)(1); 14 Cal. Code Regs., §§ 15063(b)(2), 15064(f)(3).

**2. The Draft Negative Declaration is Inadequate Under CEQA to Consider the Environmental Impacts of the Revised IBC Zone Change Ordinance.**

“If substantial evidence supports a “fair argument” that a project may have a significant environmental effect, the lead agency must prepare an EIR even if it is also presented with other substantial evidence indicating that the project will have no significant effect.” Kostka & Zischke, PRACTICE UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, § 6.29; citing *No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68, 83 (1974); 14 Cal. Code Regs., § 15064(f)(1). The City of Irvine CEQA Procedures also provide that, “[i]n conjunction with approving the project for which the Negative Declaration was prepared, the decision-making body shall review, consider, and adopt the Negative Declaration,” or,

“[t]he decision-making body may, by a majority vote, conclude that the Negative Declaration is not supported by the facts or that there is serious public controversy concerning the environmental effects of the project and, therefore disapprove it. In such an event, the project manager shall immediately proceed with the preparation of an EIR [Environmental Impact Report].” (§§ 7.4, 9(C).)

The City has not yet voted to approve or disapprove the Draft Negative Declaration for the IBC Zone Change Ordinance. In light of the sixteen public comment letters which raised many concerns over the environmental effects of the IBC Zone Change Ordinance and demonstrated that the Draft Negative Declaration is not supported by “substantial evidence indicating that the project will have no significant effect,” the City should vote to disapprove the Draft Negative Declaration and commence preparation of an EIR.

Bill Jacobs, City of Irvine  
Re: Revised Draft Overlay Code  
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Although the City has revised the IBC Zone Change Ordinance since the preparation of the Draft Negative Declaration and the submission of comments thereon, the public comments are applicable to the Revised IBC Zone Change Ordinance because none of the revisions made change the potential of the residential overlay to cause a significant impact on the environment. This letter incorporates by reference our comments on the Draft Negative Declaration for the IBC Zone Change Ordinance and applies those comments in kind to the environmental impact that would result from the implementation of the Revised IBC Zone Change Ordinance.

In sum, our letter commenting on the Draft Negative Declaration demonstrated that the City's determination that there would be no significant environmental impact resulting from the adoption of the IBC Zone Change Ordinance was based on a faulty project description which created a systematic flaw throughout the analysis. In characterizing the IBC Zone Change Ordinance as a "tool" "for orderly residential development" which "does not permit any residential development," the City completely avoided any consideration of significant environmental impacts that would result from the implementation of the IBC Zone Change Ordinance.

Zone changes are subject to CEQA because they change land uses and their implementation potentially results in different physical impacts on the land. Here, there is substantial evidence supporting a fair argument that the implementation of the IBC Zone Change Ordinance will have a significant effect on the environment, including but not limited to the following: impacts to the San Diego Creek and the wildlife which uses it resulting from increased human presence along the Creek, light and glare from multi-story residential buildings, and increased water pollution; diminished air quality caused by higher intensity of use and congestion; exposure of residents, including children, to hazards and hazardous materials resulting from residential development nearby industrial uses; around the clock exposure of an increased number of people to harm from seismic activity; noise impacts to residents from traffic, aircraft, and industrial and commercial operations; population growth; deficiency in public services, including police, fire, schools, and parks; and impacts to wastewater treatment facilities and landfill capacity.

Further, the City's reliance on trip generation rates and trip capture to justify the change of use in the Irvine Business Complex ("IBC") is a fatal assumption in its determination that there will be no significant impacts. All trips are not created equal – converting industrial and commercial trips to residential trips does not result in the same level of intensity. Implementation of the IBC Zone Change Ordinance and approval of additional residential development will result in increased traffic and failing levels of service.

For these reasons, as described more fully in our letter dated February 15, 2006, the Draft Negative Declaration is inadequate to consider the environmental impacts of the Revised IBC

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Zone Change Ordinance. The City should vote to disapprove the Draft Negative Declaration and commence the preparation of an EIR.

3. **No Additional Residential Projects Should Be Approved Until An EIR Has Been Prepared for the Revised IBC Zone Change Ordinance.**

Until the City has prepared an EIR for the Revised IBC Zone Change Ordinance, the City may not grant any discretionary applications for residential development where the current zoning does not allow residential uses, and even approval of those projects permitted under the current zoning should not be granted in the interim.

An environmental review must be undertaken at the "earliest feasible" stage before the project has been proposed for "approval" by the public agency. 14 Cal. Code Regs., § 15004 (a), (b). "Approval" means the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person or public agency. 14 Cal. Code Regs., § 15352(a). Courts interpret "commitment to a definite course of action" to mean that the agency action either legally binds it to proceed with the project or the action gives "impetus to a planned or foreseeable project in a way that forecloses alternatives or mitigation measures that ordinarily would be a part of CEQA review." Kostka & Zischke, PRACTICE UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, § 4.15; citing 14 Cal. Code Regs., § 15004(b)(2)(b); *City of Vernon v. Bd. of Harbor Commsn'rs*, 63 Cal. App. 4<sup>th</sup> 677, 688 (1998). With respect to private projects, "approval occurs upon the earliest commitment to issue or the issuance by the public agency of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, lease, permit, license, certificate, or other entitlement for use of the project." 14 Cal. Code Regs., § 15352(b).

Residential uses are presently only conditionally permitted in limited areas of the IBC. (Irvine Zoning Ordinance, §§ 9-36-3, 9-37-32, Zoning Ordinance Map, Planning Area 36.) The City may not issue any of the aforementioned discretionary approvals for any residential development which could not be permitted under the current zoning. The approval of any residential development contrary to the current zoning in contemplation of the adoption of the Revised IBC Zone Change Ordinance would commit the City to the Revised IBC Zone Change Ordinance before full environmental review has been undertaken. The City would be foreclosed from imposing mitigation measures deemed necessary by the environmental review on the pre-approved residential project.

Additionally, approval of residential development in the IBC should not be granted even where the current zoning permits it until environmental review of the Revised IBC Zone Change Ordinance is completed because the residential overlay is intended to provide for the orderly development of residential projects within the IBC, and approval of individual

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projects before the new code and guidelines are implemented prevents the application of mitigation measures that should apply to all residential development within the IBC.

4. **The "Architectural Design Guidelines" Belong in the Overlay Ordinance Rather Than the Vision Plan.**

Until the project was changed by the May 8<sup>th</sup> revisions to the IBC Zone Change Ordinance, the Vision Plan just described the City's vision in creating the residential overlay ordinance. All substantive provisions for regulating residential development were contained within the ordinance. Now, however, the City has moved the frontage type, architectural design, and parking standards to the Vision Plan, denominating these standards "Residential Mixed-Use Design Guidelines." (Vision Plan, 71.) The majority of the provisions of the Design Guidelines use language such as "should" and "may." It appears that the intent of the City in transferring these conditions to the Vision Plan and substituting mandatory language with discretionary language is to make it easier for developers to build as they wish, which is inconsistent with the *a priori* purpose of the Vision Plan, which is to provide for residential development with a cohesive and controlled appearance.

The City states that:

These guidelines are intended to complement the IBC Residential Mixed-Use Overlay District. Whereas these guidelines address issues related primarily to building design, the overlay district and its regulatory code provides criteria for project size, land use adjacency, location, building envelope, and block criteria. (Vision Plan, 71.)

Despite the alleged distinction, the Design Guidelines are still subject to CEQA because, as the "complement" to the overlay ordinance, they are part of the "whole of an action" which may impact the environment. 14 Cal. Code Regs., § 15378(a). Additionally, if the Vision Plan is adopted by ordinance or resolution, these Design Guidelines will be enforceable to the extent that their language is, or appears to be, mandatory. *See Central Manufacturing District v. Board of Supervisors of Los Angeles County*, 176 Cal. App. 2d 850, 858-859 (1960).

The frontage type, architectural design, and parking standards should be returned to their original content and place in the overlay ordinance, rather than as a purported discretionary element of the Vision Plan, in order to allow for full analysis of the residential overlay under CEQA and consistent application of the new standards in accordance with the Vision Plan.

5. **The Revised IBC Zone Change Ordinance Does Not Protect Existing Businesses and is Inconsistent Both Internally and With the Zoning Code.**

The following revisions to the IBC Zone Change are unacceptable:

**§ 5-8-4 (A). Site Location, Size.** The IBC Zone Change Ordinance previously required residential uses to be (1) “adjacent to existing or approved” residential development,” (2) “within Town Center or Multiple Use Districts,” or (3) have a minimum site area of 240,000 square feet. The Revised IBC Zone Change Ordinance now, however, relaxes those restrictions to allow residential uses (1) within 660 feet of “an existing or approved residential project” or “approved mixed-use or retail project that incorporates at least 10,000 square feet of retail use,” (2) “within Town Center or Multiple Use Districts,” or (3) have a minimum site area of 120,000 square feet. The revisions dramatically increase the opportunity for residential development and, therefore, dramatically increase the potential environmental impacts. Moreover, the downsizing of the neighborhood districts will not be effective in creating mixed-use areas, thereby not only defeating the City’s vision and the purpose of the Revised IBC Zone Change Ordinance, but also failing to truly identify the potential for significant traffic impacts.

**§ 5-8-4 (C). Industrial Buffers.** The Revised IBC Zone Change Ordinance does not vary the provision prohibiting residential uses within 200 feet of key businesses; however, the 200-foot buffer continues to be insufficient to protect existing business and prevent exposure of residents to hazards. A buffer of 200 feet which permits other non-residential uses (i.e. parking structures, parks, and plazas) within the buffer will still put residents at risk to hazards and subject the business to complaints of noise, odor, or of other industrial activity unappealing to residential living. Further, a 200-foot buffer is insufficient in light of the increase in building height to seven stories or higher because a seven story building will have direct views into industrial activity 200 feet away. Buffer zones must be 800 feet to provide minimum protection from these impacts for both the health and enjoyment of the residents and the continued existence of industrial business. Residential development any closer in proximity will choke out industry, forcing relocation.

**§ 5-8-6 (B). Industrial Adjacency Assessment.** The IBC Zone Change Ordinance previously provided that other development applications could not be submitted before or concurrent with the pre-application compatibility review (which has been renamed an “Industrial Adjacency Assessment”). The Revised IBC Zone Change Ordinance, however, allows the Industrial Adjacency Assessment concurrent with the submittal of another application for development. The Revised IBC Zone Change Ordinance does not require the Industrial Adjacency Assessment to be completed before development approvals are granted. This guts the entire intent of the Industrial Adjacency Assessment, which the City has heretofore emphasized as key to insuring the compatibility of residential development among existing industrial operations.

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Moreover, “[a]fter the conclusion of the Industrial Adjacency Assessment... the applicant may or may not modify the project proposal and/or the study materials as appropriate.” This allows the City to approve a residential development that has been found incompatible with nearby industrial businesses without requiring the modification of the project to ensure the health and safety of future residents and continued undisturbed operations of the business.

Further, the Revised IBC Zone Change Ordinance only notifies individuals representing property interests within 500 feet of the proposed residential development and allows them to convey their issues regarding the project at the Industrial Adjacency Assessment Meeting. For the same reasons that an 800-foot buffer is necessary to protect the existing business’ interest, the notification and meeting participation needs to extend to property interests within 800 feet of the proposed residential development.

Therefore, the Industrial Adjacency Assessment must be revised so as to prohibit any discretionary action on the proposed residential development before its compatibility with nearby industrial operations has been evaluated, modifications required, and plans revised accordingly. Industrial businesses within 800 feet of the proposed residential development need to be notified of and allowed to participate in the Industrial Adjacency Assessment Meeting.

**§ 5-8-11(C). Discretionary Application Process.** The IBC Zone Change Ordinance previously required “[a]ll residential and mixed use projects [to] be processed pursuant to the Master Plan process outlined in Chapter 2-17” of the Irvine Zoning Code. (§ 5-8-8(C).) The Revised IBC Zone Change Ordinance requires processing “pursuant to the Conditional Use Permit (CUP) process outlined in Chapter 2-9 of the Zoning Code.” The Zoning Code requires 5.3 IBC Residential to comply with the Master Plan process. (Irvine Zoning Code, § 2-17.) Thus, the Revised IBC Zone Change Ordinance is inconsistent with the Zoning Code, and the approval process must be changed back to the Master Plan procedure. Further, the CUP process is unacceptable because it requires less planning and more discretion than the Master Plan process. In order to fulfill the Vision Plan and prevent inappropriate residential development or design, the Master Plan process should be used.

Moreover, the CUP process is internally inconsistent because Table 5-1 of the Revised IBC Zone Change Ordinance permits and does not require a CUP for home occupation, live/work, and home care residential uses. Returning to the Master Plan process rather than the CUP process can resolve this inconsistency.

**§ 5-8-5(A). Vibrations, Noise and Odors.** The IBC Zone Change Ordinance previously required that

All uses shall meet the City’s noise and vibration requirements  
for residential uses as outlined in the Noise Element of the

General Plan, Division 8, Chapter 2 or the Municipal Code and other applicable provisions of the Zoning Ordinance. Residential uses shall be oriented and located away from odor-generating commercial uses, including loading areas.

The deletion of this paragraph from the Revised IBC Zone Change Ordinance may allow residential uses to be oriented towards and located near noise and odor-generating commercial uses, including existing industrial operations. In order to protect existing industry from complaints and forced closure, residential uses should not be so oriented/located.

5. **Additional Comments on the Revised IBC Zone Change Ordinance.**

**§ 5-8-16. Parking.** The IBC Zone Change Ordinance previously required residential projects to provide parking as required in Chapter 4.3 of the Zoning Code unless “the parking demand study supports a different parking ratio as approved by the Director of Community Development.” (§ 5-8-20(B).) The Revised IBC Zone Change Ordinance “highly encourages” shared parking and allows “reductions in standard parking requirements” based on the parking demand study as approved by the Planning Commission. (§ 5-8-16(A)-(B).) The Revised IBC Zone Change Ordinance also permits “up to 80% of the retail parking requirement” for mixed-use residential projects to “be shared with residential visitor parking requirements.” (§ 5-8-16(E).) Thus, the Revised IBC Zone Change Ordinance will result in substantially less parking. No studies have been prepared to justify this reduction. There is currently very little on-street or public parking in the IBC, and other IBC retail developments, i.e. Park Place, evidence the disastrous and frustrating effect of deficient shared parking.

**§ 5-8-2. Applicability.** The Revised IBC Zone Change Ordinance deleted section “D” in the previous version, which provided that “[I]and uses that were lawfully established and existed within the IBC as of the effective date of this Overlay may continue to operate pursuant to the applicable provisions of the zoning code, and are not subject to the requirements of this Overlay District.” Since the first paragraph states that the Overlay is applicable to “[a]ll proposed residential development/redevelopment, subdivisions, and new residential land uses,” we are assuming the old section “D” was deleted because it is redundant, but please clarify that the Revised IBC Zone Change Ordinance does not apply to existing land uses and businesses.

**§ 5-8-3. Regulating Plan and Districts.** Allergan is shown as a Key Business but the background shading still looks to be Multi-Use rather than Urban Neighborhood. The properties along Campus also appear to be shaded as Town Center rather than Urban Neighborhood. And, the Revised IBC Zone Change Ordinance has changed the name of the “Mature Industrial” districts to “Business Complex” elsewhere in the Revised IBC Zone

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Change Ordinance but has not corrected the designation on the legend of the district zone map. Please correct these to be consistent with the designations as otherwise stated in the Revised IBC Zone Change Ordinance.

**§ 5-8-6 (B). Industrial Adjacency Assessment Submittal Requirements.** The Revised IBC Zone Change Ordinance deleted the inclusion of certain details of the proposed development plans which are necessary to fully assess the compatibility of placing the proposed residential development near industrial operations. Please replace the Pedestrian Access Diagram, unit counts or types, and square footage of residential units as required information for the Industrial Adjacency Assessment application.

**§ 5-8-11, Table 5-1. Permitted and Conditional Land Uses.** The Revised IBC Zone Change Ordinance changed commercial and private schools from permitted to conditionally permitted but left public schools as permitted. Public schools should also be conditionally permitted so they will go to public hearing and the community may comment on the appropriateness of the location in order to better protect the health and safety of the children.

6. **The City's Failure to Respond to Public Comment Violated Irvine's CEQA Procedures.**

Finally, we note that the City has not yet responded to the public comments submitted or voted to approve or disapprove the Draft Negative Declaration. The City of Irvine CEQA Procedures require the City to respond to public comments on negative declarations within seven calendar days of the end of the review period, unless "the project manager determines that additional technical studies will be required to properly evaluate the environmental issues raised by the comments," in which case the time for response may be extended thirty days. (City of Irvine CEQA Procedures, § 7.3(B); *see also id.* at § 6.3(B).) The public comment period on the Draft Negative Declaration for the IBC Zone Change Ordinance concluded on February 16, 2006. Even if the City had extended the time for response to thirty days for additional technical studies, the time for response has long expired. In failing to make a timely response, the City has violated its own procedures for complying with CEQA.

7. **Conclusion**

The Revised IBC Zone Change Ordinance does not meet the needs of the community or protect existing businesses for the aforementioned reasons. Please revise the Vision Plan and Overlay Code accordingly. Please also be aware that a Negative Declaration for the Revised IBC Zone Change Ordinance will be challenged unless a complete EIR is prepared which fully analyzes the impacts of build-out under the Revised IBC Zone Change Ordinance. No further residential development in the IBC should be approved until the EIR has been completed in order to account and mitigate for cumulative impacts.

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We appreciate this opportunity to submit our comments on the Revised IBC Zone Change Ordinance.

Sincerely,



Geoffrey K. Willis  
Sedgwick, Detert, Moran & Arnold LLP

GKW/jad

cc: Mike Haack, Manager  
Development Services  
City of Irvine

Ray Diradoorian, Senior Vice President  
Global Technical Operations  
Allergan

Steven A. Johnson, Vice President  
Assistant General Counsel  
Allergan

# **Exhibit "A"**

**February 15, 2006 Correspondence to Bill Jacobs, Principal Planner, Department of  
Community Development, City of Irvine.**

February 15, 2006

Bill Jacobs, Principal Planner  
Department of Community Development  
City of Irvine  
P.O. Box 19575  
Irvine, CA 92623-9575

VIA HAND DELIVERY

**Re: Draft Negative Declaration for Irvine Business Complex  
Residential Mixed Use Overlay Zone and Vision Plan (00409688-PZC)**

Dear Mr. Jacobs:

Allergan has received and reviewed the City of Irvine's proposed "Irvine Business Complex Residential Mixed Use Overlay Zone and Vision Plan (00409688-PZC)" and the Draft Negative Declaration prepared in conjunction with that proposed zone change ordinance for the Irvine Business Complex ("IBC"). Even a cursory review of this significant legislative change to the planning law of the City demonstrates that the proposed IBC-wide zone change ordinance will have significant impacts on the environment. Under the California Environmental Quality Act ("CEQA") any project which might have a significant impact on the environment requires the preparation of an Environmental Impact Report ("EIR"). The very purpose of CEQA is to provide the public and elected officials with sufficient information about a project so that a reasoned and informed decision can be made by an informed governmental body acting in front of an informed public. In its present form, the Draft Negative Declaration thwarts this public purpose.

1. **The Project will have Significant Environmental Impacts Requiring Preparation of an EIR.**

Because of the far reaching and significant impacts this IBC-wide zone change will have on aesthetics, air quality, biological resources, geology and soils, hazards and hazardous materials, land use and planning, noise, population and housing, public services, recreation, transportation and traffic, utilities and service systems, the City has an obligation to abandon the proposed Draft Negative Declaration and prepare an EIR. Even the City's project description, the foundation of any CEQA document, is not fixed but varies from section to section of the Draft Negative Declaration. As an example, throughout the Draft Negative Declaration, the City analyzes the addition of 10,000 new residences that will be allowed into the IBC under the proposed ordinance. Oddly, the IBC-wide zone change ordinance itself does not limit or control the number of additional residential units that can be developed within the IBC. Evidently the 10,000 number is a "guesstimate" of City staff and is not based upon any substantial evidence available to the public. In fact, in discussions with the impacted Santa Ana, Irvine, and Tustin Unified School Districts, City staff indicated that the ordinance would allow as many as 30,000 new residential units to be built in the IBC, but that the City would "try to limit" that to about 25,000 new residential units. Without the preparation of an EIR, the City Council will be making a decision without legally sufficient information before a public deprived of the ability to determine the precise impacts of the ordinance.

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Not only does the Draft Negative Declaration fail because it does not analyze the ordinance's significant impacts on the environment, it also does not solicit input from other governmental agencies as required by law. Under CEQA, a lead agency, such as the City of Irvine in this case, must provide notice of its intent to adopt a negative declaration to any public agency with jurisdiction over impacted natural resources or transportation affected by the project. If notice is required to be given to any impacted agency, known in CEQA parlance as "responsible agencies," then the City is required to also send notice of its intent to adopt the negative declaration to the State Clearinghouse. If the City is required to give notice to the State Clearinghouse, the public comment period is extended from 20 days to 30 days.

In this case, the IBC-wide zone change ordinance will have impacts on both the San Diego Creek Channel and the San Joaquin Marsh (which, pursuant to prior environmental studies undertaken by the City, contains at least five endangered species). Accordingly, the City was required to provide notice of its intent to adopt a negative declaration to the California Department of Fish and Game, the United States Fish and Wildlife Service, the California State Water Resources Control Board and the United States Environmental Protection Agency. Similarly, the proximity of the project to impacted transportation resources required that notice be given to the California State Department of Transportation, the Orange County Airport Land Use Commission and the Southern California Regional Rail Authority. The City did not provide any of these agencies with notice as required by law. Because of this failing, the City only provided the public with 20 days to comment on the project and not 30 as required by law. Failure to provide required notice to responsible agencies also impacts exhaustion of administrative remedies requirements and can impact statute of limitations.

Finally, one of the fundamental underpinnings of CEQA is that environmental impacts are studied at the first possible opportunity and analysis should never be deferred to some point in the future. CEQA requires that an approving agency study the whole of a project and not "segment" or "piecemeal" a project. The City's use of a negative declaration for the IBC-wide zoning ordinance ignores this fundamental CEQA concept. While acknowledging that the ordinance may lead to the construction of 10,000 new residential units, the Draft Negative Declaration then refuses to analyze the enormous impacts from these new residential units by dismissively stating that each new project will be studied and mitigated in the future. The City's plan under the Draft Negative Declaration allows it to permanently defer study of the cumulative impacts of the approval of its IBC-wide zone change ordinance. As one small piece of residential development after another parades before the City, the City will only have to study the impacts from that one small project thereby avoiding meaningful review of the project as a whole. Such segmentation, piecemealing and deferral are expressly prohibited by CEQA.

Allergan wishes to work cooperatively with the City to develop a coherent comprehensive plan for the IBC that allows increased residential development while protecting the industrial and manufacturing core of the IBC. Providing the public and the City Council with thorough and complete information about the impacts of the proposed ordinance is the first step in this process. Correcting planning issues at the outset of the process will allow stable and predictable

development to the benefit of all of the citizens of Irvine. Detailed below are the areas of the Draft Negative Declaration requiring further study and analysis. Allergan respectfully urges the City to abandon the Draft Negative Declaration and prepare an EIR as required by law.

## **2. The Draft Negative Declaration is Based on a Faulty Project Description**

The proposed project is described in the Draft Negative Declaration as a zone change creating a "new overlay zone establishing specific development requirements for new residential projects approved pursuant to the City's General Plan Amendment, Zone Change, and Conditional Use Permit processes." (Draft Negative Declaration ("DND"), 1, 2.) The City further states that the "zone change would not permit new residential development; rather it will serve as a tool for ensuring urban design and land use compatibility if and when new residential developments are approved . . ." (DND, 2.) And "[n]o additional intensity is proposed with this zone change as the existing trip caps in the existing IBC zoning will remain in place and may be converted to residential trips . . ." (DND, 2.) This project description is flawed because it is based on faulty assumptions that avoid analysis of the significant impacts that would result from residential development under the IBC-wide zone change ordinance.

### ***A. The Project Description Is Misleading Because it Conditionally Permits, Not Just Encourages, Residential Growth***

A stable and accurate project description is an essential part of the CEQA process. *County of Inyo v. City of Los Angeles*, 71 Cal.App.3d 185, 192-193 (1977). If future activities associated with a project are reasonably foreseeable, analysis of those activities is required by CEQA. *Laurel Heights Improvement Assoc. v. Regents of Univ. of Cal.*, 47 Cal. 3d 376, 394-396 (1988). In pertinent part the City's project description states, "[t]he zone change would not permit new residential development; rather it will serve as a tool for ensuring urban design and land use compatibility if and when new residential developments are approved." (DND, 2.) The City's project description for the IBC-wide zone change ordinance is flatly misleading and inaccurate. Under current zoning, residential development is simply prohibited in IBC districts zoned 5.1 IBC Multi-Use. Under the proposed ordinance, residential uses would be conditionally permitted in districts zoned 5.1 IBC Multi-Use. Instead of needing to seek a zone change or General Plan Amendment requiring discretionary City Council approval, a residential developer would need only to seek a conditional approval from either the City's Director of Community Services, the Zoning Administrator, or the Planning Commission - a much lower, less public level of scrutiny. Draft Code § 5-8-8; Irvine Zoning Ordinance § 2-35.

In addition, CEQA requires analysis of all impacts that are the foreseeable consequence of the project. *Laurel Heights Improvement Assoc.*, 47 Cal. 3d at 394-396. It is not only foreseeable but certain that the proposed IBC-wide zone change ordinance will result in an explosion of residential development. The initial study for the project is clear that 10,000 new residences will be created by the ordinance. In conversations with representatives of the impacted Santa Ana, Irvine and Tustin Unified School Districts, City staff has said that as many as 30,000 new residences could be created by the ordinance, but that the City would try to "cap it" at 25,000. Notwithstanding these foreseeable and seemingly certain impacts, the project description does

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not inform the City Council or the public that a single new residence will be permitted by the project. Instead, the project description misleadingly states that "[t]he zone change would not permit new residential development . . ." (DND, 2.)

Finally, the project description is inaccurate in that it "piecemeals" or "segments" the project. The City has prepared a negative declaration without mitigation because it claims that the proposed IBC-wide zone change ordinance will only "encourage" not "cause" residential growth. The Draft Negative Declaration specifically anticipates that future individual residential projects will be brought forward as a result of this project. (DND, 2.) The City calculates that an additional 13,000 residents will live in the IBC when residential growth is authorized through "the general plan amendment and zone change process . . ." (DND, 26.) Even though the Draft Negative Declaration anticipates the growth of 10,000 residences with 13,000 residents, the City declines to study this impact, illegally deferring the legally required analysis until some time in the future. This practice is expressly prohibited by CEQA.

Accordingly, the City should revise the project description to accurately describe that the IBC-wide zone change ordinance will no longer prohibit residential uses but instead conditionally approve residential uses in districts zoned 5.1 IBC Multi-Use. The project description should be amended to accurately reflect that the adoption of the IBC-wide zone change ordinance will allow the development of 10,000-30,000 new residences. The City would then be required to properly analyze the true impacts of the project that it is considering without deception.

***B. The Overlay Zone Results in Development,  
Therefore, it is More Than Just a "Tool" Without Impacts***

Throughout the Draft Negative Declaration, the City concludes that there are no significant impacts based on its assumption that the IBC-wide zone change ordinance is merely a "tool" and no new residential development will result from its adoption. (DND, 2, 16-18, 20, 22, 25-28, 31, 32.) This assumption results in a systematic flaw in the impacts analysis that makes the entire Draft Negative Declaration inadequate under CEQA.

Since no zone change ever directly permits new development, a zoning ordinance would never have any environmental impacts if it were considered only as a conceptual tool. However, under CEQA, a zone change is a "project" requiring an analysis of significant impacts caused by its approval. *Bozung v. Local Agency Formation Comm'n*, 13 Cal. 3d 263, 277 (1975). Significant impacts include both direct and indirect impacts, and all phases of a project and foreseeable consequences of a project must be considered. 14 Cal. Code Regs. ("Guidelines"), §§ 15126.2(a), 15125(e); *Laurel Heights Improvement Assoc.*, 47 Cal. 3d at 393-399. Since a zoning ordinance must analyze indirect and foreseeable significant impacts, it must consider the projected build-out of the development allowed under the ordinance. *See Rosenthal v. Bd. of Sup. of Los Angeles County*, 44 Cal.App.3d 815, 822-824 (1975) (holding that the environmental impacts of projects proposed under zoning ordinances must "have been considered and resolved before the ordinance was adopted," and the city could not rely on the preparation of EIRs at the project level). Further, since under the proposed IBC-wide zone change ordinance some projects

can be approved pursuant to a summary administrative process instead of the discretionary process currently required, CEQA would be improperly avoided entirely. *See Rosenthal*, 44 Cal.App.3d at 822-824.

Moreover, even if every project applying for development under the zoning ordinance were to prepare an EIR, an analysis of the cumulative impacts of the projects would be avoided. Guidelines, §§ 15130, 15355. Thus, in order to capture and properly analyze cumulative impacts, a zone change should analyze impacts from a programmatic perspective. Guidelines, § 15168(b)(4). Also, failure to identify significant impacts at the program level misses the opportunity to formulate mitigation measures that can broadly address all of the impacts of development. Guidelines, §§ 15168(b)(4), 15126(a)(1)(B).

The City is very selective and inconsistent in acknowledging that the proposed IBC-wide zone change ordinance will result in 10,000 new residences. In certain instances (Cultural Resources, Hydrology and Water Quality, Public Services, Recreation, Waste) the City admits that the ordinance will result in 10,000 new residences and then try to explain (the flaws of these attempted explanations are detailed below) why the 10,000 new homes will not cause significant impacts. In other instances, the City ignores that there will be new housing caused by the ordinance because there would be no way to support a finding of no significant impact on the environment (Air Quality, Hazards and Hazardous Materials, Noise and Cumulative Impacts).

Here, the City concluded that there will be no significant impacts in many of the categories that it should/could have found significant impacts (Air Quality, Cultural Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Population and Housing, Public Services, Recreation, Solid Waste, and Cumulative Impacts) because it was relying on the faulty assumption that the zone change would not permit new residential development. This assumption is improper because it allows the City to avoid analyzing the significant environmental impacts, cumulative impacts, and program-level mitigation measures of the build-out of the projected development. Therefore, by not considering and resolving the impacts of build-out before the ordinance is adopted, the Draft Negative Declaration is inadequate to comply with CEQA.

### *C. The City's Use of Trip Cap Conversions is Misleading*

The project description is misleading in that it equates keeping trip cap limits in place with no change in density, intensity or compatibility of uses. "No additional intensity is proposed with this zone change, as the existing trip caps in the existing IBC zoning will remain in place . . ." (DND, 2.) The huge fault with this analysis is the incorrect assumption that "all trips are created equal." First, the ordinance and EIR that created the trip caps studied the conversion of an infinitesimal number of new residences (about 300). The trip caps were not created or studied with the conversion of large portions of the IBC into residential uses in mind. Second, trip caps may study daily trips, but they do not look at the time of those trips. Because the City has prepared a Draft Negative Declaration for this project, no one has determined whether a residential trip will take place at the same time as a industrial or manufacturing trip or the impact of small personal vehicles mixing with industrial or manufacturing vehicles. This misleading

project description will cause the City to avoid analysis of the true impacts of the project if it is not corrected.

In addition, using trip caps as the exclusive tool to control density and to ensure compatibility fails miserably as soon as the analysis is applied beyond traffic. How will trip caps ensure that noise, air quality and public utility impacts will be avoided? Under the City's assumptions, a warehouse with a 100 trip count value will produce the same amount of sewage as a 100 trip count apartment building. Whether it is parks, police, fire or other areas of analysis, using trip caps to limit intensity of use is nonsensical. This misleading project description will cause the City to avoid analysis of the true impacts of the project if it is not corrected.

***D. The City Illegally Defers Required Analysis and Mitigation.***

The City's Draft Negative Declaration for the IBC-wide zone change ordinance does not encompass the whole project because the residential development foreseen by the City under the IBC-wide zone change ordinance is not analyzed. CEQA defines a "project" to mean "the whole of an action" that may result in either a direct or reasonably indirect physical change in the environment. Guidelines, § 15378(a). A lead agency must fully analyze the "project" in a single environmental review document, and not split a project into two or more segments if the effect is to avoid full disclosure of environmental impacts. *Bozung v. Local Agency Formation Comm'sn*, 13 Cal. 3d at 283-284. "CEQA mandates that environmental considerations do not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences." *Burbank-Glendale-Pasadena Airport Authority v. Hensler*, 233 Cal.App.3d 577, 592 (1991). In *Laurel Heights I*, 47 Cal. 3d at 396, the Court established a two-prong test for determining what future consequences should be assessed for a project:

[A]n EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.

The proposed IBC-wide zone change ordinance modifies the current zoning within the IBC by establishing residential development requirements. The City's Draft Negative Declaration analyzes only the modifications of the IBC-wide zone change ordinance and relegates to future environmental review any environmental effects or consequences of the modifications in allowing increased residential development within the IBC. The environmental effects of increased residential development within the IBC above those currently allowed without the IBC-wide zone change ordinance would potentially affect air and traffic within the 2,700 acre IBC due to the increased residential traffic and change in utilization of streets within the IBC neighborhoods. These effects must be reviewed in the Draft Negative Declaration and not segmented for future review thus eviscerating a prime purpose of CEQA to have "a project

proponent incorporate environmental considerations into project conceptualization, design, and planning at the earliest feasible time." Guidelines, §15004(b)(1).

**3. An EIR Must Be Prepared Because Substantial Evidence Supports A Fair Argument That the Overlay Zone Will Have a Significant Effect On the Environment**

CEQA requires public agencies to prepare an EIR for any project they intend to carry out or approve whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental effect; under this "fair argument" standard, an EIR must be prepared even if other substantial evidence shows no significant environmental effect. 'Significant effect on the environment' means a substantial, or potentially substantial, adverse change in the environment.' *Communities for a Better Environment v. California Resources Agency*, 103 Cal.App.4<sup>th</sup> 98, 106-107 (2002); *see also Arviv Enterprises, Inc. v. South Valley Area Planning Comms'n*, 103 Cal.App.4<sup>th</sup> 1333, 1345 (2002).

"A negative declaration is invalid if... [t]here is substantial evidence in the record supporting a fair argument that the project may have a significant effect on the environment." Kostka & Zischke, Practice Under the California Environmental Quality Act, § 6.73 (CEB, 2005 update) citing *Friends of "B" Street v. City of Hayward*, 106 Cal.App.3d, 988, 1002 (1980).

"[S]ubstantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous . . ." Cal. Public Resources Code ("CEQA"), § 21080(e)(1).

Below are the areas of the Draft Negative Declaration that require further review. In each of these areas, there is substantial evidence that the City's project may have a significant impact on the environment. If a fair argument can be made that ANY of these areas might have a significant impact on the environment, then the City is required to prepare an EIR.

***A. The Draft Negative Declaration was Not Circulated to Responsible Agencies as Required by Law***

The Draft Negative Declaration does not substantially comply with the notice requirements of CEQA because the City did not provide the Draft Negative Declaration to several state and local agencies for their review. The City must provide notice of its intent to adopt a negative declaration to public agencies with jurisdiction over resources affected by the project (Guidelines, §§ 15072(a), 15703(c)), and public agencies with affected transportation facilities (CEQA, § 21092.4 and Guidelines, § 15072(e)). Because of impacts to California freeways and interstates as well as local rail transit services, the City was required to provide the California

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Department of Transportation and the Southern California Regional Rail Authority a copy of the Draft Negative Declaration for review and comment. Because of potential impacts to John Wayne Airport, the City was required to provide notice to the Orange County Airport Land Use Commission. Also, because of the potential impacts of the project to the San Joaquin Freshwater Marsh and San Diego Creek Channel, the City was required to provide the California Department of Fish and Game, the United States Fish and Wildlife Service, the Regional Water Quality Control Board, the State Water Resources Control Board, and the United States Environmental Protection Agency a copy of the Draft Negative Declaration for review and comment.

The California Department of Transportation ("CalTrans") was not provided a copy of the Draft Negative Declaration for review and comment in violation of CEQA. CEQA section 21092.4 states that a lead agency shall consult with public agencies which have transportation facilities, which is defined as "major local arterials and public transit within five miles of the project site and freeways, highways, and rail transit service within 10 miles of the project site," for a project with statewide, regional or area wide significance. Similarly, CEQA Guideline section 15072(e) states that a lead agency shall provide notice to transportation planning agencies and public agencies. The City's proposed project establishes residential development requirements within the 2,700 acres of the Irvine Business Complex (IBC) that create a project of area wide significance due to the eventual impacts that the residential development will have within the IBC and its surrounding areas. For example, the San Diego Freeway, Interstate 405, transverses the IBC, and the 55 Freeway forms the western boundary of the IBC for several miles. CalTrans which oversees Interstate 405 and the 55 Freeway was not provided the Draft Negative Declaration by the City for its review and comments. Further, the Southern California Regional Rail Authority was not consulted on, nor notified about, the Draft Negative Declaration. The SCRRA provides rail transit services within five Southern California counties and operates a metrolink station on Edinger Avenue near Jamboree Road within 10 miles of the project. Finally, because the IBC is immediately adjacent to John Wayne Airport, the Orange County Airport Land Use Commission required notice of the Draft Negative Declaration so that it could comment on the safety and noise impacts of the project on the 10,000-30,000 new residences proposed for construction in the Airport environs.

Other public, responsible and trustee agencies not given notice of the City's intent to adopt the Draft Negative Declaration include the California Department of Fish and Game ("CDFG"), the United States Fish and Wildlife Service ("USFWS"), the Regional Water Quality Control Board ("RWQCB"), the State Water Resources Control Board ("SWRCB") and the United States Environmental Protection Agency ("USEPA"). Under California Code of Regulations sections 15072(a) and 15703(c), a lead agency must provide notice of its intent to adopt a negative declaration to public agencies, responsible agencies and trustee agencies with jurisdiction over resources affected by the project. The five noted agencies are entrusted with oversight of resources within the San Diego Creek Channel ("Channel") and San Joaquin Freshwater Marsh ("Marsh"), which as stated in the Draft Negative Declaration "abuts most of the eastern edge of the Irvine Business Complex." The CDFG and the USFWS have responsibility for protection of five endangered and/or threatened species found in the Marsh such as the Belding Savannah

Sparion, Light-footed Clapper Rail, California Least-tern, California Brown Pelican and least Bell's Vireo. Irvine Business Complex Environmental Impact Report No. 88-ER-0087 (State Clearinghouse Number 91011023), October 27, 1992. The RWQCB, SWRCB and USEPA have responsibility for the protection of the water resources including the storm water runoff into the Marsh and Channel from surrounding lands, as well as the quality of the water discharging from the Marsh and Channel into the Upper Newport Bay. Since these five agencies' responsibilities are tied to the Marsh and Channel, which are adjacent properties abutting most of the eastern edge of IBC, each agency should have been consulted on, and notified of, the Draft Negative Declaration.

As a further CEQA violation, the City did not send a copy of the proposed Draft Negative Declaration to the State Clearinghouse or allow the appropriate public review period. As noted above, the City was required to provide certain state agencies with the Draft Negative Declaration which then required the City to send the Draft Negative Declaration to the State Clearinghouse. Guidelines, § 15073(d). The City did not send the State Clearinghouse a copy of the proposed Draft Negative Declaration as required under CEQA. Further, the public review period for a negative declaration submitted to a State Clearinghouse for review must be at least 30 days unless a shorter period is approved by the State Clearinghouse. Guidelines, § 15073(a). The City's review period stated in the Draft Negative Declaration is from January 26 through February 16, which is 21 days. No information is provided by the City in the Draft Negative Declaration that the State Clearinghouse approved a shortened review period. The review period for the Draft Negative Declaration was nine days less than required by CEQA. As such, the Draft Negative Declaration does not comply with CEQA's requirements and should be revised and properly circulated for review and comment by the public and public agencies.

### *B. Aesthetics*

The Draft Negative Declaration states that: "[t]here are no scenic vistas in the vicinity of the IBC;" "no adverse visual impacts are anticipated" because the residential uses will be developed "within a well planned neighborhood framework;" and there will be no light and glare impacts because future development must comply with the City's lighting requirements. (DND 14.) However, there is substantial evidence that potential significant aesthetic impacts may result from new residential development in the IBC.

For example, the additional high rise development may cause adverse impacts from light and glare to operations at adjacent John Wayne Airport. (1992 EIR, § IV. C-5.) Light and glare from residential development in the IBC may also cause significant impacts to the flight and breeding patterns of birds and other wildlife using the adjacent San Joaquin Marsh and/or San Diego Creek. (1992 EIR, § IV. C-5.) The aesthetics of other adjacent low-density residential areas may also be impacted by the construction of high rise residential buildings. (1992 EIR, § IV. C-4.) Further, views of construction equipment will cause temporary adverse aesthetic impacts. (*id.*)

### ***C. Air Quality***

The Draft Negative Declaration states that there will be no impact on air quality because the "proposed zone change would not increase the allowable development intensity within the project site;" and "Development within the IBC would continue to be governed by the existing vehicle trip caps . . ." (DND, 15.) As discussed above, these assumptions are faulty and result in avoiding the analysis of any impacts caused by the build out of the residential development allowed under the IBC-wide zone change ordinance. Thus, the air quality impacts analysis is clearly erroneous.

Further, there is substantial evidence that potential significant impacts to air quality may result from new residential development in the IBC. For example, construction activities will cause short term air pollution due to emissions and dust generation. (1992 EIR, § IV. F-9.) Residential development will result in people using their vehicles at different times of the day than industrial or manufacturing traffic causing additional traffic congestion causing increased emissions of pollutants. (1992 EIR, § IV. F-11.) Additional residential development may be inconsistent with regional growth plans. (*id.*) Sensitive receptors such as children living in the new developments will be exposed to air pollutants. (*id.*) Residents may be exposed to the pollutants and odors produced by neighboring manufacturing operations. (1992 EIR, § IV. F-11.) Each of these impacts is sufficient to trigger the requirement of the preparation of an EIR.

### ***D. Biological Resources***

The Draft Negative Declaration states that "the IBC includes office, industrial, and residential uses, and does not contain any habitat that would support sensitive species." (DND, 16.) This statement is clearly erroneous since the Draft Negative Declaration did not look at any impacts on the adjacent San Diego Creek and San Joaquin Marsh, or the downstream impacts on Newport Bay Ecological Preserve.

Further, there is substantial evidence that potential significant impacts to biological resources may result from new residential development. For example, these areas support migratory birds, including five rare or endangered birds, and have valuable native vegetation. (1992 EIR, § IV. J-2.) The Draft Negative Declaration states that a river walk "is proposed along the banks outside of the San Diego Creek channel," and concludes, without analysis, that no impacts will occur from this construction; however, construction on the banks would likely impact water quality and may also impact wildlife presence in the Creek. Human use of the banks of the Creek will also increase human interference in the wetlands, which could have a significant adverse impact on wildlife and habitat. (1992 EIR, § IV. J-4.) Light and glare from additional high rise buildings could also impact migratory birds. Runoff from development could impact water quality. (1992 EIR, § IV. J-4.) Landscaping plants used in residential developments could also impact the native vegetation. Each of these impacts are sufficient to trigger the requirement of the preparation of an EIR.

### ***E. Geology and Soils***

The Draft Negative Declaration states that "no known faults traverse the IBC area," and individual projects will be required to be constructed to withstand the hazards. (DND, 18-19.) First and foremost this is illegal piecemealing or segmentation prohibited by CEQA. Potential impacts must be studied now, not at some unspecified date in the future. In addition, there is substantial evidence that potential significant impacts may result from new residential development in the IBC. For example, areas of the IBC are in the earthquake zone and may be subject to liquefaction. Previous studies have indicated that the IBC lies near the San Andreas, Newport-Inglewood, Norwalk, Whittier, Elsinore and San Jacinto faults, and that a major earthquake is likely in the next 15 years. (6P, D-2-3; 1992 EIR, § IV. L-2-3.) Moreover, the City's own General Plan acknowledges these faults are active and states that the IBC requires "careful planning" to minimize harm from seismic activity. (6P, D-2-8.) Mr. Tony Desmond of Deft has previously provided documentation to the City that describes the potential for earthquakes and liquefaction in the IBC, but the City chose to ignore this information. Each of these impacts are sufficient to trigger the requirement of the preparation of an EIR.

### ***F. Hazards and Hazardous Materials***

The Draft Negative Declaration states that the project will not create any hazards because "the project consists of new development standards for residential uses only and will not involve . . . hazardous materials." (DND, 20.) As discussed above, the assumption that the project is not required to account for the development of the residential uses allowed is faulty. Thus, the hazards and hazardous materials impacts analysis is clearly erroneous.

The Draft Negative Declaration is just flat wrong when it states that "there are no schools within one-quarter mile of the IBC area." (DND, 20.) Two school sites have been identified by the Tustin Unified School District that are within a quarter mile of the IBC. This error alone is sufficient to trigger the need for a new Initial Study analyzing the impacts of hazards and hazardous materials on these schools.

Further, there is substantial evidence that potential significant impacts from hazards and hazardous materials may result when new residential development is constructed in the areas of IBC that are next to or near existing manufacturing operations that store and use hazardous materials. (DND, 9, 20; 1992 EIR, § IV. I-3-8.) The IBC Manufacturing Group, in which Allergan participates, has previously made the City aware of the hazardous materials used and transported by IBC businesses. The Group has provided substantial evidence that permitting residential uses adjacent to existing manufacturers could create unanalyzed hazards. The City's reliance on the land use and adjacency compatibility analysis (DND, 20) is not sufficient, since there is a significant potential for exposure of residents to hazardous materials which may not necessarily be known at the time of the "compatibility" analysis. This future, deferred analysis is yet another example of illegal project segmentation.

In addition, the City attempts to use trip caps as the exclusive method to control density and intensity of use. The issues involved in placing a print shop, an office building or warehouse next to an industrial or manufacturing plant are entirely different than surrounding that same plant with high-rise residential buildings. When the trip caps were first created, only an infinitesimal number of residential units (300) were studied for the IBC. The trip caps were created to shift among industry uses and were not created with residential-industrial transfers in mind. Each of these impacts are sufficient to trigger the requirement of the preparation of an EIR.

### *G. Land Use and Planning*

In pertinent part the Draft Negative Declaration states, "[t]he zone change would not permit new residential development; rather, it will serve as a tool for ensuring urban design and land use compatibility if and when new residential developments are approved." (DND, 2.) The Draft Negative Declaration for the IBC-wide zone change ordinance is flatly misleading and inaccurate. Under current zoning, residential development is simply prohibited in IBC districts zoned 5.1 IBC Multi-Use. Under the proposed ordinance, residential uses would be conditionally permitted in IBC districts zoned 5.1 IBC Multi-Use. Instead of needing to seek a zone change or General Plan Amendment requiring discretionary City Council approval, a residential developer would need only to seek a conditional approval from either the City's Director of Community Services, Zoning Administrator or Planning Commission - a much lower, less public level of scrutiny.

In addition, CEQA requires analysis of all impacts that are the foreseeable consequence of the project. It is not only foreseeable but certain that the proposed IBC-wide zone change ordinance will result in an explosion of residential development. The staff report for the Draft Negative Declaration is clear that 10,000 new residences will be created by the ordinance. In conversations with representatives of the impacted Santa Ana, Irvine and Tustin School Districts, City staff has said that as many as 30,000 new residences could be created by the ordinance, but that the City would try to "cap it" at 25,000. Notwithstanding these foreseeable and seemingly certain impacts, the project description does not inform the City Council or the public that a single new residence will be permitted by the project. Instead, the project description misleadingly states that "[t]he zone change would not permit new residential development . . ." (DND, 2.)

Finally, the project description is inaccurate in that it "piecemeals" or "segments" the project. The City has prepared a negative declaration without mitigation because it claims that the proposed IBC-wide zone change ordinance will only "encourage," not "cause," residential growth. The Draft Negative Declaration specifically anticipates that future individual residential projects will be brought forward as a result of this project. (DND, 2.) The City calculates that an additional 13,000 residents will live in the IBC when residential growth is authorized through "the general plan amendment and zone change process . . ." (DND, 26.) Even though the Draft Negative Declaration anticipates the growth of 10,000 residences with 13,000 residents, the City

declines to study this impact, illegally deferring the legally required analysis until some time in the future. This practice is expressly prohibited by CEQA.

Accordingly, the City should revise the project description to accurately describe that the IBC-wide zone change will no longer prohibit residential uses in a district zoned 5.1 IBC Multi-Use but instead conditionally approve residential uses. The project description should be amended to accurately reflect that the adoption of the IBC-wide zoning ordinance will allow the development of 10,000-30,000 new residences. The City would then be required to properly analyze the true impacts of the project that it is considering without deception. Each of these impacts are sufficient to trigger the requirement of the preparation of an EIR.

#### **H. Noise**

The Draft Negative Declaration states, “[a]s new residential development would be required to occur within the existing vehicle trip cap for the IBC, no new [noise associated with vehicular traffic] would occur . . .” (DND, 25.) As discussed above, this is a faulty assumption, which does not capture the changes in intensity of traffic around the new residential development. Thus, the noise impacts analysis was erroneous. To the contrary, there is substantial evidence that new residential development would increase traffic, thereby increasing noise levels. Residential development may also be significantly impacted by freeway noise. Neither of these issues have ever been studied by the City as required by CEQA.

The Draft Negative Declaration also states, “[b]ecause the overlay zone does not authorize . . . any specific residential development, the scale and amount of short term noise impacts that may at some future time be caused as a result of future discretionary permit applications is speculative.” (DND, 25.) Also as discussed above, the assumption that the project does not need to consider the impacts of the build out of residential development allowed under the IBC-wide zone change ordinance is faulty. Noise impacts are no less speculative than any other impact CEQA requires to be examined - they can be determined with relative accuracy by studies of the present conditions and conditions with development. This argument is a transparent attempt to avoid identification of substantial evidence that there would be significant noise impacts from placing residential development next to noisy manufacturing businesses. Attached as Exhibit “A” to this letter is a diagram showing the noise levels at the boundary of the Allergan property. These noise levels are a significant impact on any adjacent residential development.

The Draft Negative Declaration also states that aircraft noise from “takeoffs and landings at John Wayne Airport” will not cause significant impacts to residential development in the IBC because residential development is prohibited in the “area above the 65 CNEL contour.” (DND, 25.) However, there is substantial evidence that aircraft noise below the 65 CNEL contour, especially when combined with noise from industrial or manufacturing uses, could cause impacts on residents of new development under the IBC-wide zone change ordinance.

Further, the Draft Negative Declaration states that the land use adjacency and compatibility analysis will prevent impacts resulting from placing “new residential development in an area

traditionally occupied by commercial and industrial uses." (DND, 25.) However, it is likely that these impacts will be ignored at the time of the "compatibility" analysis, since *any* residential development in the IBC will be impacted by the noise of adjacent existing manufacturing uses and should, therefore, be found incompatible. Because that would mean that there would never be any residential development in the IBC, there is no assurance that the compatibility analysis will adequately address noise impacts.

Additionally, whether there will be an adverse impact is an issue that the City must consider before adopting the Negative Declaration, and the City may not defer analysis by relying on a later, project-specific compatibility analysis. Each of these impacts are sufficient to trigger the requirement of the preparation of an EIR.

### *I. Population and Housing*

In finding no significant impact on population, the Draft Negative Declaration relies on the assumption that the IBC-wide zone change ordinance is not responsible for the impacts of residential development allowed under the zone change, and that conversion of existing trip caps will prevent an increase in intensity. (DND, 26.) As discussed above, these assumptions are faulty; therefore the population impacts analysis is erroneous.

Moreover, there is substantial evidence that potential significant impacts to population growth may result from new residential development in the IBC. The Draft Negative Declaration itself states that the "conversion of existing non-residential intensity to residential use could create an additional population of 13,000 in the IBC based on an assumption of 10,000 new units." (DND, 26.) The IBC-wide zone change ordinance clearly induces substantial population growth.

The fundamental inconsistency in the Draft Negative Declaration is made clear by the way it continually wavers between statements that the project will not cause new residential growth and statements that the project will add 10,000 new residences. Throughout the Negative Declaration, the City analyzes the addition of 10,000 new residences that will be allowed into the IBC under the proposed ordinance. Oddly, the IBC-wide zone change ordinance itself does not limit or control the number of additional residential units that can be developed within the IBC. Evidently the 10,000 number is a "guesstimate" of City staff and is not based upon any substantial evidence available to the public. In fact, in discussions with the impacted Santa Ana Unified School District, Irvine Unified School District and Tustin Unified School District, City staff indicated that the ordinance would allow as many as 30,000 new residential units to be built in the IBC, but that the City would try to "limit" that to about 25,000 new residential units. The ordinance is supported by a number of residential developers who are only waiting for the adoption of this ordinance before they launch a residential building campaign in the IBC. It is hard for the City to argue that the IBC-wide zone change ordinance will not have growth inducing impacts.

Further, the Draft Negative Declaration states that "[n]ew development standards are proposed to encourage new building types, public and private open spaces, and a "smaller grain" roadway

network within specific overlay districts . . .” (DND, 2, 26.) The proposed ordinance not only “encourages” residential growth in the IBC, it conditionally permits it in three of the four proposed new districts, thereby encouraging the dwelling unit cap in the General Plan to be continuously increased by subsequent GPAs, allowing a significant increase in residential growth in the IBC. Therefore, the IBC-wide zone change ordinance may have a significant impact on population growth. Each of these impacts is sufficient to trigger the requirement of the preparation of an EIR.

#### ***J. Public Services***

The Draft Negative Declaration again supports its conclusion that there will be no significant impacts to public services with the assumption that the IBC-wide zone change ordinance will not cause increased residential development. (DND, 27-28.) Consequently, the public services impacts analysis is clearly erroneous.

The Draft Negative Declaration states that the response times of fire and police services will have less than significant impacts because the IBC-wide zone change ordinance creates “additional on-site public open space and private roadways for improved public access.” (DND, 27.) However, there is substantial evidence that potential significant impacts on the City’s ability to maintain public services may result from new residential development in the IBC since response times will likely increase due to increased traffic congestion around the residential developments.

Ironically, the Draft Negative Declaration identifies and quantifies substantial evidence that the project will have a significant impact on public services. The Draft Negative Declaration states that “the build out of the anticipated 10,000 units in the IBC would generate a need for an additional 19.5 [police] officers” (DND, 27.), which will be a significant impact on the environment since the IBC-wide zone change ordinance does not provide for the addition of those necessary officers. There is also substantial evidence that the increase of at least 13,000 people will significantly impact the capacity of fire personnel and equipment to service the area. Also, because residential developments will require a greater amount of fire protection than the existing industrial/commercial uses, fire services capacity will be further impacted.

Moreover, there is substantial evidence that potential significant impacts to schools may result from new residential development. First, even if “Santa Ana and Tustin Unified School Districts have indicated that they [have] sufficient capacity to accommodate anticipated additional population from the IBC with the required payment of school fees,” there is substantial evidence that school impact fees are insufficient to mitigate impacts to schools below a level of significance. Second, the Draft Negative Declaration makes no mention of the Irvine Unified School District, whose boundaries overlap the IBC. Third, there is no documentary or other evidence supporting the City’s statement about the Santa Ana and Tustin Unified School Districts’ conclusion. All three districts will be impacted by the addition of 13,000-45,000 people within their boundaries. The school districts have each met with the City, but no

agreement has yet been reached concerning appropriate mitigation for this new residential growth.

The Draft Negative Declaration again identifies substantial evidence that the project will have significant impacts on parks. Further, the fact that "the assumed increase in residential intensity would generate a need of 65 acres of parkland" (DND, 28) is substantial evidence that significant impacts to parks will occur. Since there is almost no undeveloped space – let alone 65 acres - remaining in the IBC that may potentially be developed as a park, the City must analyze and identify adequate mitigation for this impact through the preparation of an EIR. Deferring this analysis and the imposition of mitigation to a future date is another example of impermissible piecemealing or segmentation.

#### ***K. Recreation***

Since the Draft Negative Declaration cites the same reasons as discussed in the Public Services section, the analysis of recreation impacts is inadequate for the same reasons cited above. Additionally, there is substantial evidence that potential significant impacts on the City's parks may result from the new residential development in the IBC. Without provision of adequate analysis and mitigation through the preparation of an EIR, lack of community parks and recreation facilities in the IBC will force the new IBC residents to use the existing parks and facilities elsewhere in the City, thereby accelerating the physical deterioration of those parks and facilities. (DND, 12, 28-29.) Each of these impacts are sufficient to trigger the requirement of the preparation of an EIR.

#### ***L. Transportation & Traffic***

The Draft Negative Declaration states that there will be no impact on transportation and traffic. (DND, 12, 29-30.) The City's reliance on the conversion of trip caps is a faulty assumption and is unsupported by substantial evidence, as discussed above.

The Draft Negative Declaration is misleading in that it equates keeping trip cap limits in place with no change in density, intensity or compatibility of uses. "No additional intensity is proposed with this zone change, as the existing trip caps in the existing IBC zoning will remain in place . . ." (DND, 2.) The huge fault in this analysis is the assumption that "all trips are created equal." First, the ordinance and EIR that created the trip caps studied the conversion of an infinitesimal number of new residences (about 300). The trip caps were not created or studied with the conversion of large portions of the IBC into residential uses in mind. Second, trip caps may study daily trips, but they do not look at the time of those trips. Because the City has prepared a Draft Negative Declaration for this project, no one has determined whether a residential trip will take place at the same time as a industrial or manufacturing trip or the impact of small personal vehicles mixing with industrial or manufacturing vehicles.

In addition to these impacts, during the public meetings leading up to this project, the City recognized and quantified substantial evidence that the project will have significant traffic

impacts. A \$58 million infrastructure improvement program has been identified as necessary to mitigate the substantial traffic impacts created the project. This program is to be funded by the approximately 10,000 dwelling units anticipated to be approved under the new ordinance. Once again, the Draft Negative Declaration impermissibly defers analysis and identification of mitigation in violation of CEQA. Significant traffic impacts will result from a project of this magnitude.

#### *M. Utilities and Service Systems*

The Draft Negative Declaration concludes that there will not be any impacts on wastewater and water supplies by relying on the faulty assumption that the IBC-wide zone change ordinance is not required to consider the impacts of build out. (DND, 30.) As discussed above, this assumption is faulty; therefore the water services impacts analysis is clearly erroneous. Also, the Draft Negative Declaration states that the "City is working with [the Irvine Ranch Water District] to identify means to provide wastewater and treatment facilities [and water supplies] for up to 10,000 new units in the IBC." (DND, 30.) First, the Draft Negative Declaration has identified an unmitigated impact – additional water will be needed to serve the 10,000-30,000 new residences. It is evident that the addition of 10,000-30,000 new residences to the IBC might require more water and sewer services. This is so obvious that the Draft Negative Declaration actually discusses these impacts and discusses methods to eventually provide adequate mitigation. Unfortunately, the Initial Study illegally ignores these impacts and the Draft Negative Declaration does not adequately analyze or impose mitigation. Since the City has not determined that IRWD has sufficient capacity to be able to provide the necessary service, the City's conclusion is unsubstantiated.

The Draft Negative Declaration also concludes that there will be no impacts to storm water drainage facilities and that no expansion of existing facilities is required (DND, 30); however, there is substantial evidence that additional residential development will create additional runoff and there could be an impact on the capacity of the drainage system. Likewise, the Negative Declaration concludes that there will be no impacts to the Frank R. Bowerman Landfill, which currently serves the IBC, because "no deficiencies currently exist," and "there is adequate daily surplus capacity to accept additional waste" (DND, 30); however, there is substantial evidence that additional residential development will generate a significant amount of additional waste, which will impact the landfill and the City's ability to dispose of waste by filling the landfill more quickly than it would have been filled without this project. This is a classic example of a significant impact under CEQA requiring analysis and mitigation. The City's failure to analyze and mitigate these impacts is a violation of CEQA.

#### *N. Mandatory Findings of Significance*

There is substantial evidence that potential significant impacts on the quality of the environment may result from new residential development in the IBC, since the San Diego Creek, San Joaquin Marsh and Newport Bay Ecological Preserve may be impacted by the introduction of additional residential development into the IBC.

The Draft Negative Declaration states that there will be less than significant cumulative impacts because the IBC-wide zone change ordinance will provide "a unifying neighborhood framework" to guide the approval of individual residential projects. (DND, 32.) However, even if residential projects are approved under the Project guidelines, that does nothing to address the potential significant cumulative impacts on aesthetics, air quality, biological resources, water quality, noise, public services, recreation, traffic, and utilities and service that may result from the sum of the future individual residential projects or from the sum of the total new residential developments and previous industrial/commercial project impacts.

For all the reasons discussed above, there is substantial evidence to support a determination that there will be a significant effect on the environment. Therefore, the Draft Negative Declaration is inadequate to comply with CEQA and an EIR must be prepared.

#### **4. An Environmental Impact Report Must Be Prepared**

Under CEQA,

A public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when... [t]he initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment. Guidelines, § 15070(a); CEQA, § 21080.

If there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment, an environmental impact report shall be prepared. CEQA, § 21080, *see also* § 21082.2(d).

As discussed above, the conclusions of no/less than significant impacts found in the Initial Study are not supported by substantial evidence. To the contrary, an adequate impacts analysis would show that the project would have a significant effect on the environment. Therefore, CEQA requires preparation of an EIR and the City must reconsider its environmental determination.

#### **5. The Negative Declaration Does Not Tier Off the 1992 IBC Rezone EIR**

When a negative declaration tiers off of any previous EIRs or negative declarations, CEQA and the Guidelines require the negative declaration to explicitly reference the previous environmental review document. CEQA, § 21094; Guidelines, § 15152.

When tiering is used, the later EIRs or negative declarations shall refer to the prior EIR and state where a copy of the prior EIR may be examined. The later EIR or negative declaration should state that the lead agency is using the tiering concept and that it is being tiered with the earlier EIR. Guidelines, § 15152(g).

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Therefore, an EIR or negative declaration must state (1) that it is using the tiering concept, (2) what previous EIRs or negative declarations it is tiering from, and (3) where those documents are available for review.

The Draft Negative Declaration does not state that it is tiering from any prior environmental reviews within the text of the document. On its table of references attached at the end of the document, a citation reads: "Irvine Business Complex Environmental Impact Report... No. 88-ER-0087 (State Clearinghouse Number 91011023), October 27, 1992." However, the Draft Negative Declaration does not state that it is tiering off the IBC Rezone EIR ("1992 EIR") and does not state where the 1992 EIR is available for review. Thus, the Draft Negative Declaration does not incorporate by reference the 1992 EIR.

As further evidence, the City checked the box in the City of Irvine Initial Study and Environmental Evaluation stating: "the proposed project could not have a significant effect on the environment, and a Negative Declaration will be prepared." (DND, 5.) The instructions to the Initial Study state that the Initial Study should identify any earlier analysis used "pursuant to tiering, program EIR, or other CEQA process," and should "state where they are available for view." (DND, 6.) Thus, if the Negative Declaration intended to tier off of the 1992 EIR or otherwise incorporate it by reference, the City would have checked the box stating: "because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or Negative Declaration, pursuant to applicable standards, and (b) have been mitigated pursuant to that earlier EIR or Negative Declaration . . . nothing further is required." (DND, 5.)

For the above reasons, it is clear that the City did not incorporate by reference or tier off of the 1992 EIR or rely on any studies or mitigation measures from previous CEQA reviews for IBC projects in preparing the Negative Declaration. Therefore, the Negative Declaration stands on its own and the City may not claim that its inadequacies are addressed by evidence contained in the 1992 EIR or any other environmental review.

#### **6. Inadequacy of 1992 IBC Rezone EIR**

As stated above, the Draft Negative Declaration did not tier off of the 1992 EIR. Even if the Draft Negative Declaration is found to have tiered off of the 1992 EIR, the Draft Negative Declaration and EIR still fail.

In October 1992, the City of Irvine certified as final an EIR that it had prepared for a proposed rezoning of the IBC. The purpose of the rezoning was to amend development intensity regulations and update the General Plan in order to resolve inconsistencies between the Zoning Ordinance and General Plan as well as current entitlements and "in process" approvals. (1992 EIR, § I-44-45.)

When tiering off of a prior CEQA document, the City must first determine if the requirements for a subsequent or supplemental EIR have been triggered. CEQA requires the preparation of a subsequent or supplemental EIR if proposed changes to the project will require "major revisions" to the previous EIR due to "new significant environmental effects or a substantial increase in the

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severity of previously identified significant effects." Guidelines, § 15162(a)(1). In addition, a subsequent or supplemental EIR is required if "substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report." CEQA, § 21166(b). When the IBC was rezoned in 1992, a very small number of residential units (300) were considered as part of environmental review. Since that approval, approximately 3,000 new units have been built in the IBC. The current Project proposes an additional 10,000-30,000 residential units. Both parts of the test requiring preparation of a subsequent or supplemental EIR are triggered by the explosion of residential growth that has and will continue to occur within the IBC since the environmental review was conducted in 1992. Accordingly, the City is required to prepare a subsequent, supplemental or complete EIR for the current Project.

In addition, even when the statute of limitations has passed on a prior EIR, use of a defective EIR is allowed under CEQA only if the new environmental document cures the defects of the original document. As is seen above, the Draft Negative Declaration is replete with mistakes, provides no substantive analysis and provides no mitigation for this project of enormous significance within the City. As will be seen below, the 1992 EIR is fatally defective and cannot be revived. For these reasons, the City should abandon the Draft Negative Declaration and prepare an EIR.

**A. *Post-Hoc Preparation of EIR Prevented Genuine, Objective Assessment***

CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process. *Concerned Citizens of Costa Mesa, Inc. v. 32<sup>nd</sup> District Agricultural Association*, 42 Cal. 3d 929, 936 (1986).

The 1992 EIR did not make a genuine and objective assessment of environmental impacts because it was analyzing projects that were already approved. According to the "Project Summary," "[t]he proposed Project will include the existing agreements, entitlements and approvals that are near completion or have already been improved." (1992 EIR, § I-1.) These included at least ten major projects in the IBC that exceeded the existing intensity regulations and violated the General Plan. (1992 EIR, § III-14-18.) In approving projects that it knew were "inconsistent" with existing laws, the City committed itself to their development before the environmental impacts, alternatives, mitigation measures, and cumulative impacts could be analyzed. Consequently, the analysis contained in the 1992 EIR was intended to justify and approve decisions already made. Thus, the 1992 EIR was not objective and did not promote the kind of even-handed decision making by the government that is a primary goal of CEQA.

i. Unavoidable Impacts

By virtue of having already approved the individual projects that the 1992 EIR was analyzing, the City lost its opportunity to prevent impacts that could have been avoided by evaluating the environmental effects of the projects before approval. (See: Traffic, §§ IV.A-37, VII-1; Land Use, § IV.B-14; Public Services & Utilities, § IV.D-22-23; Air Resources, § IV.F-18.) Since this was a post-hoc rationalization, the 1992 EIR found the identified significant impacts unavoidable simply because they had already or were going to occur.

ii. Cumulative Impacts

The purpose of [the cumulative impacts] requirement is obvious: consideration of the effects of a project or project as if no others existed would encourage the piecemeal approval of several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services. This would effectively defeat CEQA's mandate to review the actual effect of the projects upon the environment. *Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles*, 177 Cal.App.3d 300, 306 (1986).

Since the City had already approved ten projects, the 1992 EIR did not avoid the cumulative impacts resulting from their approval which was merely a post hoc rationalization for prior actions. Thus, the 1992 EIR was done merely to comply with procedure and to "rubber stamp" the projects already approved. In so doing, the City avoided the cumulative impacts created by the proposed developments with existing developments, especially with regards to vital public services and infrastructure. (1992 EIR, § V.)

iii. Alternatives Analysis

Even if, "prior to commencing CEQA review, an applicant made substantial investments in the hope of gaining approval for a particular alternative," an agency must objectively determine whether "an environmentally superior alternative is more desirable," *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d 692, 736-737 (1990).

Here, because the projects analyzed by the 1992 EIR were already approved, the City could not have seriously considered whether any other options would be environmentally superior. (1992 EIR, § VI.)

The 1992 EIR had to justify its approvals of the ten non-conforming developments by finding that the alternatives were inadequate. Consequently, the City rejected all other alternatives on the grounds that the Project was meant to resolve the inconsistencies between the existing laws and the development approvals already made by the City. (1992 EIR, § VI-6.) Since the City did

not analyze alternatives before approving the Project and did not make its determination based on the environmental superiority of the alternatives, the alternatives analysis was inadequate.

iv. Mitigation Measures

Only five of the ten major projects that had already been approved by the City had been individually required to mitigate their adverse environmental impacts. (Jamboree Center EIR, 80-ER-0047; Mola Centre EIR, 87-ER-0077; Lakeshore Towers EIR, 88-ER-0085; Park Place EIR, 88-ER-0080; Douglas Plaza EIR, 88-ER-0081.) It is unclear whether the mitigation measures proposed in the 1992 EIR were to apply to all ten projects or only those that did not prepare an individual EIR. Also, as discussed above, none of the cumulative effects of those projects were mitigated. If the 1992 EIR had been prepared before the projects' approvals, their impacts could have been adequately mitigated.

v. Prevents Meaningful Decision-Making and Public Participation

The post-hoc nature of the 1992 EIR prevents its use as a meaningful decision-making tool. *Concerned Citizens of Costa Mesa*, 42 Cal. 3d at 936. An environmental analysis occurring after project approvals have already been made is neither useful to the City in choosing whether to approve the project nor to the public in deciding whether to contest the project.

In approving projects that were inconsistent with the existing zoning ordinance for the IBC and the General Plan before preparing an EIR, the public was denied information (i.e. cumulative impacts) that would have been critical in making a full and meaningful decision on whether to contest the approval of the project. By the time the 1992 EIR was released, the City had already taken irrevocable actions by approving the projects. Since the 1992 EIR was prepared after the City had already committed itself to the development of the projects contemplated in the 1992 EIR, the 1992 EIR could not have been an objective assessment and the public was precluded from an opportunity to comment, thereby violating the heart of CEQA.

***B. Lack of Evidence to Support Assumptions and Conclusions***

The standard of review of a quasi-legislative agency decision under CEQA is abuse of discretion. Abuse of discretion means the agency did not proceed as required by law or there was no substantial evidence to support its decision. In reviewing the adequacy of an EIR, the court... decides whether [the agency's factual determinations] were supported by substantial evidence. *Federation of Hillside and Canyon Assoc. v. City of Los Angeles*, 83 Cal.App.4<sup>th</sup> 1252, 1259; citing CEQA, § 21168.5; see also Guidelines, § 15384.

Thus, the conclusions in the 1992 EIR must be supported with substantial evidence. "Substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion

supported by fact. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous . . ." CEQA, § 21080(e)(1).

i. No Evidence to Support Methodology

The EIR "must reflect the analytic route the agency traveled from evidence to action." *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d 692, 733 (1990). The environmental impacts and mitigation measures discussed in the 1992 EIR made assumptions and predictions without stating the grounds upon which the assumptions were made or setting forth the methodology upon which the predictions were made. (1992 EIR, § IV.) For example, the 1992 EIR assumed a 15% trip reduction – which was high – without laying out the methodology describing how that number was arrived at. (1992 EIR, IV.A-2.) If the methodology and, consequently, the assumed percentage were wrong, the entire analysis was defective and did not constitute substantial evidence.

ii. Impact Findings Not Based On Specific Facts

The EIR must contain facts and analysis, not just the bare conclusions of a public agency. An agency's opinion concerning matters within its expertise is of obvious value, but the public and decision-makers, for whom the EIR is prepared, should also have before them the basis for that opinion so as to enable them to make an independent, reasoned judgment. *Santiago Water District v. County of Orange*, 118 Cal.App.3d 818 (1981).

The 1992 EIR frequently used vague language such as "may," "could," and "anticipated," rather than "know" or "will," or any specific numbers to express the possibility of impacts. (Land Use, IV.B-5-7, 10; Aesthetics, IV.C-4-6; Public Services, IV.D-1, 5, 9, 10, 15, 17, 21; Water Quality, IV.H-4-5; Hazardous Waste/Materials, IV.I-5-8; Biological Resources, IV.J-3-4; Cultural Resources, IV.K-3; Earth Resources, IV.L-6.) For example, the 1992 EIR states that available water capacity shall be confirmed on a project-by-project basis and, although "water conservation measures will substantially reduce potential impacts, significant impacts associated with insufficient water supplies may occur, depending on the nature of future IBC land uses, effectiveness of water conservation and availability of water supplies." (1992 EIR, §IV.D-17.) This is so ambiguous as to be completely meaningless. Without specifics, it is impossible for the public to consider the magnitude of the impacts and the adequacy of the mitigation. An impacts and mitigation analysis in an EIR must know to what extent the mitigation will reduce impacts, the likelihood that significant impacts will occur, and what the nature of the future land uses will be, particularly in the case of a zone change. Therefore, the City did not support its conclusions with substantial evidence.

iii. Alternatives Analysis

The alternatives analysis was inadequate because it made misstatements, faulty assumptions, and conclusions unsupported by any evidence. (1992 EIR, § VI.) For example, the "No Project

Alternative" stated that that alternative would not allow any more development to occur and the IBC would remain in the status quo. That is not true, as demonstrated by the projects underway at that time and other vested projects that had a right to proceed under the existing laws. (1992 EIR, § VI-1.) Also, the 1992 EIR was conclusory in finding that alternative sites were inappropriate without investigating whether there are comparable sites and whether they would have superior environmental benefits. (1992 EIR, § VI-6.) Further, the decision to accept the Project as the best alternative in light of the unavoidable significant impacts on vital public services was not supported by an adequate explanation of the reasons to do so. (1992 EIR, § VI.) Therefore, the City did not support its conclusions with substantial evidence.

#### iv. Mitigation Measures

"When the success of mitigation is uncertain, an agency cannot reasonably determine that significant effects will not occur." Guide to CEQA, *supra* at 426; see *Sundstrom v. County of Mendocino*, 202 Cal.App.3d 296 (1988). Although the City presented mitigation measures, it failed to provide evidence supporting all of its conclusions that the measures would reduce impacts to less than significant levels. (1992 EIR, § IV.) Without studies or some other proof that the proposed mitigation measures would lessen the extent of the impact, it was unreasonable to conclude that the mitigation measures would reduce impacts. Consequently, the discussion of mitigation measures was inadequate to support the City's decision to approve the Project.

#### C. Traffic Impacts Analysis Was Inadequate

The traffic impacts analysis was fatally inadequate for multiple reasons. First, as discussed above, there was no evidence supporting the methodology used to calculate the traffic impacts. The traffic impacts analysis concluded that there would be no significant impact based upon an assumption of a 15% TDM reduction. (1992 EIR, IV.A-22, Appx. E.) The 15% TDM was derived from the City's General Plan Growth Management – Trip Reduction Ordinance (1990). (1992 EIR, IV.A-22.) However, neither the 1992 EIR nor the Trip Reduction Ordinance contained data to support that assumption. Since the 15% TDM assumption was very high, the use of that assumption without providing substantial evidence to support it made the traffic analysis inadequate.

Second, trip generation rates were based on traffic studies from 1982 and 1985. (1992 EIR, IV.A-6.) When land uses change, i.e. when the approved and future projects increase their intensity, trip generation will increase. Since the rate is based on 1982/85 data and development has increased in the IBC since 1982/85, the traffic analysis does not use accurate trip generation rates. The 1992 EIR concluded that the present circulation system was sufficient to operate within level of service (LOS) E, except at one intersection. (IV.A-12.) Since the TDM and trip generation rates were flawed or not current, the conclusion that the increase in traffic would operate at acceptable service levels was incorrect.

Third, the 1992 EIR found (without taking mitigation into account) that the adjacent areas of Irvine were impacted under the General Plan but not the project. (IV.A-24) This is nonsensical. The project assumes the same land uses but at a higher intensity than in the General Plan. Since

greater impacts could be expected to result from higher intensity of uses, the Project should have greater impacts than the General Plan.

Fourth, the 1992 EIR concludes that "no significant differences exist in traffic impacts between the Base Case/ Existing General Plan and the [project]" (1992 EIR IV.A-24), but this conclusion is based on faulty land use assumptions. The Irvine Zoning Ordinance states that the average number of daily trips ("ADT") for office uses is 13.77 per 1,000 square feet, while industrial is 4.62 and warehouse is 0.29. § 9-36-8. Since the 1992 rezoning increases the total intensity in the IBC by significantly increasing office use and decreasing industrial/warehouse use (1992 EIR, III-10), and since the number of ADT for office use is much greater than for industrial/warehouse, the project will impact traffic.

Fifth, the 1992 EIR concluded that "no significant differences exist in traffic impacts between the Base Case/Existing General Plan and the [project]," and that "the present circulation system is sufficient to operate at LOS E." (1992 EIR, IV.A-12, 24.) However, the 1992 EIR contradicts that conclusion in finding that, "[w]ith two previous traffic studies indicating north-south capacity shortages, it is not surprising that increased intensity in the IBC corresponds to an increased demand for north-south arterial capacity, exacerbating congestion levels further. Even with implementation of Tier 1-3 mitigation, [certain intersections] will not meet minimum performance standards." (1992 EIR, IV.A-24.) Since the project would increase intensity in the IBC, traffic congestion would correspondingly increase. If the traffic studies showed failing levels of service before the project, then traffic should be expected to be at least at failing levels after the project.

Finally, the traffic analysis was inadequate for failure to discuss the following potential impacts: whether traffic would exceed county congestion management agency's service standards (individually or cumulatively); whether traffic would change air traffic patterns in way that increases safety risk; whether there were design features of the road or other incompatible uses that increased hazards; whether traffic congestion would result in inadequate emergency access; whether the project would result in inadequate parking; or whether the project would conflict with other plans, policies, or programs supporting alternative transportation (e.g. bike lanes). See Guidelines, § 15126.2(a).

#### ***D. Mitigation Measures Improperly Allowed Violation of Air Quality Standards***

"CEQA imposes on the public agency a duty to mitigate or avoid, to the extent feasible," the significant environmental effects of a project. Guide to CEQA, supra at 386; see CEQA, § 21002. The 1992 EIR states that the project would substantially exceed the standards under the Air Quality Management Plan and Southern California Association of Governor's growth forecasts applicable to the IBC (1992 EIR, § IV.F-10), but the 1992 EIR makes no attempt to mitigate impacts to air quality. Three of the four proposed mitigation measures only involved compliance with external permit requirements, and the fourth required construction equipment to use modern emissions controls. (1992 EIR, § IV.F-18.) Therefore, the measures proposed are

entirely inadequate to mitigate impacts to air and will result in continued violation of air quality standards.

#### ***E. Unenforceability of Mitigation Measures***

“Where an agency is determined to find that the impacts in question can be adequately mitigated, the agency should make some sort of binding commitment that will result in full mitigation when implemented.” *Guide to CEQA, supra* at 428; *see Sacramento Old City Association v. City Council of Sacramento*, 229 Cal. App. 3d 1011 (1991). “Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments.” Guidelines, § 15126.4(a)(2). Many of the mitigation measures proposed in the 1992 EIR are not enforceable. (See: Land Use, IV.B-11-12; Aesthetics – Light/Glare, IV.C; Air Resources, IV.F; Biological Resources, IV.J; Earth Resources, IV.L; Historical Resources, IV.K.) Since the City needed to justify the inconsistent approvals it had already made, the City was determined to find that the impacts could be adequately mitigated. The 1992 EIR’s discussion of impacts of the pre-approved projects is short, vague, and inconclusive, and the mitigation measures proposed will be required on a project-by-project basis. (1992 EIR, § IV.B-9-12.) The 1992 EIR does not make any binding commitment to impose any one of these measures to any particular project.

Further, the City identified a number of traffic mitigation measures necessary to mitigate traffic impacts. Most of these mitigation measures were not adopted.

#### ***F. Cumulative Impacts Analysis Is Not Adequate***

“Under CEQA, the agency must consider the cumulative environmental effects of its action before a project gains irreversible momentum.” *City of Antioch v. City Council*, 187 Cal. App. 3d 1325, 1333 (1986). Again, the fact that the City had already approved ten projects before analyzing the environmental impacts of the projects also put the 1992 EIR in violation of CEQA with respect to cumulative impacts. Since the City had already committed itself to the development of the approved projects, it was going to go forward with the project regardless of the extent of the cumulative impacts.

The purpose of [the cumulative impacts] requirement is obvious: consideration of the effects of a project or projects as if no others existed would encourage the piecemeal approval of several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services. This would effectively defeat CEQA’s mandate to review the actual effect of the projects upon the environment. *Las Virgenes Homeowners Federation, Inc.*, 177 Cal. App. 3d 306.

The 1992 EIR proposed to consider the impacts of future projects on a project-by-project basis. (1992 EIR, § V.) Approving projects on this piecemeal basis allowed the 1992 EIR to avoid review of the cumulative impacts of all of the development that will be allowed after the IBC rezone.

CEQA requires mitigation of cumulative impacts. Guidelines, § 15130. However, because the 1992 EIR's cumulative impacts analysis simply repeated the same impacts listed under the "significant impacts" section without further analysis, the 1992 EIR failed to propose additional measures to specifically address cumulative impacts. Therefore, the 1992 EIR's mitigation of cumulative impacts was inadequate.

### ***G. Failure to Present Reasonable Range of Alternatives***

An EIR "must consider a reasonable range of alternatives to the project, or to the location of the project, which (1) offer substantial environmental advantages over the project proposal . . . ; and (2) may be 'feasibly accomplished in a successful manner' considering the economic, environmental, social and technological factors involved." *Citizens of Goleta Valley v. Bd. of Supervisors*, 52 Cal. 3d 553 (1990).

The 1992 EIR purported to consider four alternatives: (1) the "No Project (Existing Conditions)" alternative, which was the IBC in its then-existing state; (2) the "Existing General Plan" alternative, which is build-out under the existing General Plan; (3) the "Long Range Plan" alternative, which states that the City may consider addressing the "more complex planning issues," i.e. traffic and public services, at a later date; and (4) the "Alternate Site" alternative. (1992 EIR, § VI.)

A reasonable alternative should achieve the project objectives. Guide to CEQA, supra at 457-460; citing *Sequoyah Hills Homeowners Assoc. v. City of Oakland*, 23 Cal. App. 4<sup>th</sup> 704 (1993). The "No Project (Existing Conditions)" and "Existing General Plan" alternatives, however, do not achieve the Project objectives because they do not resolve the inconsistency between the excess approved development and the existing zoning. (1992 EIR, § VI-1-5.) Further, the "No Project (Existing Conditions)" alternative is infeasible because it would require a ban on further development in the IBC. (1992 EIR, § VI-1.) The real "no project" alternative would be the "Existing General Plan" alternative, since the existing General Plan is what governs the approval of development in the IBC now. The "Long Range Plan" alternative also does not achieve the Project objectives; instead, it considers the kinds of planning elements now looked at by the City's "Vision Plan," for example, creating core neighborhood areas that are walkable. (1992 EIR, § VI-6.) As the 1992 EIR itself admits, the "Long Range Plan" alternative is a *second phase* to the rezoning, to be considered by the City Council at a later date. (1992 EIR, § VI-6.) Further, the 1992 EIR fails to present an alternative site, concluding that "alternative site analysis is not considered appropriate for this project, which has been initiated by City staff specifically to rectify zoning and General Plan inconsistencies within the IBC and to provide for IBC road improvements." (1992 EIR, § VI-6.)

Thus, the only feasible alternative presented was the no project, "Existing General Plan" alternative, which does not address the Project's objectives. Therefore, the City failed to consider a reasonable range of alternatives as required by CEQA. Furthermore, the City's conclusion in regards to the inappropriateness of the alternate site analysis evidences the fact that the City never intended to consider whether any alternative other than the Project would be environmentally superior.

#### **H. Significant Unavoidable Impacts Makes Decision to Approve Unreasonable**

An unavoidable significant environmental impact is one "that cannot be avoided because there are no feasible mitigation measures or because feasible measures cannot mitigate the impacts to a less than significant level." Guide to CEQA, supra at 386; *see* Guidelines, § 15126.2(b). The 1992 EIR lists impacts to parks, police, sewer system, solid waste generation, water, fire facilities, and the Santa Ana School District as unavoidable significant impacts because the City could not increase the capacity of the schools and vital infrastructure sufficiently to be able to absorb the increase in population. (1992 EIR, § IV.D-22-23.) These public functions are so important that it is not reasonable that the project was approved given these impacts.

If the only means of avoiding such impacts would be to impose an alternative design on a proposed project, but the lead agency nevertheless decides not to require such design changes, then the EIR must describe the implications of impacts involved and the agency's reason for choosing to tolerate them rather than requiring the alternative design. Guide to CEQA, supra at 386; *see* CEQA Guidelines § 15126.2(b).

Accordingly, in light of these significant infrastructure problems created by the Project, the City should have chosen an alternative (or found sufficient mitigation measures to avoid them in the first place). The City's only explanation for not accepting the no project or alternative site alternative was that the purpose of the project was to resolve the inconsistency created by the City's approval of projects in the IBC that violate the existing zoning ordinance and General Plan. Thus, the City's approval of the 1992 EIR and Rezoning Ordinance despite significant impacts, was a foregone conclusion. That is unreasonable and contrary to the purpose of the environmental review required by CEQA.

#### **8. CEQA, Public Policy and Good Government Require the City to Abandon the Draft Negative Declaration and Prepare a Legally Sufficient EIR**

As has been shown in detail above, there are a myriad of defects in the environmental analysis of the proposed project. If the City moves forward without correcting all of these defects it will deprive its citizenry of the opportunity to have meaningful, informed input into one of the most significant legislative programs in the history of Orange County. The City is proposing to build an entire "city within the City" with 13,000 - 45,000 new residents without conducting ANY meaningful environmental review or analysis. This is simply not good government and subverts

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the purposes of CEQA. For these reasons, Allergan respectfully requests the City abandon the Draft Negative Declaration and prepare a legally sufficient EIR.

**Conclusion**

The Draft Negative Declaration fails to satisfy the requirements of CEQA as applied to the IBC-wide zone change ordinance. A complete EIR must be prepared, fully analyzing the impacts of build-out under the IBC-wide zone change ordinance and taking into account the cumulative impacts of the other projects approved for the IBC. The environmental review for the IBC-wide zone change ordinance should not tier off the 1992 EIR because of the inadequacies of the 1992 EIR. After preparation, the EIR must be circulated for public review. We look forward to seeing a new and complete EIR for the project. Thank you for your consideration.

Sincerely,



Geoffrey K. Willis  
Sedgwick, Detert, Moran & Arnold, LLP

cc: Michael Haack  
Manager of Development Services  
City of Irvine

Ray Diradoorian,  
Allergan  
Senior Vice President, Global Technical Operations

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June 19, 2006

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**Re: \$100,000,000 Community Facilities District infrastructure improvement fee.**

Dear Mr. Jacobs:

We have recently become aware of a proposed \$100,000,000 Community Facilities District infrastructure fee that the City of Irvine is considering imposing upon residential developers in area 36, also known as the Irvine Business Complex (IBC). As we understand it, a Development Impact Fee of about \$25,000 per unit is being considered by the City Council to help fund various improvements within a Community Facilities District (CFD) in the IBC. This is above and beyond the traditional types of fees common for this area such as the Park fees, IBC fees, IRWD connection fees, School fees, OCFA fee, Transportation fees, etc. We have been informed by letter that current IBC fees, Community Park Fees and Affordable Housing In-Lieu Fees are all being significantly increased to help support IBC infrastructure. In addition to these increased fees, the City will also benefit from the increased tax revenues generated by new development in the IBC. Therefore we are of the opinion that the proposed \$100,000,000 Community Facilities District infrastructure fee is excessive and unnecessary to support the IBC residential overlay vision.

As proposed, this fee can be reimbursed to the developer and passed along to the buyer if the developer participates in the IBC CFD "tax" which will effectively increase the property tax rate from roughly 1.1% to 1.8%. Currently we are in the entitlement process to build nearly

approximately 900 rental units in the IBC and the fact that this infrastructure fee is reimbursable only benefits the developer building for-sale units, and discriminates heavily against the developer building rental units. It is much more feasible for a condominium developer to absorb this proposed infrastructure fee and then pass it along to a future buyer, than it is for the apartment developer who cannot pass along increased rents onto the tenants. Additionally, there are now hundreds of rental units approved and under construction who have not been subjected to this fee. How can we or any other apartment developer compete with the existing rental units if we have to pay this additional infrastructure fee? Implementing a \$100,000,000 infrastructure fee will effectively drive out any incentive to build rental units in the IBC area, and therefore discriminates against lower income people not yet able to afford to own but who want to participate in the Live-Work neighborhood that the City Planners have envisioned.

As stated in the IBC vision elements prepared by City Staff, one of the key components within the proposed residential overlay district is to "provide housing opportunities for the local and regional employment base that support and compliment commercial and industrial uses in the IBC". Having a mix of for-sale and rental units is vital to sustaining the elements of this IBC vision statement. Imposing an infrastructure fee of \$25,000 per door, regardless of the improvements that it may fund, will dissuade any type of apartment development in the IBC. It would be nearly impossible for any rental project to financially support this type of expense, thus implementing this fee would effectively violate the vision elements that have been central to the IBC residential overlay process. The average salary paid to employees by employers in the IBC will not support the mortgage generated by a \$600,000 condominium unit and employees will therefore look to the rental market to participate in the urban neighborhood, live-work concept envisioned by the City Planners.

Over the last 2 years, the City Staff has created and presented a mixed-use, urban neighborhood framework to the Irvine community. Cities such as San Francisco, Chicago or New York are workable hubs with successful centralized mixed-use districts because of the fact that they have, albeit expensive by other place standards, affordable rental units for the secretaries, young executives and working-class citizens. Affordable rental units are a very

important component of a town center, urban neighborhood concept. This objective may be difficult to achieve if the only opportunities existing for residency in the IBC are \$600,000 condominiums. We believe that if the mixed-use, town center / urban neighborhood goal envisioned for the IBC is to succeed, then the plan must allow for and include a mix of for-rent units. These units will be possible only if the proposed infrastructure fee is reconsidered.

Olen Properties has been building in the City of Irvine for the last 30 years, and the properties that we have developed have contributed greatly to the welfare of the area. It is our intention to work closely with the City Planners and City Staff to create and build three Class-A apartment communities in the IBC. Along with the dozen or more office/industrial buildings that we own and operate in the IBC, we anticipate that these 3 proposed residential projects that are currently in the entitlement pipeline will contribute greatly to the IBC residential vision that the City Staff has envisioned. But this will only be possible if the City of Irvine will work with us to achieve that mixed-use, live-work vision that staff has presented to Council over these last 2 years. In order to achieve this mutual objective, we would request that if the City Council does implement a new IBC CFD infrastructure fee that it would consider granting a waiver to us so that we can proceed to develop attractive, Class-A apartment units and help contribute to the various elements of the IBC mixed-use, urban neighborhood vision.

Sincerely,

Olen Properties Corp



Jim Graves

Project Manager

LAW OFFICES OF ROBERT C. HAWKINS

June 27, 2006

Via e-mail ([bjacobs@ci.irvine.ca.us](mailto:bjacobs@ci.irvine.ca.us)) and U.S. Mail

Hon. Mayor Beth Krom and Members of the Irvine City Council  
c/o Michael Haack, Manager of Development Services  
Bill Jacobs, AICP, Principal Planner  
Community Development Department  
Irvine City Hall  
One Civic Center Plaza  
Irvine, California 92623-9575

Re: **The City of Irvine's (the "City" or "Irvine") Irvine Business Complex ("IBC") Residential Mixed-Use Community Vision Plan (the "Plan"), the Draft Negative Declaration ("DND") for the Plan and the Draft/Final Supplemental Environmental Impact Report ("DSEIR" for the Draft; "FSEIR" for the Final) for proposed General Plan and Zoning Code amendments for the Irvine Business Complex ("IBC") at 2323 Main St. for a 445 Condominium Project (the "Project")**

Greetings:

Thank you for the opportunity to provide further comments on the Plan, the Project and the captioned environmental documents. Please include these comments in the administrative record for the DND for the Plan and the DSEIR for the Project. As we have indicated, this firm represents Deft Incorporated which produces and manufactures wood finishes for the consumer market and specialized industrial coatings for aerospace and military customers.

This letter supplements our earlier comments on the DND for the Plan and the DSEIR for the Project. Further, we incorporate herein the May 18, 2006 comments from the Salter Group on the Plan.

We offer the following general comments which we may supplement through the final hearings on the DND for the Plan and the DSEIR for the Project.

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110 Newport Center Drive, Suite 200  
Newport Beach, California 92660  
(949) 650-5550  
Fax: (949) 650-1181

**1. The Plan Requires the Preparation of a Program Level EIR**

In the late 1980's, the City faced a serious land use problem in the IBC:

“In 1987, the City discovered that the IBC approvals exceeded the level studied in the 1989 (sic) Supplemental EIR. After completing a detailed analysis of existing ordinance provisions and determining that approved development exceeds infrastructure capacity, the City Council enacted Interim Urgency Ordinances in 1987 in an attempt to limit development within the IBC to a level more commensurate with the existing and projected transportation system.”

IBC EIR, page III-6. In 1992, the City approved and certified the IBC EIR. The situation today is the same: the City proposes to transform the IBC from an industrial and business park to a series of residential villages. However, this transformation is already occurring in a piecemeal and project by individual project basis. The transformation is itself a project under the California Environmental Quality Act, Public Resources Code sections 21000 et seq.

The City has circulated for public review and comment the DND. The document frankly is inadequate and fails the promise of the 1992 IBC EIR. The City should return to its former and lawful practice: prepare a Program level EIR for the IBC Residential Program or Plan.

**2. The Plan Requires a Moratorium on Any New Residential Projects including the Project**

As indicated above, the City followed the correct course in preparing the 1992 IBC EIR: it announced plans to prepare the document and instituted a moratorium on any new project until the 1992 IBC EIR was completed.

The City should follow that path today. As indicated above, the transformation of the IBC is out of control: developers are bringing projects to the City at record speed. The City has no guidelines or standards to evaluate such projects and no Program level environmental analysis to determine the impacts and necessary mitigation for such a transformation.

This places the public and IBC industrial users in a tough spot: either get out of the way; or bring an action each time such a project is approved. This piecemeal approach wastes City resources, City time and City staff as well as the resources, time and staff of the public including the IBC industrial users and landowners.

It is time to stop and follow the lead established in 1992: institute a moratorium on any new residential development in the IBC unless and until the City prepares a Program level EIR for the Plan.

**3. The Plan Should Include a 1000 foot Buffer between Existing Industrial Uses and Any New Residential Uses.**

Probably the most significant land use issues raised by the Plan and the individual projects is the compatibility of any proposed residential uses in the industrial area that is the IBC. The introduction of residential uses near industrial uses such as Deft's paint factory creates significant problems for the City, the new residents, and the existing industrial users. The only way to mitigate such incompatibility is to require a substantial buffer—1,000 feet—between new residential uses and existing industrial uses.

One way to understand the importance of this buffer is to consider a converse application: an industrial users seeks to relocate near existing residential. In such case, the City would require substantial buffers, likely greater than 1,000 feet, between the proposed industrial use and the existing residential uses. The rationale for such buffer would be the safety and welfare of the City and its residents.

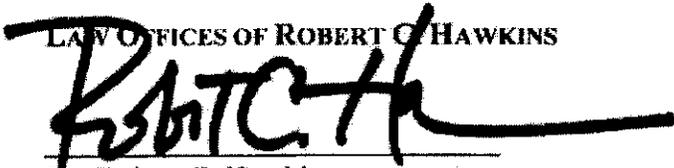
The same rationale applies when siting new residential near existing industrial uses. A buffer of 1,000 feet is necessary for the safety and welfare of the City and its residents.

Thank you for the opportunity to provide these general comments. As indicated above, we will offer further comments throughout the hearing process on the Plan and the Project.

Please provide us with copies of all notices, staff reports and other information regarding projects within the IBC. Also, please include this letter in the administrative record for the Overlay District DND as well as that for any other environmental documents for residential projects in the IBC including the FSEIR for the 2323 Main St. Residential Project.

Of course, should you have any questions, please do not hesitate to contact us.

Sincerely,

LAW OFFICES OF ROBERT C. HAWKINS  
  
By: Robert C. Hawkins

RCH/kw



# AIRPORT LAND USE COMMISSION

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FOR ORANGE COUNTY

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

June 29, 2006

Bill Jacobs, Principal Planner  
City of Irvine  
Department of Community Development  
P.O. Box 19575  
Irvine, CA 92623-5975

Subject: Draft IBC Vision Statement and Draft IBC Mixed Use Residential Overlay Zoning Code

Dear Mr. Jacobs:

Thank you for the opportunity to review the Draft IBC Vision Statement and Draft IBC Mixed Use Residential Overlay Zoning Code in the context of the Commission's *Airport Environs Land Use Plan for John Wayne Airport (JWA AELUP)*. We wish to offer the following comments and respectfully request consideration of these comments as you proceed with finalizing your documents.

On page 10 of Section 5-8-5C of the Overlay Zoning Code we suggest that the Airport Restrictions section state that "Developments within the JWA "Planning Area" as defined in the *JWA AELUP*, shall meet the following requirements in order to support John Wayne Airport operations."

On page 45 of Section 5-8-19B Definitions we recommend the following wording for Avigation Easement: "As defined in the Airport Environs Land Use Plan for JWA."

Page 16 of Section 5-8-10 Business Complex discusses the Business Complex District. Please include an exhibit showing this district. On page 22 of the Vision document, the Business Complex is included in the legend of the exhibit but not shown on the exhibit itself.

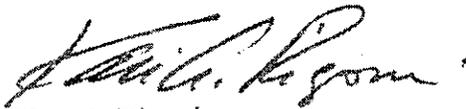
On page 67 of the Vision document there is a discussion of the Overlay Zone that states "The Overlay Zone provides specific design criteria to require building heights to vary within a project as well as from district to district." We suggest adding the following language to the above statement... "and takes into account any airport height restrictions."

The Vision document also includes the maximum heights for each district. For instance on page 24 of the Vision document it states that the Town Center District will consist of buildings up to 20 stories. We recommend that whenever specific height requirements are referenced, the language "or less depending on any airport height restrictions" be added to the height requirement.

The Irvine Business Complex Residential and Mixed-Use (IBCRMU) Overlay District is located within JWA noise impact zones. To demonstrate the possibility of noise impacts to future developers within the IBC, we recommend that the IBCRMU Overlay District Zoning Code include an exhibit showing the JWA Master Plan 60 and 65 dB CNEL noise contours in relation to the Overlay District.

We appreciate the opportunities that you and your staff have given us to coordinate with you on these comments over the past few months. Please contact Lea Umnas at (949) 252-5123 or via email at [lumnas@ocair.com](mailto:lumnas@ocair.com) if you need any additional information.

Sincerely,



Kari A. Rigoni  
Executive Officer

cc: Alan Murphy  
Larry Serafini  
John Leyerle

July 6, 2006

Members of the IBC Committee  
c/o Mr. Doug Williford  
City of Irvine  
One Civic Center Drive  
Irvine, CA 92623

Gentlemen:

We are in receipt of the verbal counterproposal delivered by Jeff Melching and Mike Haack on June 27, 2006. This letter shall represent the position of the undersigned only and shall not be construed to reflect the unanimous position of all IBC property owners and developers. The undersigned are supportive of the proposed IBC Residential policies drafted by staff with the following modifications:

- The Affordable Housing In-Lieu Fee shall be fixed at \$17,000 per unit for all projects who have filed General Plan Amendment and Zone Change applications prior to December 31, 2006. Such projects must pull a building permit prior to December 31, 2016 in order to lock-in the \$17,000 per unit fee.
- IBC Public Benefit Fee- For projects who have filed General Plan Amendment and Zone Change applications prior to December 31, 2006, the Public Benefit Fee shall be \$13,000 per unit for condominiums who satisfy their affordable housing requirement through payment of the in-lieu fee and \$11,500 per unit for condominiums who satisfy their affordable housing requirement by a means other than payment of the in-lieu fee. The Public Benefit Fee shall be \$6,500 per unit for apartments who satisfy their affordable housing requirement through payment of the in-lieu fee and \$5,000 per unit for apartments who satisfy their affordable housing requirement by a means other than payment of the in-lieu fee. Such projects must pull a building permit prior to December 31, 2016 in order to lock-in the Public Benefit Fee described above.
- The Affordable Housing In-Lieu Fee and Public Benefit Fee shall be subject to annual increase consistent with the annual change in the Consumer Price Index for projects who file General Plan Amendment and Zone Change applications after January 1, 2007.
- These fees may be reimbursed by a Community Facilities District. Such CFD shall not include ongoing operations and maintenance costs. Developer participation in the CFD shall be optional.
- Draft zoning\vision documents to be adopted as policy guidelines and not a new ordinance.
- Projects may request reductions in the new fees on a case-by-case basis.

We believe that additional dollars are available to the City for the operation and maintenance of the proposed IBC shuttle. IBC roadway fees include an earmarked allocation for a transportation management program which could include the operation and maintenance of an IBC shuttle. We understand that other transit funds may be available through OCTA federal and state programs as well. These options should be

investigated since the Proposition 116 funds from the Centerline program, which were planned to serve the IBC, were redirected to the Great Park.

Unfortunately, the residential market has changed substantially over the past few months. The combination of high construction costs, rising interest rates and slowing demand has made the underwriting of new development more difficult. Therefore, it would not be economically feasible for the undersigned to incur any additional development fees in excess of those described above.

Our group would also like to offer input to the City Council on the implementation of the Public Benefit Fee program. We would be happy to participate on a task force or committee to help prioritize expenditures benefiting the IBC.

We hope for your favorable recommendation on our proposal to the City Council and look forward to participating in the discussion at the July 11, 2006 City Council hearing.

Sincerely,

Avalon Bay Communities  
Douglas Wilson Company  
General Investment Funds Real Estate Holding Company  
Greenlaw Partners  
John Laing Homes  
Kilroy Realty  
Nexus Residential  
Shea Homes  
Standard Pacific Homes  
Starpointe Ventures  
Trammell Crow Residential  
The Irvine Company  
West Millennium Homes  
Windstar Communities